

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amgad Fawzy	Team: Team # 3	CCRB Case #: 201209334	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 07/18/2012 12:31 PM	Location of Incident: Park Avenue and Ann Street	Precinct: 120	18 Mo. SOL 1/18/2014	EO SOL 1/18/2014	
Date/Time CV Reported Fri, 07/20/2012 11:44 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/20/2012 11:44 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Stephen Dimassa	23601	941203	120 PCT
2. POM Gregory Howard	18811	941042	120 PCT
3. POM Steven Lopez	24353	943498	120 PCT
4. POM Daniel Pantaleo	13293	942805	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Stephen Dimassa	Abuse: PO Stephen Dimassa stopped the car in which § 87(2)(b) was an occupant.	
B.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo stopped the car in which § 87(2)(b) was an occupant.	
C.POM Stephen Dimassa	Abuse: PO Stephen Dimassa questioned § 87(2)(b)	
D.POM Steven Lopez	Abuse: PO Steven Lopez frisked § 87(2)(b)	
E.POM Stephen Dimassa	Abuse: PO Stephen Dimassa frisked § 87(2)(b)	
F.POM Steven Lopez	Abuse: PO Steven Lopez searched § 87(2)(b)	
G.POM Daniel Pantaleo	Abuse: PO Daniel Pantaleo searched the car in which § 87(2)(b) was an occupant.	
H.POM Gregory Howard	Abuse: PO Gregory Howard searched the car in which § 87(2)(b) was an occupant.	
§ 87(4-b), § 87(2)(g)		
§ 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint by phone with the CCRB on July 20, 2012 (encl. 3a-3b).

On July 18, 2012, PO Stephen DiMassa and PO Daniel Pantaleo of the 120th Precinct stopped § 87(2)(b) vehicle at Park Avenue and Ann Street on Staten Island. The following allegations resulted:

- **Allegation A – Abuse of Authority: PO Stephen DiMassa stopped the car in which § 87(2)(b) was an occupant.**
- **Allegation B – Abuse of Authority: PO Daniel Pantaleo stopped the car in which § 87(2)(b) was an occupant.**
§ 87(2)(g)
- **Allegation C – Abuse of Authority: PO Stephen DiMassa questioned § 87(2)(b)**
- **Allegation D – Abuse of Authority: PO Steven Lopez frisked § 87(2)(b)**
- **Allegation E – Abuse of Authority: PO Stephen DiMassa frisked § 87(2)(b)**
- **Allegation F – Abuse of Authority: PO Steven Lopez searched § 87(2)(b)**
- **Allegation G – Abuse of Authority: PO Daniel Pantaleo searched the car in which § 87(2)(b) was an occupant.**
- **Allegation H – Abuse of Authority: PO Gregory Howard searched the car in which § 87(2)(b) was an occupant.**
§ 87(2)(g)
- § 87(4-b), § 87(2)(g)

Mediation was presented to § 87(2)(b) over the phone on July 30, 2012. After consulting with his attorney, § 87(2)(b) called the CCRB on August 1, 2012 and declined to mediate his complaint.

Results of Investigation

Civilian Statement

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on August 8, 2012 (encl. 4b-4d).

At approximately 12:30 p.m. on July 18, 2012, § 87(2)(b) exited his brother's residence at § 87(2)(b) on Staten Island and walked to his vehicle. There, he stowed his fishing rod in the backseat area and removed his cane from the same area.

As he did so, § 87(2)(b) noticed a marked NYPD van make a right turn from New Street onto Park Avenue to face his vehicle. It immediately went into reverse and rounded the corner back onto New Street. § 87(2)(b) noted that marked van's RMP number as 8523.

He then opened his trunk and stowed his cane there before entering his vehicle. He estimates that he was standing outside his vehicle for approximately two minutes. He then drove northbound along Park Avenue. Once he passed New Street, § 87(2)(b) noticed the marked van following him, which it did for approximately three blocks before briefly activating its siren and pulling him over at Park Avenue and

Ann Street.

§ 87(2)(b) turned his ignition off, but otherwise kept both hands on the steering wheel. All four windows of his vehicle were already rolled down. An officer, whom the investigation identified as PO Stephen DiMassa of the 120th Precinct, approached the driver's side on foot and informed § 87(2)(b) that he was being stopped for a defective taillight. § 87(2)(b) noted that he had replaced his taillights two days prior and does not believe that either one was defective.

Another officer, identified by the investigation as PO Daniel Pantaleo of the 120th Precinct, approached the passenger's side of § 87(2)(b) vehicle. § 87(2)(b) then opened his glove compartment, removed his driver's license and handed it to PO DiMassa, who asked him if his license was valid. § 87(2)(b) replied that it was.

He recognized PO DiMassa as one of the officers who had arrested him previously for § 87(2)(b). § 87(2)(b) then said, "Oh, no. Not you guys again. You arrested me about two and a half months ago for some morphine pills that I had prescribed to me from the Veterans' Hospital." PO DiMassa then asked § 87(2)(b) if he had any morphine, to which § 87(2)(b) replied, "Sir, I don't think I look that stupid to you. I'm not gonna make the same mistake again. I have morphine but it's in the drawer at my house."

An officer identified by the investigation as PO Steven Lopez of the 120th Precinct then approached and ordered § 87(2)(b) to exit the vehicle and turn to face it, with his back to PO Lopez. § 87(2)(b) complied, and placed both hands on his vehicle. PO Lopez then ran his hands along the outside of both his front pants pockets and asked him if he had anything in his pockets. § 87(2)(b) replied that he had cigarettes and money.

PO Lopez then removed a pack of cigarettes from § 87(2)(b) right front pocket, and money from his left front pocket. His keys and wallet were in the vehicle, and his mobile phone remained hanging from his waistband. PO Lopez handed § 87(2)(b) his property and instructed him to stand by the trunk of his vehicle, facing away from it. § 87(2)(b) noticed that an unmarked navy blue or black four-door sedan was parked behind the marked van.

PO DiMassa and an officer identified by the investigation as PO Gregory Howard of the 120th Precinct then searched § 87(2)(b) vehicle. Because § 87(2)(b) was facing away from the vehicle, he was unable to observe the search, but believes PO DiMassa and PO Howard restricted their search to the front of the vehicle's interior. They did not remove anything from the vehicle.

PO DiMassa then frisked § 87(2)(b) by patting down his crotch, and running his hands between his buttocks and down his legs. PO DiMassa's hands remained on the outside of § 87(2)(b) pants throughout the frisk. PO Howard asked § 87(2)(b) "Are you going fishing?" § 87(2)(b) replied, "Yes, sir. Once I pick up my daughter from school."

PO DiMassa then returned § 87(2)(b) license and entered the driver's side of the marked van. PO Pantaleo entered the van on the passenger's side, while PO Howard returned to the passenger's side of the unmarked sedan and PO Lopez entered the driver's side. Both vehicles then drove away.

§ 87(2)(b) Notes

During his statement at the CCRB on August 8, 2012, § 87(2)(b) presented a piece of paper on which he noted the RMP number of the marked van that pulled him over as 8523. He also wrote down the date of the incident as July 18, 2012, and the time as 12:31 p.m.

At the top of the sheet, he noted the CCRB case number for this incident and the name PO Massey at the bottom (encl. 4g).

Photo Array

§ 87(2)(b) appeared at the CCRB on March 5, 2013 for a photo array (encl. 4i-4q).

When presented with photographs of PO Pantaleo and PO Howard, § 87(2)(b) stated that he recognized those two officers from the incident on July 18, 2012. He indicated that PO Pantaleo was

standing by the passenger's side of his vehicle during the encounter and that he may have also searched his vehicle.

When presented with PO Lopez's photo, § 87(2)(b) stated that he looked very familiar, but could not recall whether he was present on July 18, 2012. Upon being presented with a photograph of PO DiMassa, § 87(2)(b) could not identify him as having been present during the incident.

NYPD Statements:

Subject Officer: PO STEPHEN DIMASSA

- *PO Stephen DiMassa is a § 87(2)(b)-old, 6'0" tall, 200-pound white man with brown eyes and a bald or shaved head.*
- *On July 18, 2012, PO DiMassa of the 120th Precinct worked between the hours of 9:30 a.m. and 6:05 p.m. He was in plainclothes and assigned to the 120th Precinct Anti-Crime Unit in marked van number 8523. PO DiMassa was working with PO Daniel Pantaleo of the same command.*

Memo Book

PO DiMassa does not have any entries in his memo book regarding this incident. His closest entry prior to the current incident time notes the stop of § 87(2)(b) at Sharpe Avenue and Castleton Avenue for § 87(2)(b) at 12:05 p.m. PO DiMassa noted no other stops or actions until the end of his tour at 6:05 p.m. (encl. 5a-5c).

CCRB Testimony

PO Stephen DiMassa was interviewed at the CCRB on March 26, 2013 (encl. 5d-5e).

Two months prior to July 18, 2012, PO DiMassa stopped § 87(2)(b) while he was in his vehicle and placed him under arrest for criminal possession of a controlled substance. § 87(2)(b) was in possession of prescription pills at the time.

PO DiMassa has not encountered § 87(2)(b) or interacted with him in any capacity since the date of his arrest. He does not recall making any vehicle stops on July 18, 2012, nor did he frisk or search anyone on that date. Although PO DiMassa was in the Port Richmond area of Staten Island, he was not in the vicinity of Park Avenue and Ann Street on the date of the incident.

Subject Officer: PO DANIEL PANTALEO

- *PO Daniel Pantaleo is a § 87(2)(b)-old, 6'1" tall, 205-pound white man with brown hair and brown eyes.*
- *On July 18, 2012, PO Pantaleo of the 120th Precinct worked between the hours of 9:30 a.m. and 6:05 p.m. He was in plainclothes and assigned to the 120th Precinct Anti-Crime Unit in marked van number 8523. PO Pantaleo was working with PO Stephen DiMassa of the same command.*

Memo Book

PO Pantaleo does not have any entries in his memo book regarding this incident. His closest entry prior to the current incident time notes the stop of § 87(2)(b) at Sharpe Avenue and Castleton Avenue at 12:05 p.m. His closest entry after the current incident time notes the stop of § 87(2)(b) at Campbell Avenue and Henderson Avenue at 12:45 p.m., for which he does not specify a reason (encl. 6a-6e).

CCRB Testimony

PO Daniel Pantaleo was interviewed at the CCRB on March 21, 2013 (encl. 6f-6g).

Upon being presented with a photograph of § 87(2)(b) PO Pantaleo could not recall having ever interacted with him in any capacity. Although he was in the vicinity of Park Avenue and Ann Street at approximately 12 p.m. on July 18, 2012, PO Pantaleo did not stop any vehicles or pedestrians there. He

does not recall searching a vehicle on the date of the incident.

Subject Officer: PO STEVEN LOPEZ

- *PO Steven Lopez is a § 87(2)(b) -old, 6'2" tall, 210-pound white man with brown hair and brown eyes.*
- *On July 18, 2012, PO Lopez of the 120th Precinct worked between the hours of 9:30 a.m. and 6:05 p.m. He was in plainclothes and assigned to the 120th Precinct Anti-Crime Unit in unmarked RMP number 1401, a black Ford Fusion. PO Lopez was working with PO Gregory Howard of the same command.*

Memo Book

PO Lopez does not have any entries in his memo book regarding this incident. He noted no stops or specific actions taken for the date of the incident, noting only his assignment, that he was present for duty and the end of his tour (encl. 7a-7c).

CCRB Testimony

PO Steven Lopez was interviewed at the CCRB on March 20, 2013 (encl. 7d-7e).

PO Lopez does not recall being in the vicinity of Park Avenue and Ann Street on July 18, 2012, stopping or searching a vehicle, or frisking anyone that day. Upon being presented with a photograph of § 87(2)(b) PO Lopez could not recall having ever interacted with him.

PO Lopez noted that he was originally assigned to the 120th Precinct Street Narcotics Enforcement Unit (SNEU), but that on days when his sergeant is not present for duty, he and the rest of the SNEU team are incorporated into the Anti-Crime Unit.

Subject Officer: PO GREGORY HOWARD

- *PO Gregory Howard is a § 87(2)(b) -old, 5'5" tall, 225-pound black man with black hair and brown eyes.*
- *On July 18, 2012, PO Howard of the 120th Precinct worked between the hours of 9:30 a.m. and 6:05 p.m. He was in plainclothes and assigned to the 120th Precinct Anti-Crime Unit in an unmarked black Ford Fusion. PO Howard was working with PO Steven Lopez of the same command.*

Memo Book

PO Howard does not have any entries in his memo book regarding this incident. He noted only that he was present for duty, that he was conducting an operation at Sharpe Avenue and Castleton Avenue at noon, and the end of his tour (encl. 8a-8b).

CCRB Testimony

PO Gregory Howard was interviewed at the CCRB on March 21, 2013 (encl. 8c-8d).

At no point on July 18, 2012 was PO Howard in the vicinity of Park Avenue and Ann Street, nor did he receive a radio transmission requesting assistance at that location.

Upon being presented with a photo of § 87(2)(b) PO Howard stated that he placed § 87(2)(b) under arrest approximately two weeks prior to the date of the incident. He does not recall the details of that encounter, but believes that § 87(2)(b) was arrested for § 87(2)(b). He has not encountered § 87(2)(b) or interacted with him since then.

PO Howard does not recall stopping or searching a vehicle in the Port Richmond area on July 18, 2012, nor does he recall frisking anyone on that date.

NYPD Documents

Handwritten Stop, Question and Frisk Log

The Handwritten Stop, Question and Frisk Log lists Stop, Question and Frisk encounters from July and August 2012. It includes the names and dates of birth of those stopped, the locations of the stops, and the names of the officers involved. However, § 87(2)(b) name is not listed anywhere on the log (encl. 9a-9ar).

Roll Call

The Tour Two Roll Call for July 18, 2012 lists PO DiMassa, PO Pantaleo, PO Lopez and PO Howard as assigned to the Street Narcotics Enforcement Unit (SNEU) (encl. 10j-10k).

Daily Vehicle Assignment Sheet

The July 18, 2012 Daily Vehicle Assignment Sheet lists marked vans 5987 and 8523 as having remained in the 120th Precinct stationhouse during Tour One. Their status during Tours Two and Three is not accounted for (encl. 11).

Warrant Check

The NYPD Management Information Systems Division (MISD) database was performed on confirmed that no warrant check had been run on § 87(2)(b) license plate number or driver's license number on the date of the incident (encl. 12a-12d).

Status of Civil Proceedings

- As of April 4, 2013, nearly six months past the 90-day filing deadline, § 87(2)(b) has not filed a Notice of Claim with the City of New York in regards to this incident (encl. 15).

Civilian's Criminal History

- § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED] (encl. 14c).

Civilian's CCRB History

- § 87(2)(b) has filed one previous CCRB complaint (encl. 2):
 - In case number § 87(2)(b) a vehicle search, search of person, property damage, and a refusal by an officer to provide his name were alleged. Those allegations were closed as complainant uncooperative.

Subject Officers' CCRB History

- PO Stephen DiMassa has been a member of the service for six years and there are three substantiated CCRB allegations against him:
 - In case number 201004027, the Board substantiated a vehicle stop, vehicle search and frisk against PO DiMassa. The Board recommended charges for all three allegations, and the NYPD gave PO DiMassa instructions for the vehicle stop and frisk allegations. The vehicle search allegation was not addressed by the NYPD (encl. 1a).
- PO Daniel Pantaleo has been a member of the service for six years and there are no substantiated CCRB allegations against him (encl. 1b).
- PO Steven Lopez has been a member of the service for five years and there are no substantiated CCRB allegations against him (encl. 1c).

- PO Gregory Howard has been a member of the service for seven years and there are no substantiated CCRB allegations against him. § 87(4-b), § 87(2)(g) (encl. 1d).

Conclusion

Identification of Subject Officers

- § 87(2)(b) identified PO Daniel Pantaleo, PO Steven Lopez and PO Gregory Howard as the subject officers during a photo array conducted at the CCRB on March 5, 2013. In addition, PO Pantaleo was assigned to marked van number 8523. § 87(2)(b) noted this as the RMP number of the marked van that pulled him over. § 87(2)(b) recognized PO Pantaleo from a previous interaction during which he was placed under arrest. While PO Howard acknowledged placing § 87(2)(b) under arrest during that previous interaction, PO Pantaleo had no recollection of ever interacting with § 87(2)(b).
- PO Stephen DiMassa was assigned to marked van number 8523 with PO Daniel Pantaleo on the date of the incident.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: PO Stephen DiMassa stopped the car in which § 87(2)(b) was an occupant.

Allegation B – Abuse of Authority: PO Daniel Pantaleo stopped the car in which § 87(2)(b) was an occupant.

§ 87(2)(b) noted the RMP number of the marked van that pulled him over as 8523. During his in-person statement, he presented the piece of paper on which he had made this note.

PO DiMassa and PO Pantaleo noted in their memo books that they were assigned to this vehicle for the duration of their tours on the date of the incident. The Daily Vehicle Assignment Sheet, however, indicated that marked van number 8523 remained in the stationhouse that entire day.

While neither PO DiMassa nor PO Pantaleo has any recollection of pulling over § 87(2)(b)'s vehicle on the date of the incident, § 87(2)(b) stated that he was pulled over by officers in marked van number 8523, and informed by the officers that he was being stopped for a defective taillight. § 87(2)(b) added that he had repaired his taillight two days prior to the date of the incident.

Taken together, § 87(2)(b) note of the van number and the fact that PO DiMassa and PO Pantaleo were assigned to this particular vehicle serve as a strong indication that they pulled over § 87(2)(b) vehicle on the date of the incident.

However, the reason for the vehicle stop cannot be determined, given the available evidence. Because PO DiMassa and PO Pantaleo could not recall whether they pulled § 87(2)(b) over on the date of the incident, they could neither corroborate nor discredit his claim that a defective taillight was the stated reason for stopping him.

In addition, because § 87(2)(b) was not issued a summons as a result of the interaction, nor was a Stop, Question and Frisk Report prepared, the reason for the stop could not be confirmed. § 87(2)(b) assertion that he had repaired his taillight prior to being stopped raises the possibility that he may indeed have had a defective taillight when stopped.

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: PO Stephen DiMassa questioned § 87(2)(b)

Allegation D – Abuse of Authority: PO Steven Lopez frisked § 87(2)(b)

Allegation E – Abuse of Authority: PO Stephen DiMassa frisked § 87(2)(b)

Allegation F – Abuse of Authority: PO Steven Lopez searched § 87(2)(b)

Allegation G – Abuse of Authority: PO Daniel Pantaleo searched the car in which § 87(2)(b) was an occupant.

Allegation H – Abuse of Authority: PO Gregory Howard searched the car in which § 87(2)(b) was an occupant.

According to § 87(2)(b) PO DiMassa questioned him as to whether his license was valid, and later asked him if he was in possession of morphine.

§ 87(2)(b) stated that PO Lopez then arrived at the scene and ordered him to exit the vehicle. PO Lopez frisked § 87(2)(b) by patting down his front jeans pockets. He then asked § 87(2)(b) if he had anything in his pockets. § 87(2)(b) replied that he had cigarettes and money. PO Lopez removed a pack of cigarettes from § 87(2)(b) right front pocket, and money from his front left pocket.

§ 87(2)(b) also alleged that PO Pantaleo and PO Howard later searched his vehicle, after which PO DiMassa again frisked him by patting down his crotch area and running his hands along his legs and rear end.

PO DiMassa, PO Pantaleo, PO Lopez and PO Howard did not recall interacting with § 87(2)(b) in any capacity on the date of the incident. None of the four officers recall being in the vicinity of Park Avenue and Ann Street on the date of the incident.

The Handwritten Stop, Question and Frisk Log provided to the CCRB by the 120th Precinct does not list § 87(2)(b) as having been the subject of a Stop, Question and Frisk on any date in either July or August of 2012, and no Stop, Question and Frisk Report was prepared.

The fact that § 87(2)(b) name was omitted from the Handwritten Stop, Question and Frisk Log may have been an oversight, and should not serve as evidence that the vehicle stop did not occur. Because no Stop, Question and Frisk Report was prepared, it cannot be determined whether § 87(2)(b) was frisked or searched on the date of the incident.

The investigation has determined that PO DiMassa and PO Pantaleo stopped § 87(2)(b) vehicle on July 18, 2012. However, no credible independent witness testimony or documentary evidence was available to determine whether PO Lopez or PO Howard also interacted with § 87(2)(b) on the same date, or whether § 87(2)(b) was subjected to questioning, a frisk, a search or a search of his vehicle in the course of any interaction.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Team: 3

Investigator: _____ Amgad Fawzy 05/10/2013
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date

Reviewer: _____
 Title/Signature Print Date