

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Team # 1	CCRB Case #: 201301769	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 03/15/2013 3:40 PM	Location of Incident: in front of § 87(2)(b)	Precinct: 120	18 Mo. SOL 9/15/2014	EO SOL 9/15/2014	
Date/Time CV Reported Sat, 03/16/2013 2:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 03/16/2013 2:00 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Pantaleo	13293	942805	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Mark Paquette	03209	921656	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Pantaleo	Force: PO Daniel Pantaleo used physical force against § 87(2)(b)	§ 87(2)(b)

### Case Summary

On March 18, 2013, § 87(2)(b) filed this complaint with the Civilian Complaint Review Board (CCRB) via the call processing system.

On March 15, 2013, at approximately 3:40 p.m., officers from the 120<sup>th</sup> Precinct stopped § 87(2)(b) in front of § 87(2)(b) in Staten Island for having an open container of alcohol and he was subsequently arrested. The following allegation resulted from this incident:

#### **Allegation A: Force: PO Daniel Pantaleo used physical force against § 87(2)(b)**

§ 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### **Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

#### Arrest Photograph

§ 87(2)(b) arrest photograph shows no apparent injury to his face (encl. 3m).

#### Statement to Medical Personnel

On § 87(2)(b) .., § 87(2)(b) went to § 87(2)(b) and stated the following to medical personnel (see miscellaneous folder). § 87(2)(b) was punched on his face while in an altercation with the NYPD on the Friday before arriving to the hospital. Since then, the pain in his jaw had been worsening.

#### Photographs

On April 4, 2013, § 87(2)(b) provided two photographs, taken on an unknown date, via email to the undersigned investigator. The photographs show § 87(2)(b) face with no apparent injuries (encl. 3k-3l).

#### CCRB Testimony

On March 26, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 3d-3j).

§ 87(2)(g)

On March 15, 2013, at approximately 3:40 p.m., § 87(2)(b) was sitting on the steps of his building, located at § 87(2)(b), in Staten Island, drinking a can of Keystone beer. § 87(2)(b) had been outside for under a minute and never left his steps. § 87(2)(b) was outside because he had gotten into a small argument with his girlfriend, § 87(2)(b) and wanted to clear his head. That day, § 87(2)(b) had imbibed one other can of beer at 11:00 a.m. or 11:30 a.m. and was not intoxicated.

An unmarked, gold Chevy Impala pulled over in front of his residence. Two plainclothes officers, identified via investigation as PO Daniel Pantaleo (described as a white male, 6'1" to 6'2" tall, medium body build, in his late twenties to early thirties) and SGT Mark Paquette (described as a white male, 5'11" tall, chubby body build, in his mid-thirties) of the 120<sup>th</sup>

Precinct, exited the vehicle. PO Pantaleo and SGT Paquette approached § 87(2)(b) and stood on the sidewalk, approximately two feet away.

SGT Paquette took his badge out from underneath his shirt and asked § 87(2)(b) for his identification. § 87(2)(b) asked, “What did I do wrong? Why is my ID needing to be shown? I live here, I can show you that I live here. I can go right upstairs, I have my clothes, everything there, I can show proof that I live here.” PO Pantaleo said, “We don’t care, we don’t care.” § 87(2)(b) said, “Why you being nasty, when I’m not getting nasty back? All I’m doing is telling you that I live here. So then, and then, I’m on my steps by myself. You don’t even have a right to just pull over in front of my house because you see me drinking a beer on my steps.” PO Pantaleo said, “Well, you’re on New York City grounds.” § 87(2)(b) asked, “How am I on New York State grounds? This is where I live, in my apartment. I’m not in the middle of the street. I’m not on the sidewalk. I’m by myself, I wasn’t walking up and down the street drinking it. I was on my steps. That’s right in front of my house and y’all had to walk up to me.”

PO Pantaleo continued to ask for § 87(2)(b) identification. § 87(2)(b) continued to ask the officers why they needed his identification. PO Pantaleo said, “Oh, so you’re not going to give me your ID.” PO Pantaleo’s demeanor became more angry as this interaction continued, which he expressed by raising his voice. PO Pantaleo roughly grabbed § 87(2)(b) right bicep with one of his hands. § 87(2)(b) asked, “Why did you grab me? I didn’t get offensive, I didn’t cuss at you, you all didn’t even say, ‘You’re under arrest.’” § 87(2)(b) pulled his arm back and PO Pantaleo let go. PO Pantaleo asked again for § 87(2)(b) identification and § 87(2)(b) again asked why he needed it.

PO Pantaleo grabbed § 87(2)(b) by his right pants leg and the right side of his jacket with both his hands and pulled § 87(2)(b) off the steps. § 87(2)(b) caught his balance by hopping on one leg once he was in a standing position. At this time, PO Pantaleo kept one hand on § 87(2)(b) jacket. SGT Paquette, who was now behind § 87(2)(b) put both his hands on the left side of § 87(2)(b) back to steady him from falling. PO Pantaleo with one hand still on § 87(2)(b) jacket, positioned himself behind § 87(2)(b) and pushed him towards the ground, using both hands on each of § 87(2)(b) shoulders. § 87(2)(b) fell face-down, directly onto a mattress that a neighbor had thrown away, so that his head was closest to the street. § 87(2)(b) stomach and upper body hit the mattress first, followed by the right side of his face.

§ 87(2)(b) turned his head to the right, where PO Pantaleo was, and to his left, where SGT Paquette was. SGT Paquette handcuffed § 87(2)(b) within seconds and he did not resist in any way. § 87(2)(b) said, “This is not right. Y’all can’t do this to me. I did nothing wrong. I’m not fighting y’all, I’m not being aggressive. I’m not pushing away.” § 87(2)(b) looked to his right and saw PO Pantaleo looking left and right down each side of the street to ensure nobody was watching him. As § 87(2)(b) moved his head to look to his left in the direction of SGT Paquette, PO Pantaleo punched § 87(2)(b) once in his right jaw with a closed fist, which caused swelling to the area.

Either PO Pantaleo or SGT Paquette (who not recalled) used a radio to call other officers. § 87(2)(b) said, “Now you’re going to punch me in my face? There’s a whole lot of people out here, that’s doing crimes, real crimes, and nobody mess with them. But I’m just an innocent person, just minding my business. I don’t bother nobody. I don’t get arrested. I don’t got a background.” PO Pantaleo said, “You had your chance to talk.” SGT Paquette reentered the police vehicle.

PO Pantaleo reached inside § 87(2)(b) right pocket and withdrew his identification that was loose with other papers. PO Pantaleo also reached inside of § 87(2)(b) other pockets on his blue jeans, but they were empty. PO Pantaleo threw § 87(2)(b) papers on the ground. § 87(2)(b) came out and asked what was going on. PO Pantaleo got “nasty” with § 87(2)(b).

§ 87(2)(b) by saying that if § 87(2)(b) had given them his identification, this would not have happened. § 87(2)(b) said, “This is bullshit,” but PO Pantaleo did not respond.

Two uniformed officers, PO3 (described as a white male, 5’8” to 5’9” tall, average body build, blonde-brown hair, in his 20s, the driver of the vehicle) and PO4 (described as a white male, 5’8” to 5’9” tall, average body build, in his 20s) arrived in a marked police vehicle after § 87(2)(b) had been on the mattress for approximately fifteen minutes. PO Pantaleo lifted § 87(2)(b) to a standing position and escorted him over to the marked police vehicle. PO3 and PO4 transported § 87(2)(b) to the precinct stationhouse.

§ 87(2)(b) saw a judge the next day and was charged with resisting arrest and was sentenced to pay \$120.00, which he did. After his release, § 87(2)(b) went to § 87(2)(b) § 87(2)(b) for the swelling to his face. § 87(2)(b) was diagnosed with a contusion and given a prescription for Motrin pain reliever.

**Witness:** § 87(2)(b)

- § 87(2)(b)

### **CCRB Testimony**

On March 26, 2013, § 87(2)(b) was interviewed at the CCRB, § 87(2)(b) (encl. 4a-4e) § 87(2)(g)

On March 15, 2013, at approximately 3:40 p.m., after § 87(2)(b) s and § 87(2)(b) small argument, § 87(2)(b) opened the window that faces the street because she is “nosy” and wanted to know what was going on between them.

After the officers arrived and § 87(2)(b) refused to provide his identification, an officer identified via investigation as PO Pantaleo (described as a white male, 6’1” tall, average body build, 37 years old) grabbed § 87(2)(b) jacket and swung him off the steps. § 87(2)(b) tried to keep his balance, but fell onto a mattress that was in front of the building. PO Pantaleo handcuffed § 87(2)(b). At this time, the officer identified via investigation as SGT Paquette (described as a white male, shorter than PO Pantaleo, chubby body build, 40 years old) had already re-entered the patrol vehicle.

§ 87(2)(b) called to § 87(2)(b) and said, “Mom, mom, they got him.” § 87(2)(b) said, “Who got him?” § 87(2)(b) said, “The cop.” § 87(2)(b) went downstairs. As soon as § 87(2)(b) turned back towards the window, PO Pantaleo brought his right arm down and either punched or pressed down upon § 87(2)(b) face. § 87(2)(b) did not know whether PO Pantaleo did this with an open or closed fist.

When § 87(2)(b) came outside, § 87(2)(b) said to § 87(2)(b) “Call my mom and tell her to get me a lawyer.” PO Pantaleo said, “Aw, you’re § 87(2)(b) and you’re calling your mother?” § 87(2)(b) took § 87(2)(b) s phone and went downstairs to bring it to her. When § 87(2)(b) came outside, she saw PO Pantaleo emptying out the beer onto the ground.

**Witness:** § 87(2)(b)

- § 87(2)(b)

### **CCRB Testimony**

On March 26, 2013, § 87(2)(b) was interviewed at the CCRB (encl. 5a-5f). § 87(2)(b)

§ 87(2)(g)

On March 15, 2013, at approximately 3:40 p.m., after § 87(2)(b) called to § 87(2)(b) she went outside and stood on the front steps. § 87(2)(b) told § 87(2)(b) that an officer punched him in the face, but she did not see this occur. An officer identified via investigation as PO Pantaleo (described as a white male, 5'10" tall, average body build, in his mid-forties) told her that § 87(2)(b) was being arrested for resisting arrest and that he cursed and refused to provide identification. § 87(2)(b) had no other alcoholic beverages that day except the can of beer he had been drinking outside.

### **NYPD Statements:**

#### **Subject Officer: PO DANIEL PANTALEO**

- *PO Pantaleo is a § 87(2)(b)-year-old white male who stands 6'1" tall, weighs 215 pounds, and has brown hair and brown eyes.*
- *On March 15, 2013, PO Pantaleo was on duty from 8:00 a.m. until 4:35 p.m., was assigned to the Anti-Crime unit with SGT Paquette, was dressed in plainclothes and using an unmarked gold Chevy Impala, number 255.*

### **Memo Book**

PO Pantaleo made the following entries in his memo book (encl. 6a-6b). At 3:35 p.m., § 87(2)(b) was stopped on § 87(2)(b). At 3:40 p.m., § 87(2)(b) was arrested. In regard to this incident, the arrest number is § 87(2)(b) the complaint report number is § 87(2)(b) and the voucher number (generated for one item, a beer can) is § 87(2)(b).

### **Arrest Report and Criminal Court Complaint**

PO Pantaleo provided the narrative for § 87(2)(b) arrest report, number § 87(2)(b) (encl. 6c-6e), and criminal court complaint (encl. 6h-6k), wherein it states that § 87(2)(b) was observed drinking a 24-ounce Keystone beer in public, became irate at requests for his identification and refused to provide it, and flailed his arms to prevent himself from being handcuffed.

### **CCRB Testimony**

On May 21, 2013, PO Pantaleo was interviewed at the CCRB (encl. 6n-6p).

On March 15, 2013, at approximately 3:40 p.m., PO Pantaleo was driving down § 87(2)(b) a two-way street, in the unmarked police vehicle also occupied by SGT Paquette in the front passenger seat. PO Pantaleo observed § 87(2)(b) alone, standing and drinking from an open can of Keystone beer on the sidewalk. PO Pantaleo passed § 87(2)(b) made a U-turn, and parked directly in front of where § 87(2)(b) was standing.

SGT Paquette and PO Pantaleo exited the police vehicle together. PO Pantaleo stopped § 87(2)(b) because he was observed drinking from an open container of alcohol in public. PO Pantaleo pulled out his shield and identified himself as an officer. PO Pantaleo smelled alcohol on § 87(2)(b) person. PO Pantaleo asked § 87(2)(b) for identification because he intended to issue him a summons for the open container of alcohol. § 87(2)(b) said, "Why are you stopping me?" PO Pantaleo told § 87(2)(b) that he was stopped because he was standing on a public sidewalk with an open container. § 87(2)(b) irately said he did not care and that he was allowed to do that. PO Pantaleo said, "Can I please have your identification?" § 87(2)(b) said,

“Absolutely not, I’m allowed to do this.” § 87(2)(b) said he lived in the building right behind him.

PO Pantaleo told § 87(2)(b) that if he did not provide identification, he would be taken back to the stationhouse to be identified. § 87(2)(b) became more irate. § 87(2)(b) said, “I’m not giving you my fucking ID, get the fuck off me.” PO Pantaleo was not touching § 87(2)(b) at this time, and did not know why he said this. PO Pantaleo asked § 87(2)(b) for identification three or four more times, but § 87(2)(b) never produced it. At this point, § 87(2)(b) was considered under arrest for drinking an open container of alcohol in public.

PO Pantaleo told § 87(2)(b) that he was going to be placed under arrest and instructed him to put his hands behind his back. PO Pantaleo reached and grabbed onto § 87(2)(b) right wrist, but § 87(2)(b) pulled his wrist forward, out of PO Pantaleo’s grasp. PO Pantaleo repeatedly told § 87(2)(b) to put his hands behind his back, but § 87(2)(b) refused by yelling, “Get the fuck off me.”

PO Pantaleo “threw” § 87(2)(b) to the ground, but did not recall how he accomplished this. PO Pantaleo’s representative, Ms. Janet Insardi, asked PO Pantaleo if he meant that he literally threw § 87(2)(b) to the ground or used his weight to bring § 87(2)(b) to the ground. PO Pantaleo then said that he positioned himself behind § 87(2)(b) and probably used his weight to lean him forward, causing him to fall forward onto his arms. § 87(2)(b) landed on the concrete of the sidewalk. A mattress was laying approximately two feet in front of PO Pantaleo and § 87(2)(b) but § 87(2)(b) did not land on it.

§ 87(2)(b) continued to resist by laying on his arms and tensing his muscles. PO Pantaleo yelled repeatedly for § 87(2)(b) to put his arms behind his back, but he did not comply. SGT Paquette assisted in trying to pull § 87(2)(b) arms behind his back, but had difficulty due to § 87(2)(b) resistance. SGT Paquette also issued instructions to § 87(2)(b) but PO Pantaleo did not recall what they were. To get § 87(2)(b) to comply, PO Pantaleo tactically struck § 87(2)(b) one time in the back of his right shoulder with his right closed fist. PO Pantaleo did not strike § 87(2)(b) anywhere else on his body. PO Pantaleo did not punch § 87(2)(b) in the jaw or anywhere on the face, and did not see any other officer do this. § 87(2)(b) said, “I give up,” and loosened his muscles, allowing for his hands to be placed behind his back.

PO Pantaleo brought § 87(2)(b) to a standing position. PO Pantaleo did not observe any injuries on § 87(2)(b) person at this point or at the stationhouse. PO Pantaleo did not learn of § 87(2)(b) being injured in any way as a result of this incident. § 87(2)(b) did not complain of any injuries to PO Pantaleo at this point or at the stationhouse, and PO Pantaleo did not hear of § 87(2)(b) reporting an injury to any other officer after the fact.

SGT Paquette called over the radio for a transport vehicle to take § 87(2)(b) to the stationhouse. While they were waiting, two individuals, identified via investigation as § 87(2)(b) and § 87(2)(b) exited the building that § 87(2)(b) was standing in front of. PO Pantaleo did not speak to these individuals and did not know if SGT Paquette spoke to them. PO Pantaleo conducted a field frisk and search of § 87(2)(b) person as he was under arrest. A marked police vehicle arrived with two male uniformed officers from the 120<sup>th</sup> Precinct.

§ 87(2)(b) was transported to the 120<sup>th</sup> Precinct stationhouse. PO Pantaleo and SGT Paquette went to the 120<sup>th</sup> Precinct and processed § 87(2)(b) with charges of obstructing governmental administration, resisting arrest, and an open container of alcohol.

**Witness Officer: SGT MARK PAQUETTE**

- *SGT Paquette is a § 87(2)(b)-year-old white male who stands 5'10" tall, weighs 225 pounds, and has brown hair and green eyes.*
- *On March 15, 2013, SGT Paquette was on duty from 8:00 a.m. until 4:44 p.m., was assigned to the Anti-Crime unit with PO Pantaleo, was dressed in plainclothes and using an unmarked gold Chevy Impala, number 255.*

**Memo Book**

SGT Paquette made the following entries in his memo book (encl. 7a-7c). At 3:35 p.m., one black male was stopped at § 87(2)(b) and he was drinking, refused to provide identification and resisted when handcuffed. At 3:40 p.m., PO Pantaleo made an arrest and this individual was transported by the Conditions unit.

**CCRB Testimony**

On May 22, 2013, SGT Paquette was interviewed at the CCRB (encl. 8a-8c).

§ 87(2)(g)

On March 15, 2013, at approximately 3:40 p.m., § 87(2)(b) was stopped because he was drinking beer from a 16-ounce silver can. When PO Pantaleo went to handcuff § 87(2)(b) by attempting to grab his arms, § 87(2)(b) took a defensive posture by raising his fists in front of his body. PO Pantaleo grabbed § 87(2)(b) by the shoulder and brought him to the ground within ten seconds. § 87(2)(b) landed on his arms on top of garbage bags.

PO Pantaleo punched § 87(2)(b) one time in the back of § 87(2)(b) shoulder after he refused to place his hands behind his back, but did not punch him in the face. SGT Paquette did not punch § 87(2)(b) in the face, nor did he see any officer do this. After PO Pantaleo punched § 87(2)(b) he was placed in handcuffs.

**Medical Records**

On § 87(2)(b) § 87(2)(b) went to § 87(2)(b) (see miscellaneous folder). § 87(2)(b) was diagnosed with a contusion to his right jaw, right jaw pain and soft tissue injury, for which Motrin was prescribed.

**NYPD Documents**

**Command Log**

The command log of the 120<sup>th</sup> Precinct stationhouse on March 15, 2013 (encl. 9b), shows that PO Pantaleo arrested § 87(2)(b) and he arrived at the stationhouse at 3:47 p.m. in good physical and mental condition.

**Arrest for Incident and Disposition**

On March 16, 2013, § 87(2)(b) pled guilty to disorderly conduct and was sentenced to time served (encl. 10a-10e).

**Status of Civil Proceedings**

§ 87(2)(b) has not filed a Notice of Claim with the City of New York as of July 2, 2013, with regard to the incident (encl. 11a).

**Civilian Criminal History**

As of August 23, 2013, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) besides the one resulting from this incident.

### **Civilian CCRB History**

This is the first CCRB complaint filed by § 87(2)(b) (encl. 1a)

### **Subject Officer CCRB History**

- PO Pantaleo has been a member of the service for seven years and there are four substantiated CCRB allegations against him (encl. 0a).
  - In CCRB number 201116526, allegations of a vehicle stop and vehicle search were substantiated for which the Board recommended charges; the NYPD disposition and penalty indicates that instructions were imposed for the vehicle stop; the NYPD disposition for the vehicle search was instructions, but the penalty is still pending.
  - In CCRB number 201208174, allegations of a stop and frisk were substantiated for which the Board recommended charges; the NYPD disposition and penalty are still pending.

### **Conclusion**

### **Identification of Subject Officer**

PO Pantaleo acknowledged his participation in the incident.

### **Investigative Findings and Recommendations**

#### **Allegation A: Force: PO Daniel Pantaleo used physical force against § 87(2)(b)**

It is undisputed that § 87(2)(b) resisted attempts to place him in handcuffs. § 87(2)(b) said that after he was handcuffed by SGT Paquette, PO Pantaleo proceeded to punch him with a closed fist once in the left side of his face. § 87(2)(b) said that PO Pantaleo pulled § 87(2)(b) off of the steps by his jacket and he lost his balance and fell onto the mattress. § 87(2)(b) also said that after PO Pantaleo handcuffed § 87(2)(b) she turned away from the window to call to § 87(2)(b) and when she turned back, PO Pantaleo either punched or pressed down on § 87(2)(b) face, but she did not know if he did this with a closed fist. § 87(2)(b) did not see § 87(2)(b) get punched.

PO Pantaleo said that § 87(2)(b) tensed his arms underneath him while on the ground and would not place his hands behind his back to be handcuffed. PO Pantaleo acknowledged punching § 87(2)(b) but stated it was in the back of his right shoulder because § 87(2)(b) was resisting. PO Pantaleo said that subsequent to the punch in the shoulder, § 87(2)(b) allowed himself to be handcuffed. SGT Paquette corroborated this statement.

No apparent injuries were visible in either the photographs that § 87(2)(b) provided or his arrest photograph. § 87(2)(b) medical records indicate there was a contusion observed on § 87(2)(b) jaw, but the origin of this could not be confirmed.

§ 87(2)(g)

§ 87(2)(g)



Team: One

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date