

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #12	CCRB Case #: 201605975	<input checked="" type="checkbox"/> Force	<input checked="" 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) Sun, 07/10/2016 10:30 PM	Location of Incident: [REDACTED]	Precinct: 73	18 Mo. SOL 01/10/2018	EO SOL 1/10/2018	
Date/Time CV Reported Mon, 07/11/2016 10:22 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 07/11/2016 10:22 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Vincent Dandraia	26819	[REDACTED]	073 PCT
2. LT Jay Santana	00000	[REDACTED]	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Paul Brown	28748	[REDACTED]	NARCBQN
2. SGT Junkao Zhang	05082	[REDACTED]	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A. LT Jay Santana	Force: At § 87(2)(b) in Brooklyn, Lieutenant Jay Santana tasered § 87(2)(b)	[REDACTED]
B. POM Vincent Dandraia	Force: At § 87(2)(b) in Brooklyn, Police Officer Vincent D'Andraia used physical force against § 87(2)(b)	[REDACTED]
C. POM Vincent Dandraia	Force: At § 87(2)(b) in Brooklyn, Police Officer Vincent D'Andraia struck § 87(2)(b) with a car door.	[REDACTED]
D. LT Jay Santana	Abuse of Authority: En route to the 73rd Precinct stationhouse, Lieutenant Jay Santana threatened § 87(2)(b) with the use of force.	[REDACTED]
E. POM Vincent Dandraia	Discourtesy: At the 73rd Precinct stationhouse, Police Officer Vincent D'Andraia spoke discourteously to § 87(2)(b) and § 87(2)(b)	[REDACTED]

Case Summary

On July 11, 2016, § 87(2)(b) filed this complaint via the CCRB's Call Processing System on the behalf of her nephew § 87(2)(b) her brother § 87(2)(b) and herself.

On July 10, 2016, at approximately 10:30 a.m., in the vicinity of § 87(2)(b) in Brooklyn, § 87(2)(b) was riding a dirt bike that belonged to an acquaintance. After riding the dirt bike for about five minutes, § 87(2)(b) came to a stop in front of § 87(2)(b) in Brooklyn. While he was seated on the bike at a standstill with the engine running, § 87(2)(b) saw a marked police vehicle driving on § 87(2)(b) in the direction of § 87(2)(b). The marked police vehicle came to a stop approximately 20 feet away from § 87(2)(b).

§ 87(2)(b) heard an officer command him to turn the engine off and to get off of the dirt bike. As he was doing in the process of complying, § 87(2)(b) heard a "zap" and he fell to the ground. Lieutenant Jay Santana tased § 87(2)(b) (**Allegation A**).

Police Officer Vincent D'Andraia handcuffed § 87(2)(b) however, while PO doing so, PO D'Andraia allegedly bent § 87(2)(b) left ring finger back causing him pain (**Allegation B**). § 87(2)(b) was then raised off of the ground and walked to the marked police vehicle. § 87(2)(b) was placed in the back of the marked vehicle; however, PO D'Andraia closed the door of the marked vehicle before he can place his entire leg inside and the door closed on § 87(2)(b) leg (**Allegation C**).

Both officers then entered the marked vehicle and PO D'Andraia began driving to the 73rd Precinct stationhouse.

En route to the stationhouse, § 87(2)(b) began to yell because he was in pain. In response, Lieutenant Santana said, "Shut up or I will tase you again" (**Allegation D**).

Approximately five minutes after leaving the initial incident location, the marked vehicle arrived at the 73rd Precinct stationhouse. Minutes later, § 87(2)(b) and § 87(2)(b) entered the stationhouse. When § 87(2)(b) family members entered, PO D'Andraia immediately approached them and said, "I thought you said he was § 87(2)(b)". PO D'Andraia then asked where the dirt bike went. § 87(2)(b) told PO D'Andraia that a different individual took the dirt bike. PO D'Andraia allegedly responded by saying, "Fuck ya'll," (**Allegation E**) and then walked away.

Lieutenant Santana then instructed four uniformed police officers to escort § 87(2)(b) and § 87(2)(b) out of the 73rd Precinct stationhouse.

§ 87(2)(b) was arrested as a result of this incident.

This case went past the 90-day benchmark due to delays in scheduling both the civilians and officers.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- § 87(2)(b) has filed a Notice of Claim with the NYC Comptroller's Office claiming psychological and physical distress, physical pain and suffering, damage to property, fear and other trauma, legal expenses, deprivation of liberty, and economic loss for an unspecified amount of money (Board Review 19).
- In relation to this incident, on § 87(2)(b), § 87(2)(b) pled guilty to disorderly conduct and he was ordered to three days of community service. OCA did not

- reflect any additional criminal convictions for § 87(2)(b) in the past 10 years (Board Review 01).
- § 87(2)(b) has not been convicted of any crimes in the past 10 years (Board Review 02).
 - § 87(2)(b) has not been convicted of any crimes in the past 10 years (Board Review 03).

Civilian and Officer CCRB Histories

- This is the first complaint filed by or on behalf of § 87(2)(b) (Board Review 04).
- This is the second complaint filed by or on behalf of § 87(2)(b) § 87(2)(b) § 87(2)(b).
- This is the third CCRB complaint filed by or on behalf of § 87(2)(b) CCRB Case #§ 87(2)(b) was closed as complainant uncooperative. In CCRB case #§ 87(2)(b) a stop allegation and two force allegations were exonerated (Board Review 06).
- This is the first CCRB complaint filed against PO D'Andraia, who has been a member of service for one year.
- This is the eight CCRB complaint filed against Lieutenant Santana, who has a total of nine allegations in his CCRB history and who has been a member of service for 23 years. There are no substantiations in Lieutenant Santana's CCRB history. In CCRB case numbers 200310204 and 201603762 force allegations against Lieutenant Santana were exonerated.

Findings and Recommendations

Explanation of Subject Officer Identification

- § 87(2)(b) alleged that one of the officers present at the initial incident location said, "Fuck y'all" while at the stationhouse. § 87(2)(b) stated that it was not the officer wearing a white shirt that was at § 87(2)(b) PO D'Andraia and Lieutenant Santana were the only officers present at the initial incident location. Therefore, Allegation A was pled against PO D'Andraia.

Allegations not pleaded

- § 87(2)(b) alleged that after his family members arrived at the 73rd Precinct stationhouse, Lieutenant Santana said, "You lied about his fucking age" (Board Review 07). He also alleged that when § 87(2)(b) requested Lieutenant Santana's name and shield number at the stationhouse, Lieutenant Santana said, "You ain't getting shit." § 87(2)(b) did not make these allegations on her own behalf, and when she was prompted during a follow phone statement she stated that she did not have any interaction with Lieutenant Santana at the stationhouse (Board Review 08). § 87(2)(g)

Allegation A -Discourtesy: At § 87(2)(b) in Brooklyn, Lieutenant Jay Santana tased § 87(2)(b)

It is undisputed that § 87(2)(b) was riding a dirt bike during the incident. It is also undisputed that Lieutenant Santana tased him.

§ 87(2)(b) stated that he was riding the dirt bike for approximately five minutes. § 87(2)(b) rode the dirt bike on § 87(2)(b) very briefly on § 87(2)(b) and in § 87(2)(b) § 87(2)(b), located directly across of § 87(2)(b) in Brooklyn. § 87(2)(b) did not ride the bike on the sidewalk at any point. When he came to a stop in front of § 87(2)(b) while seated on the dirt bike and with the engine running, § 87(2)(b) saw a marked police vehicle driving on § 87(2)(b) away from § 87(2)(b) and in the direction of § 87(2)(b). The marked vehicle then turned off of § 87(2)(b) onto § 87(2)(b). The marked vehicle stopped approximately 20 feet away from § 87(2)(b) position, and one of the officers commanded him to turn the engine off and to get off of the dirt bike. As he was in the process of complying, § 87(2)(b) was tased by Lieutenant Santana, while the lieutenant was still seated inside of the marked vehicle.

§ 87(2)(b) stated that while she was seated in her vehicle, which was parked in front of § 87(2)(b) § 87(2)(b) she saw § 87(2)(b) riding the dirt bike inside of § 87(2)(b) § 87(2)(b) (Board Review 09). At a later point, § 87(2)(b) saw § 87(2)(b) ride the dirt bike passed her vehicle on the sidewalk of § 87(2)(b). After seeing the marked vehicle exit out of § 87(2)(b) and turn left onto § 87(2)(b) immediately after, § 87(2)(b) exited her vehicle and began to walk in the direction of § 87(2)(b) where § 87(2)(b) was at a standstill, to tell him to get off of the dirt bike. As she was walking, she saw § 87(2)(b) fall to the ground. At that moment, she did not know why § 87(2)(b) fell to the ground because she was unable to see what caused him to fall.

When § 87(2)(b) arrived in front of § 87(2)(b) Lieutenant Santana told her that the officers had been following § 87(2)(b) for multiple blocks. § 87(2)(b) told the lieutenant that it was impossible because she had just saw § 87(2)(b) riding the dirt bike in § 87(2)(b), and she did not see him ride the dirt bike anywhere other than in the park and on § 87(2)(b).

While conducting field work in the vicinity of the incident location on August 26, 2016, § 87(2)(b) provided an in-person statement (Board Review 10). During her statement, § 87(2)(b) § 87(2)(b) stated that she observed § 87(2)(b) ride the dirt bike on the street for the majority of the time, but he began to ride on the sidewalk when the marked police vehicle went onto § 87(2)(b). § 87(2)(b) came to a stop in front of § 87(2)(b). Soon after, the marked police vehicle stopped on the street and the officers exited the vehicle.

§ 87(2)(b) was standing on the stoop of her home approximately five homes from where the officers approached § 87(2)(b). § 87(2)(b) was unable to hear what was being said, but she had a clear view because her stoop is elevated. § 87(2)(b) observed § 87(2)(b) attempt to get on the dirt bike while the officers were speaking to him. § 87(2)(b) then attempted to ride away, but Lieutenant Santana drew his Taser and discharged it at § 87(2)(b).

Lieutenant Santana stated that he and his partner first observed § 87(2)(b) operating the dirt bike on § 87(2)(b) driving north away from § 87(2)(b) (Board Review 11). Dirt bikes are not street legal in any capacity, and in this case, the dirt bike did not have turn signal lights, license plate frames, or headlights and § 87(2)(b) was not wearing a helmet. Lieutenant Santana's initial intention was to summons § 87(2)(b) for illegally operating the dirt bike. Additionally, if he found that the dirt bike was not registered it would be confiscated.

When § 87(2)(b) reached the intersection of § 87(2)(b) and § 87(2)(b) one block north of § 87(2)(b) and § 87(2)(b) § 87(2)(b) made a right hand turn onto

§ 87(2)(b) The officers then engaged the marked vehicle's turret lights. § 87(2)(b) looked back at the marked vehicle, but continued to drive on § 87(2)(b). At the next block § 87(2)(b) turned south on § 87(2)(b); at that time Lieutenant Santana made verbal commands to § 87(2)(b) out of the window, instructing him to stop. § 87(2)(b) made a third right onto § 87(2)(b) at which time he began to ride on the sidewalk. The marked vehicle drove parallel to the dirt bike on § 87(2)(b) and Lieutenant Santana made multiple verbal commands to § 87(2)(b) instructing him to stop. § 87(2)(b) drove through multiple groups of bystanders until he came to a stop in front of what Lieutenant Santana believed to be § 87(2)(b) in Brooklyn. At that point § 87(2)(b) was guilty of reckless endangerment, an arrestable offense.

§ 87(2)(b) got off of the dirt bike, Lieutenant Santana exited the passenger side and PO D'Andraia exited the driver side of the marked vehicle. An unrelated vehicle was parked between the marked vehicle and the sidewalk. § 87(2)(b) was standing at the front of the vehicle, and Lieutenant Santana went around the back of the vehicle onto the sidewalk. § 87(2)(b) then began to "charge" at Lieutenant Santana, in what Lieutenant Santana described as a "linebacker" running to tackle a "quarterback." § 87(2)(b) did not make any statements or movements and Lieutenant Santana did not make any commands to § 87(2)(b) prior to § 87(2)(b) "charging" at Lieutenant Santana. § 87(2)(b) looked directly at Lieutenant Santana while running and Lieutenant Santana drew his Taser. He drew his Taser because § 87(2)(b) was charging at him and he believed it to be his first option of defense. Lieutenant Santana commanded § 87(2)(b) to "stop." § 87(2)(b) did not comply. When § 87(2)(b) was approximately 10 to 15 feet away, Lieutenant Santana said, "Taser, Taser, Taser," and he deployed his Taser. Lieutenant Santana deployed his Taser because he feared for his safety. The officers gained compliance from § 87(2)(b) after he was tased.

After the incident, Lieutenant Santana completed a Threat, Resistance, or Injury Incident Worksheet. In the "Reason MOS Used Force" section, Lieutenant Santana responded "yes" to the Fleeing Suspect and Overcoming Resistance or Aggression prompts (Board Review 13).

PO D'Andraia did not recall where the officers were when they first observed § 87(2)(b) on the dirt bike; however, he stated that the officers were approximately one block away from § 87(2)(b) (Board Review 12). PO D'Andraia further stated that § 87(2)(b) rode on the sidewalk of § 87(2)(b) for approximately 100 feet before he came to a stop in front of what PO D'Andraia believed to be § 87(2)(b). When § 87(2)(b) got off of the dirt bike, the officers exited the marked vehicle and went onto the sidewalk. § 87(2)(b) was standing approximately three house lengths away from the officers, and he immediately began charging at Lieutenant Santana. PO D'Andraia heard Lieutenant Santana command § 87(2)(b) to stop running. § 87(2)(b) did not comply. Lieutenant Santana discharged his Taser when § 87(2)(b) was approximately 10 to 15 feet away. PO D'Andraia did not know at which point Lieutenant Santana drew his Taser during the incident.

In § 87(2)(b) Arrest Report, PO D'Andraia wrote, "Defendant did drop dirt bike on sidewalk and began to run. He charged platoon commander. Platoon commander did Taser defendant" (Board Review 14).

§ 87(2)(b)'s medical records from his visit to § 87(2)(b) on § 87(2)(b) that he was struck with one Taser barb in the left chest and one Taser barb in his left lower leg (see privileged documents).

All parties, but § 87(2)(b) stated that they witnessed him riding the dirt bike on the sidewalk of § 87(2)(b). Thus, the investigation has determined that § 87(2)(b) did operate the dirt bike on the sidewalk. Additionally, § 87(2)(b) stated that Lieutenant Santana told her the officers followed § 87(2)(b) for “blocks” while at the incident location, that she witnessed § 87(2)(b) riding on the sidewalk with the marked vehicle immediately behind, and that she saw § 87(2)(b) fall to the ground a short time after she began walking towards the exact location of the interaction, corroborating Lieutenant Santana’s account on the timing of events that lead to him discharging his Taser at and hitting § 87(2)(b). Therefore, the investigation is crediting Lieutenant Santana’s account that § 87(2)(b) was attempting to avoid arrest by refusing orders to stop the dirt bike and that he ran directly at Lieutenant Santana when in front of § 87(2)(b) in Brooklyn.

Patrol Guide Procedure 212-117 A Conducted Energy Device (CED) should only be used against persons who are actively physically resisting, exhibiting active physical aggression, or to prevent individuals from physically injuring themselves or other person(s) actually present (Board Review 18).

§ 87(2)(g)

Allegation B – Force: At § 87(2)(b) in Brooklyn, Police Officer Vincent D’Andraia used physical force against § 87(2)(b)

On § 87(2)(b)’s medical records from his visit to § 87(2)(b) § 87(2)(b) on § 87(2)(b), it is noted that he reported the following, after being tased he fell to his left side causing an impact to his hand that resulted in pain to his left ring finger.

During his CCRB interview on August 17, 2016, § 87(2)(b) stated that as PO D’Andraia was handcuffing him, PO D’Andraia bent his left ring finger back causing pain.

In the Notice of Claim, filed by § 87(2)(b) on September 16, 2016, it is noted that the claim was filed partially because the officers caused “injury to claimant’s finger by forcefully twisting his hands behind his back after he was handcuffed.”

§ 87(2)(b) stated that she saw PO D’Andraia pick § 87(2)(b) up off of the ground, and place him into the back of the marked police vehicle. As PO D’Andraia was in the process of doing so, she heard § 87(2)(b) yell that his finger was in pain; however, she did not see how § 87(2)(b) sustained the injury to his finger.

PO D’Andraia stated that he and Lieutenant Santana placed § 87(2)(b) in handcuffs using normal procedure. He did not recall if § 87(2)(b) made any statements to him during the handcuffing process. PO D’Andraia did not hear § 87(2)(b) make any statements regarding any injuries to or pain in his fingers or hand.

Lieutenant Santana stated that after § 87(2)(b) was tased, he only stated that he felt pain in his leg. Lieutenant Santana did not recall learning at any point that PO D’Andraia bent § 87(2)(b) finger.

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Force: At § 87(2)(b) in Brooklyn, Police Officer Vincent D’Andraia struck § 87(2)(b) with a car door.

It is undisputed that after § 87(2)(b) was tased, Lieutenant Santana and PO D’Andraia walked him over to the marked police vehicle and placed him inside the back of the vehicle.

§ 87(2)(b) stated that after he was placed inside the back of the marked vehicle, PO D’Andraia did not allow him to fully enter the vehicle before he closed the door. When PO D’Andraia closed the vehicle’s door, he closed the door on § 87(2)(b) leg because § 87(2)(b) had not placed his leg inside yet. § 87(2)(b) yelled out because the door was closed on his leg, but PO D’Andraia was faced the other way and he continued to push the door shut. When § 87(2)(b) told PO D’Andraia that his was occurring, PO D’Andraia said, “So put your feet in the car.”

§ 87(2)(b) was speaking to Lieutenant Santana on the sidewalk while PO D’Andraia was placing § 87(2)(b) in the back of the marked vehicle, § 87(2)(g)

§ 87(2)(b) s medical records from his visit to § 87(2)(b) on July 10, 2016 did not note any injuries to § 87(2)(b) leg consistent with being struck by a car door (see privileged documents).

During his CCRB interview, PO D’Andraia stated that he and Lieutenant Santana placed § 87(2)(b) into the back of the vehicle, but he closed the door. § 87(2)(b) did not struggle to get into the back of the marked vehicle, and after he got in, PO D’Andraia closed the door of the vehicle in one attempt without any obstruction. PO D’Andraia did not recall hearing § 87(2)(b) yell in pain or complain that his leg was in the way when the door was shut. PO D’Andraia denied closing the door of the marked vehicle on § 87(2)(b) leg.

Lieutenant Santana stated that § 87(2)(b) was placed into the marked vehicle backwards, and then his legs were raised and placed inside. Lieutenant Santana did not recall who closed the door of the vehicle, but the door was closed immediately without obstruction. Lieutenant Santana did not see PO D’Andraia close the door of the marked vehicle on § 87(2)(b) leg.

§ 87(2)(g)

Allegation D – Abuse: En route to the 73rd Precinct stationhouse, Lieutenant Jav Santana threatened § 87(2)(b) with the use of force.

It is undisputed that Lieutenant Santana and PO D’Andraia transported § 87(2)(b) to the 73rd Precinct stationhouse in the back of their marked police vehicle.

§ 87(2)(b) stated that while he was being transported to the stationhouse, he was yelling in pain. When Lieutenant Santana asked § 87(2)(b) for his pedigree information, § 87(2)(b) was unable to answer, and instead he continued to yell in pain. In response, Lieutenant Santana said, “Shut up or I will tase you again.” There was not any additional conversation between the officers and § 87(2)(b) en route to the stationhouse afterward.

Lieutenant Santana recalled that while the officers transported § 87(2)(b) to the stationhouse, he asked § 87(2)(b) what his age was. § 87(2)(b) responded, telling him that § 87(2)(b) was § 87(2)(b) years old. Lieutenant Santana also asked § 87(2)(b) if he had been arrested or if he has had previous interactions with police, to which § 87(2)(b) said no. Lieutenant Santana also asked § 87(2)(b) where he lived, and § 87(2)(b) provided an answer. While in the back seat, § 87(2)(b) complained of pain and he stated that being tased “hurt.” Lieutenant Santana did not say, “Shut up or I will tase you again.”

PO D’Andraia stated that while the officers transported § 87(2)(b) to the stationhouse, the officers asked him how old he was. § 87(2)(b) was crying during the transport; however, he did not make exclamations of pain. PO D’Andraia did not hear Lieutenant Santana say, “Shut up or I will tase you again.”

§ 87(2)(g)

Allegation E – Discourtesy: At the 73rd Precinct stationhouse, Police Officer Vincent D’Andraia spoke discourteously to § 87(2)(b) and § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) followed Lieutenant Santana, PO D’Andraia, and § 87(2)(b) to the 73rd Precinct stationhouse.

During her CCRB statement, § 87(2)(b) said that while in the stationhouse PO D’Andraia asked her and § 87(2)(b) what happened to the dirt bike. When § 87(2)(b) told him that an unrelated individual picked the dirt bike up and rode away, PO D’Andraia said, “Fuck Y’all.” Lieutenant Santana then ordered four other officers to escort the family out of the stationhouse.

§ 87(2)(b) provided a brief phone statement (Board Review 15); however, he did not cooperate with the investigation in providing a sworn statement. In his phone statement, § 87(2)(b) stated that in response to PO D’Andraia asking for § 87(2)(b) age, he answered rudely. PO D’Andraia then told the officers to leave the stationhouse, using the word “fuck” while doing so. Both PO D’Andraia and Lieutenant Santana refused to have a conversation with § 87(2)(b) while he was at the stationhouse.

PO D’Andraia stated that he did not have any direct conversation with the family at the stationhouse. He did not say, “Fuck y’all” to § 87(2)(b) or § 87(2)(b).

Lieutenant Santana stated that he did not have any direct conversation with the § 87(2)(b) family members at the stationhouse. He believed that either PO D’Andraia or another officer spoke to the family. Lieutenant Santana did not hear any conversations between the family members and any officers. He did not hear PO D’Andraia say, “Fuck y’all” to § 87(2)(b) or § 87(2)(b).

Police Officer Paul Brown, who was assigned to Window Security on July 10, 2016 during the third tour, did not have any recollection of the incident under investigation (Board Review 16).

Sergeant Junkao Zhang, who was assigned as the Desk Sergeant on July 10, 2016 during the incident time, did not over hear any conversation between § 87(2)(b) family and any officers (Board Review 17). Sergeant Zhang did not know where PO D’Andraia was while § 87(2)(b) and § 87(2)(b) were inside the stationhouse. Sergeant Zhang recalled seeing Lieutenant Santana speaking with them, but he was unable to hear the content of the

conversation because they were standing at the front of the stationhouse and he was at the back. Sergeant Zhang did not hear PO D'Andraia use profanity while he was standing at the command desk during his tour.

§ 87(2)(g)

Squad: 12

Investigator: _____
Signature Print Date

Squad Leader: _____
Signature Title/Print Date