

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chelsea Yogerst	Team: Squad #12	CCRB Case #: 201606480	<input 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) Friday, 07/15/2016 6:40 PM	Location of Incident: [REDACTED]	Precinct: 40	18 Mo. SOL 1/15/2018	EO SOL 1/15/2018	
Date/Time CV Reported Thu, 07/28/2016 9:36 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/28/2016 9:36 AM		

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Cautillo	00245	[REDACTED]	PSA 7
2. SGT Jason Korpolski	1591	[REDACTED]	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Carla Dinome	05798	[REDACTED]	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Cautillo	Discourtesy: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo spoke discourteously to [REDACTED]	[REDACTED]
B.POM Michael Cautillo	Abuse: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo stopped [REDACTED]	[REDACTED]
C.POM Michael Cautillo	Abuse: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo frisked [REDACTED]	[REDACTED]
D.POM Michael Cautillo	Abuse: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo searched [REDACTED]	[REDACTED]
E.POM Michael Cautillo	Abuse: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo strip-searched [REDACTED]	[REDACTED]
F.SGT Jason Korpolski	Abuse: At the PSA 7 stationhouse, Sergeant Jason Korpolski authorized the strip search of [REDACTED]	[REDACTED]

Case Summary

On July 28, 2016, [REDACTED] filed this complaint with the CCRB via the telephone.

On July 15, 2016, at approximately 7:00 p.m., [REDACTED] was walking on [REDACTED] and [REDACTED] in the Bronx when he was stopped by Police Officer Michael Cautillo and PO Carla Dinome, both of PSA 7. PO Cautillo allegedly told [REDACTED] to “Shut the fuck up” (**Allegation A and B**). PO Cautillo frisked and searched [REDACTED] on the street (**Allegations C and D**) and allegedly strip-searched him in their police van (**Allegation E**). Once at the PSA 7 stationhouse, Sergeant Jason Korpolski authorized the strip search of [REDACTED] (**Allegation F**). [REDACTED] received a summons for unlawful use of marijuana and was charged with obstructing governmental administration in the second degree, bribery in the third degree and criminal possession of a controlled substance in the seventh degree.

There was no video evidence for this incident.

§ 87(2)(b)

- [REDACTED]
- [REDACTED]
- [REDACTED]

Civilian and Officers CCRB Histories

- § 87(2)(b)
- PO Cautillo has been a member of the service for four years and has four allegations in one case. Of these complaints, there are no substantiated allegations.
- Sgt. Korpolski has been a member of the service for ten years and has twelve allegations in seven cases. In open CCRB case 201603587, he has a retaliatory arrest pleaded against him and § 87(4-b), § 87(2)(g)

Findings and Recommendations

Allegation A-Discourtesy: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo spoke discourteously to [REDACTED]

[REDACTED] stated that PO Cautillo told him to get against the wall and then immediately handcuffed him. When [REDACTED] told PO Cautillo that he was violating his rights, PO Cautillo asked [REDACTED] where his stuff was hidden and told [REDACTED] to “shut the fuck up.”

PO Cautillo denied making the alleged statement or using any other form of profanity with [REDACTED] PO Dinome denied hearing PO Cautillo make the alleged statement to [REDACTED]

§ 87(2)(g)

Allegation B-Abuse of Authority: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo stopped [REDACTED]

Allegation C-Abuse of Authority: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo frisked [REDACTED]

Allegation D-Abuse of Authority: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo searched [REDACTED]

[REDACTED] stated that when PO Cautillo and PO Dinome stopped him, he had two dime bags of marijuana in his intergluteal cleft, which he had placed there earlier in the day and not while he was on the street. He denied that he removed or replaced the bags at any point and denied that he smoked marijuana on the date of the incident. Upon his approach, PO Cautillo immediately handcuffed [REDACTED] and proceeded to frisk his chest, groin and buttock. PO Cautillo then reached inside of [REDACTED] shorts, underneath his undergarments, and felt around his private areas before removing one of the bags of marijuana from his buttock.

PO Cautillo testified that he observed [REDACTED] make an exchange with an unidentified individual, who he recognized to be a known drug dealer. After the exchange, PO Cautillo saw that [REDACTED] was holding a small clear bag, which was approximately the size of his palm, in his right hand. PO Cautillo believed that the bag contained marijuana because it was a dark leafy material. As soon as PO Cautillo and PO Dinome approached [REDACTED] [REDACTED] put the marijuana in his right shorts pocket. When PO Cautillo asked him what he had just placed in his pocket, [REDACTED] said, "Nothing." [REDACTED] was sweating profusely and acting nervously, which included him turning his body away from PO Cautillo. When PO Cautillo asked [REDACTED] why he was so nervous, he stated that it was because he did not like cops. PO Cautillo then frisked [REDACTED] right shorts pocket because he had just seen him place the marijuana in that pocket and needed to recover it. In addition, he wanted to ensure that the pocket did not have any weapons, which he believed [REDACTED] may have had because he was acting nervously, turning away from PO Cautillo and because they were in a narcotics and shooting prone location. During the frisk of the pocket, PO Cautillo felt a small package with a mushy substance that he believed to be marijuana. PO Cautillo then reached into the pocket and recovered the marijuana. He denied that frisked or touched anywhere else on [REDACTED] body at this time and denied that he reached into the waistband of [REDACTED] shorts or undergarments. He also denied that he reached around and touched [REDACTED] genitals.

§ 87(2)(g)

[REDACTED]. PO Dinome could not recall if [REDACTED] removed the marijuana from his own pocket or whether she or PO Cautillo removed the marijuana. She could not recall if PO Cautillo frisked [REDACTED] because she was focused on the fact that [REDACTED] was being fidgety and making movements with his hands.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation E-Abuse of Authority: At [REDACTED] and [REDACTED] in the Bronx, Police Officer Michael Cautillo strip-searched [REDACTED]

[REDACTED] stated that once he was apprehended, PO Cautillo escorted him to the unmarked police van and placed him face down on the second row of seats, such that he was prone with his buttocks slightly lifted. PO Cautillo removed [REDACTED] shorts and underwear. During this time, the doors of the van remained open. He then pulled [REDACTED] pants back up and seated [REDACTED] on the seat.

PO Cautillo testified that when he put [REDACTED] in the back of the van, [REDACTED] attempted to lie down on the seat on his own volition. [REDACTED] was lying on the seat for approximately one second before PO Cautillo put him in a seated position. PO Cautillo denied that [REDACTED] clothing was removed or lifted up and denied that his pants or undergarments were ever pulled down. He also denied that [REDACTED] undergarments or private areas were exposed and denied that [REDACTED] was ever strip-searched while in the van.

§ 87(2)(g)

§ 87(2)(g)

Allegation F-Abuse of Authority: At the PSA 7 stationhouse, Sergeant Jason Korpolski authorized the strip search of [REDACTED]

It is undisputed that Sgt. Korpolski authorized a strip search of [REDACTED] which was then conducted by PO Cautillo.

[REDACTED] stated that PO Cautillo took him to the restroom in the holding cell area. He then pulled down [REDACTED] shorts and underwear and instructed him to squat, which he did. PO Cautillo removed a second bag of marijuana from [REDACTED] s intergluteal cleft. When PO Cautillo asked [REDACTED] why he did not tell him about this bag, [REDACTED] informed him that he thought that the bag had been removed with the initial bag he had recovered. [REDACTED] was then escorted back to his holding cell.

Sgt. Korpolski explained that he authorized [REDACTED] strip search for several reasons which led him to believe that he was hiding contraband on his person. First, [REDACTED]

had been brought to the stationhouse because he had been arrested for possession of narcotics. While at the stationhouse, ██████ acted nervously, which included him looking away and fidgeting while at the desk and in the cell area. ██████ also reached into the back of his pants multiple times, even when officers instructed him to stop doing so. When Sgt. Korpolski asked ██████ if he had anything on him that he should not have, ██████ told him that he did not know. Finally, PO Cautillo informed Sgt. Korpolski that ██████ had been fidgeting in the van and reaching into his pants; therefore, he believed that he was trying to hide or destroy evidence. Sgt. Korpolski could not recall if PO Cautillo mentioned to him that he felt anything on ██████ body that led him to believe that he was concealing contraband. Although Sgt. Korpolski believed that it was possible that he discussed ██████ criminal history with PO Cautillo prior to the strip search, he could not recall what the discussion consisted of specifically. When asked if ██████ had a reputation at the stationhouse, Sgt. Korpolski stated that ██████ had a lengthy arrest record, which he discovered after ██████ was fingerprinted.

Sgt. Korpolski was present when PO Cautillo strip-searched ██████ in a back cell room, but did not participate in the search or make physical contact with ██████. Immediately prior to the strip search being conducted, ██████ handcuffs were removed and he was instructed to put his hands on the wall, but ██████ continued to fidget and remove his hands from the wall. Sgt. Korpolski did not recall if any additional contraband was recovered as a result of the strip search.

PO Cautillo testified that while he was handcuffing ██████ on the street, he felt a golf-ball sized hard object on his buttock. When PO Cautillo asked ██████ what the object was, he refused to tell him. Later, when PO Cautillo was searching ██████ incident to his arrest in the cell area, ██████ moved his buttock area away from PO Cautillo three times. PO Cautillo instructed ██████ to stop moving, but he would not comply. Following this, PO Cautillo approached Sgt. Korpolski and informed him of such. He also mentioned to Sgt. Korpolski that he had run ██████ name once they had returned to the stationhouse and discovered that he had approximately eight prior narcotics related arrest. Upon hearing this, Sgt. Korpolski authorized PO Cautillo to conduct the strip search. PO Cautillo brought ██████ into a bathroom in the cell area and instructed him to remove his shorts and undergarments and to squat, which he did. It was then that PCP, which was wrapped in a paper towel, was recovered from ██████ intergluteal cleft.

PO Cautillo completed the following paperwork regarding ██████ arrest. ██████ arrest report states that ██████ was found to be in possession of a controlled substance and a strip search was conducted with the sergeant present (01 BR). The Criminal Court Complaint states that ██████ was inside of the precinct stationhouse for a summons when PO Cautillo observed him to have a small ziplock containing a dried, brown, leafy substance with a pungent odor on his person, in his buttock. PO Cautillo stated that based on his training and experience, which includes training in the recognition of controlled substances and their packaging, the aforementioned substance was believed to be PCP (02).

§ 87(2)(b) ██████

████████████████████ PO Cautillo vouchered one small clear plastic bag containing alleged PCP in connection with ██████ arrest (07).

NYPD Patrol Guide Procedure 208-05 states that a strip search may only be conducted when the arresting officer reasonably suspects that an individual is concealing weapons,

contraband or evidence in areas of his or her person in such a manner that they would remain concealed throughout previous search methods. Other factors that should be considered include the nature of the crime, arrest circumstances, subject's reputation, acts of violence, any discoveries or information from previous searches of the same individual or other arrested with said individual. A strip search, which the NYPD Patrol Guide defines as any search in which an individual's undergarments or private areas are exposed, may not be routinely conducted as part of arrest processing (04 BR).

§ 87(2)(g)

[REDACTED]

Squad: 12

Investigator: _____ Chelsea Yogerst _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date