

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Henry Oliver	Team: Squad #3	CCRB Case #: 201802324	<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) Friday, 03/16/2018 11:45 PM	Location of Incident: Inside of § 87(2)(b)	Precinct: 61	18 Mo. SOL 9/16/2019	EO SOL 9/16/2019	
Date/Time CV Reported Sat, 03/17/2018 1:45 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 03/26/2018 11:00 AM		

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Lior Chernyhovsky	07514	957453	061 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Shimer	17158	961284	061 PCT
2. SGT Pawel Maslinski	01708	947227	061 PCT
3. POM Richard Carolina	07705	963433	061 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Lior Chernyhovsky	Abuse: Police Officer Lior Chernyhovsky threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On March 17, 2018, § 87(2)(b) filed this complaint with IAB over the phone. It was received at the CCRB on March 26, 2018, under IAB log number 18-10477.

On March 16, 2018, at approximately 11:45 p.m., PO Lior Chernyhovsky and PO Michael Shimer, of the 61st Precinct, arrived at § 87(2)(b), in response to a 911 call § 87(2)(b) made regarding a broken key in the lock of his bedroom door. § 87(2)(b) requested that the officers file a report for an attempted robbery, and the officers explained that they could not. Sgt. Pawel Maslinski, also of the 61st Precinct, was called to the location by the responding unit and arrived with PO Richard Carolina. Sgt. Maslinski inspected the lock and said that the officers could file a report for damaged property. PO Chernyhovsky requested § 87(2)(b)'s identification to file the report, and when § 87(2)(b) refused to provide his identification, PO Chernyhovsky threatened § 87(2)(b) with arrest (**Allegation A: Abuse of Authority**, § 87(2)(g)).

There was no video evidence obtained in relation to this investigation. No arrests were made and no summonses were issued as a result of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Lior Chernyhovsky threatened to arrest

§ 87(2)(b)

It is undisputed that PO Chernyhovsky and PO Shimer arrived at the location in response to a 911 call § 87(2)(b) made regarding a damaged lock with a broken key inside of it, and that Sgt. Maslinski was called to the scene and arrived with PO Carolina. It is also undisputed that PO Chernyhovsky requested § 87(2)(b)'s identification multiple times, that he informed him that his identification was required to file a report regarding the incident, and that § 87(2)(b) refused to provide this document multiple times.

In his CCRB interview, § 87(2)(b) stated that he invited PO Chernyhovsky and PO Shimer into his residence after being alerted of their arrival by the 911 operator. He informed the officers that he believed someone had attempted to burglarize his room, and that his housemates may have been involved. He requested that the officers speak with his housemates, but the officers refused to do so. § 87(2)(b) requested that the officers file a report regarding a robbery, but PO Chernyhovsky said that it did not appear to him as though a robbery had occurred. PO Chernyhovsky advised § 87(2)(b) to await Sgt. Maslinski's arrival and discuss the matter with him.

Upon Sgt. Maslinski's arrival, he inspected § 87(2)(b)'s door, and noted that it did not appear to him that a robbery had been attempted. § 87(2)(b) requested that Sgt. Maslinski take a report, and he refused to do so. § 87(2)(b) stated that PO Chernyhovsky began asking him to provide his identification. § 87(2)(b) said that PO Chernyhovsky "periodically" informed him that he needed his identification to file a report. § 87(2)(b) refused to provide his identification unless he presented him with the paperwork to file the report. § 87(2)(b) said PO Chernyhovsky requested his identification three times before allegedly saying "If you don't show me your identification, I'm going to arrest you." § 87(2)(b) who is a Russian speaker, said that PO Chernyhovsky informed him that he spoke Russian, and made the same threat of arrest in Russian. He noted that he had some difficulty understanding the information PO Chernyhovsky was relaying to him in English, and that PO Chernyhovsky refused to speak Russian with him beyond the above

interaction. § 87(2)(b) alleged that PO Chernyhovsky took out his handcuffs and walked towards him, at which point he handed over his identification. PO Chernyhovsky took § 87(2)(b)'s identification back to his vehicle and returned it to him, at which point, § 87(2)(b) asked the officers to leave his home.

PO Chernyhovsky stated that he responded to a call about a dispute at the location, and entered § 87(2)(b)'s residence through the front door when § 87(2)(b) let him and PO Shimer in. He observed the broken key in the lock of § 87(2)(b)'s bedroom door. § 87(2)(b) requested multiple times that the officers break into his room to determine if any items had been taken. He told § 87(2)(b) that this was not an action that he and PO Shimer could take, but said that § 87(2)(b) would not take no for an answer. PO Chernyhovsky decided to contact Sgt. Maslinski, who arrived at the location and inspected § 87(2)(b)'s door. § 87(2)(b) requested that Sgt. Maslinski break down his door multiple times, and Sgt. Maslinski informed § 87(2)(b) that they could not take this action. Sgt. Maslinski and PO Chernyhovsky informed him that they could not file the report in regards to a robbery as there was no proof that this had occurred, and discussed filing a report for the damage done to § 87(2)(b)'s door. PO Chernyhovsky informed § 87(2)(b) that they would need his identification to file the report and requested § 87(2)(b)'s identification multiple times. When § 87(2)(b) refused to provide his identification, PO Chernyhovsky became suspicious as to whether § 87(2)(b) lived at the location.

PO Chernyhovsky said that he never threatened § 87(2)(b) with arrest, and merely stated that if he could not prove that he lived at the location, he could be arrested for trespassing. At this point, § 87(2)(b) handed PO Chernyhovsky his identification. PO Chernyhovsky filed the report in his vehicle, gave § 87(2)(b) his identification, and left the location with PO Shimer. PO Chernyhovsky speaks Russian, but did not recall if he spoke Russian with § 87(2)(b) on the night of the incident, and did not recall threatening § 87(2)(b) with arrest in Russian.

Sgt. Maslinski's, PO Carolina's, and PO Shimer's CCRB statements are consistent with PO Chernyhovsky's, except that all three officers corroborated § 87(2)(b)'s assertion that PO Chernyhovsky briefly spoke with § 87(2)(b) either in Russian or a language that was not English. PO Carolina, who speaks Russian, noted that PO Chernyhovsky told § 87(2)(b) in Russian that he would only speak in English, given that no other officers present spoke or understood Russian. Sgt. Maslinski's statement is consistent with this, and noted that PO Chernyhovsky translated this same information to him after briefly speaking in Russian with § 87(2)(b). All officers stated that PO Chernyhovsky never threatened § 87(2)(b) with arrest to their knowledge, and noted that § 87(2)(b)'s refusal to provide his identification raised suspicions as to whether § 87(2)(b) lived at the location. None of the officers noted any other behaviors or circumstances that raised their suspicions, but stated that without verifying that § 87(2)(b) lived at the location, they could not file the report for damage to the door.

An arrest requires probable cause to believe that the person to be arrested has committed a crime. People v. Debour, 40 N.Y.2d 210(1976) (Board Review 01).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- PO Chernyhovsky has been a member-of-service for two years and this is the first CCRB complaint to which he has been a subject.

Mediation, Civil and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- As of May 23, 2018, the Office of the New York City Comptroller has no record of a Notice of Claim filed in regards to this complaint (Board Review 03).
- According to the Office of Court Administration (OCA), § 87(2)(b) [REDACTED] has no history of convictions in New York City (Board Review 04).

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date