

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Talisayan	Team: Squad #11	CCRB Case #: 201904984	<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) Thursday, 06/06/2019 6:00 PM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 12/6/2020	EO SOL 7/23/2021	
Date/Time CV Reported Sat, 06/08/2019 12:13 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/08/2019 12:13 AM		

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

Subject Officer(s)	Shield	TaxID	Command
1. SGT Alexander Bobo	00000	947985	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Billy Dill	03000	929737	075 PCT
2. POM Rami Albahri	07431	963736	075 PCT
3. POF Tanisha Simeon	10810	964994	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Alexander Bobo	Abuse: Sergeant Alexander Bobo searched the vehicle in which § 87(2)(b) was an occupant.	[REDACTED]
B.SGT Alexander Bobo	Discourtesy: Sergeant Alexander Bobo spoke discourteously to § 87(2)(b)	[REDACTED]
C.SGT Alexander Bobo	Abuse: Sergeant Alexander Bobo seized § 87(2)(b) s property.	[REDACTED]

Case Summary

On June 8, 2019, § 87(2)(b) filed this complaint via the CCRB website. This case was initially assigned to Investigator Luke Petrinovic. On August 21, 2019, it was resigned to Supervising Investigator Miriam Lynch following Investigator Petrinovic's resignation from the agency. On September 3, 2019, the case was reassigned to the undersigned investigator.

On June 6, 2019, at approximately 6:00 p.m., § 87(2)(b) was driving southbound on Warwick Street toward Sutter Avenue in Brooklyn. A dirt bike was in the trunk of his vehicle, the front wheel and handlebars protruding outward from its open trunk. Sergeant Alexander Bobo and Police Officer Billy Dill, both of the 75th Precinct, pulled over § 87(2)(b)'s vehicle.

PO Dill approached the driver's side window and spoke to § 87(2)(b) informing § 87(2)(b) that he smelled marijuana. § 87(2)(b) began looking for his driver's license and vehicle registration. As PO Dill was speaking to § 87(2)(b) Sgt. Bobo reached into the vehicle through the open passenger side window, retrieved a fanny pack, and opened it (**Allegation A – Abuse of Authority: § 87(2)(g)**).

PO Dill asked § 87(2)(b) to step out of his vehicle. § 87(2)(b) exited the vehicle and walked to the trunk area, where he spoke to PO Dill about the dirt bike in his trunk. As § 87(2)(b) and PO Dill argued over the dirt bike's ownership documentation, Sgt. Bobo stated, "I swear people say the dumbest shit ever" (**Allegation B – Discourtesy: § 87(2)(g)**). Sgt. Bobo assigned § 87(2)(b)'s arrest to PO Rami Albahri, who seized § 87(2)(b)'s dirt bike as per Sgt. Bobo's directive (**Allegation C – Abuse of Authority: § 87(2)(g)**).

§ 87(2)(b)

The investigation obtained body-worn camera (BWC) footage from the officers who responded to this incident.

Since the time of the incident, Sergeant Bobo was promoted to the rank of lieutenant. However, he will be addressed by his former rank in this report.

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Alexander Bobo searched the vehicle in which § 87(2)(b) was an occupant.

Sgt. Bobo's body-worn camera captures § 87(2)(b) as he is looking for his paperwork. § 87(2)(b) reaches into a glove compartment, then looks through a sun visor and retrieves documents. He then reaches into an area off-camera in the direction of the glove compartment and retrieves papers. As he puts the papers back, he opens the center console. Sgt. Bobo states, "What are you looking for?" § 87(2)(b) explains that he's looking for his license and registration. § 87(2)(b) reaches into the passenger's seat and moves an object. Sgt. Bobo states, "Lemme grab this." The sound of a zipper being pulled can be heard [Board Review 02, time stamps 00:00:44 to 0:01:55 in the video player].

PO Dill's body-worn camera captures Sgt. Bobo reaching into the passenger's side of the vehicle and retrieving a small black bag. As Sgt. Bobo appears to hold the bag, obscured by the top of § 87(2)(b)'s vehicle, PO Dill states, "second of all, your car smell like marijuana" [Board Review 03, timestamps 00:01:11 to 00:01:25 in the video player]. PO Dill and § 87(2)(b) continue to argue about the alleged marijuana smell. § 87(2)(b) replies, "Bro, there ain't no weed in the car . . ." PO Dill states, "I said it smells like it." § 87(2)(b) continues, "Bro, it's Brooklyn. I smell weed every time I come outside and open the window, Big Bro. You sayin' you want to check the regi . . . he [Sgt. Bobo] just diggin' in my car." § 87(2)(b) further states that he has children in his car [Board Review 03, timestamps 00:01:25 to 00:01:44 in the video player].

§ 87(2)(b) stated when PO Dill asked for his driver's license and vehicle registration, § 87(2)(b) tried to find the registration, but was unable to find it. He placed his hands on the steering wheel. Sgt. Bobo, without saying anything, reached through the front passenger side window and

grabbed a fanny pack located on the front passenger seat. Sgt. Bobo opened the bag and started looking through it, reaching inside. The fanny pack contained spark plugs and small tools. Sgt. Bobo then put the fanny pack back on the passenger seat [Board Review 04].

Sgt. Bobo initially testified § 87(2)(b) could not produce his driver's license and vehicle registration. At the front passenger's side window, which was half-way open, Sgt. Bobo, who was trained in the detection of marijuana, perceived the odor of marijuana coming from the cabin of the vehicle. He did not observe a lit, burning marijuana cigarette inside the vehicle. Sgt. Bobo did not make any other observations that led him to believe that there was other contraband in § 87(2)(b)'s vehicle. § 87(2)(b) appeared nervous: his hands were shaking, he was stuttering, and he had difficulty answering questions. Sgt. Bobo did not recall anything on the front seat, nor did he recall reaching into the window of the passenger's side of the vehicle. He did not grab a fanny pack or bag, and he did not search through it [Board Review 05].

After Sgt. Bobo viewed PO Dill's body-worn camera footage [Board Review 03], Sgt. Bobo confirmed that he had a bag in his hand. Upon approaching the vehicle, Sgt. Bobo testified that he detected the odor of marijuana coming from the vehicle. § 87(2)(b) placed the bag onto the front passenger seat. Sgt. Bobo wanted to see what was inside the bag because of the odor of marijuana. Sgt. Bobo was explaining his actions after reviewing the PO Dill's body-worn camera footage when Sgt. Bobo's legal representatives requested a break [Board Review 05].

After resuming the interview after an eight-minute break and viewing PO Dill's body-worn camera footage again [Board Review 03], Sgt. Bobo testified that from his perspective, § 87(2)(b) was nervous and being evasive. His hands were moving in the vehicle, reaching into the glove box twice, the armrest a few times, and the passenger seat where he moved a piece of plastic covering a bag. § 87(2)(b) reached for the bag, then put it back down. § 87(2)(b) was making too many movements. Sgt. Bobo instructed § 87(2)(b) to not touch the bag. For safety purposes, he reached for the bag to determine whether it contained marijuana or a weapon. He opened it and viewed its contents, but he did not recall what he found inside of the bag. The officers asked § 87(2)(b) for his driver's license and vehicle registration several times as he was moving his hands, searching for the requested documents [Board Review 05].

PO Dill, who did not recall recording the incident with his body-worn camera, testified that he did not recall smelling any odors coming from the vehicle, and he did not recall observing any contraband in the vehicle. PO Dill not recall seeing Sgt. Bobo reach into § 87(2)(b)'s vehicle [Board Review 06].

In a subsequent interview, PO Dill testified that upon approaching the driver's side of § 87(2)(b)'s vehicle, he detected the odor of marijuana emanating from within § 87(2)(b)'s vehicle. PO Dill described the odor as a "pretty good" odor of marijuana. PO Dill did not indicate whether the marijuana was fresh or burning but stated that they smell similarly: burning marijuana has a smoky smell. PO Dill also saw "blackwater" marijuana residue – tiny, dried ripped leaves – on the floor of § 87(2)(b)'s vehicle and the center console area. PO Dill did not describe any other evidence of marijuana inside the vehicle. PO Dill has made several marijuana-related arrests during his eighteen years of experience as a police officer. He did not recall when he last received training on the detection of marijuana [Board Review 07].

In addition, as PO Dill walked up to the driver's side, he observed § 87(2)(b) making movements with his hands: moving a bag to the passenger's side. PO Dill could not describe the bag, nor did he know where the bag was initially located. § 87(2)(b)'s movements drew PO Dill's attention, so he gave Sgt. Bobo a non-verbal signal, a head nod, to watch for the bag. In response, Sgt. Bobo reached into § 87(2)(b)'s vehicle and grabbed the bag. PO Dill believed § 87(2)(b) moving the bag was a safety concern because individuals have tried to conceal weapons and drugs as he approached to speak with them. PO Dill did not make any other observations that weapons might be inside § 87(2)(b)'s vehicle [Board Review 07].

PO Dill reviewed his own body-worn camera footage as well as Sgt. Bobo's body-worn camera footage [Board Review 03, 02]. PO Dill stated that the § 87(2)(b)'s initial hand

movements were not captured in either his or Sgt. Bobo's body-worn camera footage [Board Review 07].

Officers, trained in the detection of marijuana, may search a vehicle if they detect the odor of marijuana emanating from the vehicle, which presents exigent circumstances due to its mobility People v. Chestnut, 43 A.D.2d 260 [Board Review 08].

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Discourtesy: Sergeant Alexander Bobo spoke discourteously to § 87(2)(b)

Sgt. Bobo's body-worn camera captures Sgt. Bobo saying, "I swear people say the dumbest shit ever. He's not even riding the bike." As he says this statement, Sgt. Bobo momentarily faces the left, then faces § 87(2)(b) who is standing in front of Sgt. Bobo [Board Review 02, timestamps 00:07:05 to 00:07:09 in the video player].

§ 87(2)(b) did not mention any officer speaking discourteously to him in his sworn statement [Board Review 04].

Sgt. Bobo confirmed that he stated, "I swear people say the dumbest shit ever." He turned away from § 87(2)(b) and was not directing this statement toward § 87(2)(b) [Board Review 05].

Under NYPD Patrol Guide Procedure 203-10, officers are prohibited from speaking discourteously to members of the public [Board Review 09].

§ 87(2)(g)

Allegation (C) Abuse of Authority: Sergeant Alexander Bobo seized § 87(2)(b)'s property.

§ 87(2)(b) stated that his dirt bike was confiscated after he was arrested [Board Review 04].

Sgt. Bobo testified that § 87(2)(b)'s dirt bike was seized after they determined that § 87(2)(b)'s registration papers for the dirt bike were forged [Board Review 05, 06].

Property vouchers for § 87(2)(b)'s dirt bike indicate that it was seized to determine its true owner [Board Review 10].

New York State Penal Law 170.20 states a person is guilty of criminal possession of a

forged instrument when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses a forged instrument [Board Review 11].

Under NYPD Patrol Guide Procedure 218-19, property must be seized and invoiced as arrest evidence when arrests are made for the criminal possession of stolen property (vehicle involved) [Board Review 12].

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Bobo has been a member of service for 11 years. Twenty-five cases, and 54 allegations, have been filed against him, four of which have been substantiated: CCRB case # 200915588 involved a Stop, and case # 201212122 involved a Frisk, Search of Person, and Stop. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On January 22, 2020, the Office of the New York City Comptroller indicated that a Notice of Claim was filed on behalf of § 87(2)(b) regarding this incident where he claims false arrest [Board Review 14].
- On January 31, 2020, the Office of the New York City Comptroller indicated that there were no results pertaining to 50-h Hearing regarding § 87(2)(b)'s Notice of Claim [Board Review 15]. On February 26, 2020, a follow-up request was sent to the aforementioned office to obtain an update on the status of a 50-h Hearing related to this notice of claim. The response will be included within the file upon receipt.
- § 87(2)(b)
- As of February 24, 2020, the Kings County Criminal Court does not have any pending criminal court cases concerning § 87(2)(b) [Board Review 17].

Squad No.: 11

Investigator:	Inv. Mike Talisayan	05/20/20
Signature	Print Title & Name	Date

Squad Leader:	IM Edwin Pena	05/20/20
Signature	Print Title & Name	Date

Reviewer:		
Signature	Print Title & Name	Date