

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #14	CCRB Case #: 202003281	☐ Force ☐ Discourt. ☐ U.S. ☒ Abuse ☐ O.L. ☐ Injury
Incident Date(s) Wednesday, 05/13/2020 3:30 PM	Location of Incident: § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED]	18 Mo. SOL 5/4/2022	Precinct: 73
Date/Time CV Reported Wed, 05/13/2020 8:09 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Wed, 05/13/2020 8:09 PM

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

Subject Officer(s)	Shield	TaxID	Command
1. SGT Michael Nocerino	00491	937192	073 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Luis Fernandez	22932	953854	073 PCT
2. POF Lashonda Porterfield	02813	963699	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Michael Nocerino	Abuse: Sergeant Michael Nocerino stopped the vehicle in which § 87(2)(b) [REDACTED] was an occupant.	A . Substantiated

Case Summary

On May 13, 2020, § 87(2)(b) called the CCRB and filed this complaint.

On May 13, 2020, at approximately 3:30 p.m., § 87(2)(b) parked his silver Kia Optima near the intersection of § 87(2)(b) and § 87(2)(b) in Brooklyn. As § 87(2)(b) waited for a friend to exit her apartment building, two unmarked vehicles pulled up and several plainclothes officers, led by Sergeant Michael Nocerino of the 73rd Precinct, approached § 87(2)(b)'s vehicle. Sgt. Nocerino, who was supervisor to Police Officer Luis Fernandez and Police Officer Natasha Porterfield of the 73rd Precinct, spoke with § 87(2)(b) and asked him for his license and vehicle registration (**Allegation A: Abuse of Authority – substantiated**). Sgt. Nocerino alleged that § 87(2)(b) had an illegal license plate cover. After approximately a minute, Sgt. Nocerino and the other officers left without taking further action.

§ 87(2)(b) was not arrested and did not receive any summonses during this incident.

The CCRB received body-worn camera (BWC) footage regarding this incident, § 87(2)(g)

Findings and Recommendations

Allegation (A) Abuse of Authority: Sergeant Michael Nocerino stopped the vehicle in which § 87(2)(b) was an occupant.

§ 87(2)(g)

The investigation established the following facts: § 87(2)(b) parked his silver 2015 Kia Optima in the parking lane on the south side of § 87(2)(b) between § 87(2)(b) and § 87(2)(b) in Brooklyn. § 87(2)(b) was alone in the car and parked behind a red Honda sedan. Two unmarked police cars pulled up to § 87(2)(b)'s vehicle; one unmarked car parked in front of red Honda sedan and the other unmarked car parked behind § 87(2)(b)'s car in the traffic lane. Two officers exited from the unmarked car parked in front of the red Honda sedan. Sgt. Nocerino, PO Porterfield, and PO Fernandez exited from the unmarked car parked behind § 87(2)(b)'s car. Sgt. Nocerino was the only member of service to interact with § 87(2)(b) during this incident.

§ 87(2)(b) said (BR 01-02) that he parked his car and left the engine running while he waited for a female friend to take her to Manhattan. When officers first stopped him, he had been waiting and parked for approximately five minutes. Sgt. Nocerino then asked for § 87(2)(b)'s license and registration. § 87(2)(b) asked why he was stopped, and Sgt. Nocerino said he was stopped because he had an illegal plate cover. § 87(2)(b) provided his driver's license. § 87(2)(b) pulled his phone out to record the officers, at which point Sgt. Nocerino returned § 87(2)(b) his driver's license and wished him a good day. § 87(2)(b) said that he only had a license plate frame from the dealership from which he had bought the vehicle – Brooklyn Mitsubishi – and this license plate frame did not block any details of the license plate.

Sgt. Nocerino testified (BR 03) that he and his officers, PO Fernandez and PO Porterfield, observed that § 87(2)(b)'s vehicle had an illegal license plate cover and that that was the only reason for stopping § 87(2)(b). Sgt. Nocerino did not recall how, if at all, the license plate cover blocked any identifying information on § 87(2)(b)'s license plate. Sgt. Nocerino did not recall who specifically observed the VTL infraction. Sgt. Nocerino did not recall if § 87(2)(b) had been driving his vehicle or parked his vehicle prior to the observation of the illegal license plate cover. Sgt. Nocerino testified that he did not issue a summons to § 87(2)(b) per his own discretion.

Per Sgt. Nocerino's BWC (BR 04), Sgt. Nocerino says and confirms 12 times between the 00:43 and 02:16 timestamps that the reason § 87(2)(b) is being pulled over is for having an illegal license plate cover.

Per BWC stills from Sgt. Nocerino and PO Fernandez, as well as a photograph provided by § 87(2)(b) (BR 05-07), § 87(2)(b) only had a dealership-issue license plate frame on his rear license plate, and this frame did not block the license plate number (§ 87(2)(b)) or the state of issue

(New York). The license plate itself was not covered by any glass or plastic material.

Per New York State's Vehicle and Traffic Law, Section 402, 1(b) (BR 08), all license plates, including those displayed on the rear of the vehicle, "shall be kept clean and in a condition so as to be easily readable and shall not be covered by any glass or plastic material, and shall not be knowingly covered or coated with any artificial or synthetic material or substance that conceals or obscures such number plates..."

§ 87(2)(g)

, it is recommended that **Allegation A** be closed as **substantiated**.

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) is a party (BR 09).
- Sgt. Nocerino has been a member of service for 16 years and has been subject in 48 allegations in 18 complaints, three of which were substantiated.
 - 201902270 involved allegations of a failure to provide RTKA card, a frisk, and a refusal to provide shield number to Sgt. Nocerino. The Board recommended formalized training and the NYPD imposed instructions.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined mediation.
- As of September 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim filed regarding this incident (BR 10).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 14

Investigator: Ethan C. Waterman Inv. Ethan Waterman April 6, 2021
Signature Print Title & Name Date

Squad Leader: Cassandra Fenkel IM Cassandra Fenkel April 6, 2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date