

## CCRB INVESTIGATIVE RECOMMENDATION

|                                                   |                                                          |                                     |                                                       |                                    |                                 |
|---------------------------------------------------|----------------------------------------------------------|-------------------------------------|-------------------------------------------------------|------------------------------------|---------------------------------|
| Investigator:<br>Jackie Manginelli                | Team:<br>Squad #10                                       | CCRB Case #:<br>202005641           | <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)<br>Saturday, 08/08/2020 12:00 PM | Location of Incident:<br>Inwood Street and Sutter Avenue | 18 Mo. SOL<br>5/4/2022              | Precinct:<br>113                                      |                                    |                                 |
| Date/Time CV Reported<br>Fri, 08/14/2020 3:47 AM  | CV Reported At:<br>CCRB                                  | How CV Reported:<br>On-line website | Date/Time Received at CCRB<br>Fri, 08/14/2020 3:47 AM |                                    |                                 |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
|                    |      |              |

| Subject Officer(s)      | Shield | TaxID  | Command |
|-------------------------|--------|--------|---------|
| 1. POM Edwin Vasquez    | 25176  | 943916 | 113 PCT |
| 2. POM Nicholas Panella | 13338  | 966252 | 113 PCT |

| Officer(s)               | Allegation                                                                                    | Investigator Recommendation |
|--------------------------|-----------------------------------------------------------------------------------------------|-----------------------------|
| A . POM Edwin Vasquez    | Abuse: Police Officer Edwin Vasquez searched the vehicle in which § 87(2)(b) was an occupant. | A . Exonerated              |
| B . POM Edwin Vasquez    | Abuse: Police Officer Edwin Vasquez threatened to arrest § 87(2)(b)                           | B . Exonerated              |
| C . POM Edwin Vasquez    | Abuse: Police Officer Edwin Vasquez obstructed his shield number.                             | C . Unfounded               |
| D . POM Nicholas Panella | Abuse: Police Officer Nicholas Panella refused to provide his name to § 87(2)(b)              | D . Substantiated           |
| E . POM Nicholas Panella | Abuse: Police Officer Nicholas Panella refused to provide his shield number to § 87(2)(b)     | E . Unsubstantiated         |
| § 87(2)(g), § 87(4-b)    |                                                                                               |                             |

### Case Summary

On August 14, 2020, § 87(2)(b) filed this complaint with the CCRB online.

On August 8, 2020, at approximately 12:00 p.m., in the vicinity of Inwood Street and Sutter Avenue in Queens, § 87(2)(b) was pulled over by PO Edwin Vasquez and PO Nicholas Panella, both of the 113<sup>th</sup> Precinct, for going through a stop sign and not wearing a seat belt while driving.

PO Vasquez approached § 87(2)(b)'s vehicle and asked for his license. § 87(2)(b) refused to provide his license, so PO Vasquez opened § 87(2)(b)'s car door and said, "Either you are going to give me your license or you are going to jail" (**Allegation A: Abuse of Authority: Search of vehicle: Exonerated, Allegation B: Abuse of Authority: Threat of arrest: Exonerated**).

PO Vasquez allegedly was not wearing a shield during this incident (**Allegation C: Abuse of Authority: Police Officer Edwin Vasquez obstructed his shield number: Unfounded**). § 87(2)(b) asked for PO Panella's "information," and PO Panella allegedly did not provide § 87(2)(b) with his name and shield number (**Allegation D: Abuse of Authority: Refusal to provide name: Substantiated, Allegation E: Abuse of Authority: Refusal to provide shield number: Unsubstantiated**). § 87(2)(g), § 87(4-b)

§ 87(2)(b) was issued a summons for § 87(2)(b) (Board Review 04).

Body-worn camera footage was obtained for PO Vasquez and PO Panella (Board Review 05-07).

### Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Edwin Vasquez searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation B – Abuse of Authority: Police Officer Edwin Vasquez threatened to arrest § 87(2)(b)**

On August 24, 2020, § 87(2)(b) was interviewed over the phone (Board Review 01). On February 16, 2021, PO Vasquez was interviewed remotely over MS Teams (Board Review 02). On March 9, 2021, PO Panella was interviewed remotely over MS Teams (Board Review 03).

§ 87(2)(b) stated that while he was getting his license, he asked PO Vasquez to make sure that his body-worn camera was on. PO Vasquez got angry, reached into the driver's window and unlocked the door from the inside, opened the door of § 87(2)(b)'s vehicle, and reached for his handcuffs. § 87(2)(b) gave PO Vasquez his license. PO Vasquez told § 87(2)(b) "You know what, you will see what will happen to you." § 87(2)(b) thought this meant that PO Vasquez was going to issue him multiple summonses.

PO Vasquez stated that he asked § 87(2)(b) approximately ten times for his license and he refused to provide his license. PO Vasquez told § 87(2)(b) that either he was going to give him his license and receive the summonses for not wearing a seatbelt and going through a stop sign or be placed under arrest for not providing his license. PO Vasquez reached into § 87(2)(b)'s car and opened his door because he was going to place him under arrest. § 87(2)(b) realized that he would be placed under arrest, so he gave PO Vasquez his license. PO Vasquez did not recall saying, "You're gonna' see what's gonna' happen to you." PO Vasquez did not threaten § 87(2)(b) with the use of force.

PO Panella stated that he did not see PO Vasquez reach into § 87(2)(b)'s vehicle and open his door, nor did not see PO Vasquez reach for his handcuffs or make any indication that he would arrest § 87(2)(b). PO Panella thought that they would bring § 87(2)(b) back to the stationhouse to identify him if he did not properly identify himself. He did not remember PO Vasquez saying, "You're gonna' see what's gonna' happen to you." He did not remember hearing PO Vasquez threaten to arrest § 87(2)(b) or threaten to use force against § 87(2)(b).

PO Vasquez's body-worn camera footage captured this incident in its entirety (**Board Review 05-06**). At 02:05, PO Vasquez approaches the driver's door of the car and says, "Alright, get out of the car." He continues to ask § 87(2)(b) for his license and § 87(2)(b) continues to ask him if his camera is on. PO Vasquez continues to ask for his license. At 02:30, PO Vasquez opens the door to § 87(2)(b)'s vehicle and says, "Come on let's go, either you are gonna' give me your license or you are gonna' go to jail." § 87(2)(b) says that he is complying and that he will give him his license. At 03:30, PO Vasquez says, "You're gonna' see what's gonna' happen to you."

§ 87(2)(g) it was undisputed that PO Vasquez said to § 87(2)(b) "You're gonna' see what's gonna' happen to you." It was also undisputed that PO Vasquez opened § 87(2)(b)'s car door, and said to § 87(2)(b) "Either you're gonna' give me your license or you are gonna' go to jail." § 87(2)(g)

According to NY CLS Vehicle & Traffic Law Subsection 1229-c, (**Board Review 15**) "no person shall operate a motor vehicle unless such person is restrained by a safety belt."

According to NY CLS Vehicle & Traffic Law Subsection 1102 (**Board Review 16**) "no person shall fail or refuse to comply with any lawful order or direction of any police officer."

According to NY CLS Vehicle & Traffic Law Subsection 1172-a (**Board Review 17**) "Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the provisions of section eleven hundred forty-two."

According to Patrol Guide Procedure No. 209-09, (**Board Review 08**) if an officer makes a traffic stop where a traffic violation has occurred, the officer may "remove violator to command for investigation if doubt concerning identity exists."

§ 87(2)(g). Therefore, it is recommended that **Allegations A and B** be **exonerated**.

**Allegation C – Abuse of Authority: Police Officer Edwin Vasquez obstructed his shield number.**

**Allegation D – Abuse of Authority: Police Officer Nicholas Panella refused to provide his name to § 87(2)(b)**

**Allegation E – Abuse of Authority: Police Officer Nicholas Panella refused to provide his shield number to § 87(2)(b)**

§ 87(2)(b) stated that he got PO Vasquez’s name from a name plate attached to his uniform, but he noticed that PO Vasquez was not wearing a shield. When the officers were going back to their vehicle to write § 87(2)(b) summonses, § 87(2)(b) called out to PO Panella and asked for his name and PO Panella did not respond. PO Vasquez returned to § 87(2)(b)’s car and issued him three summonses. § 87(2)(b) asked for PO Vasquez’s partner’s name again and PO Vasquez said that everything was on the summons. Only PO Vasquez’s name was listed on the summons.

PO Vasquez stated that he was wearing a shield during this incident. He did not remember § 87(2)(b) asking him for his name and shield number nor did he remember § 87(2)(b) asking him for his partner’s name and shield number. When someone asks for an officer’s name and shield number, they must provide it. If it was on a summons and someone still asked, he would give them his name and shield. PO Panella did not refuse to provide his name or shield number to § 87(2)(b).

PO Panella stated that he did not hear § 87(2)(b) ask him for his name or shield at any point during this incident. He did not hear § 87(2)(b) ask for PO Vasquez’s name or shield. He did not hear § 87(2)(b) ask for the “driver’s information.” If he heard § 87(2)(b) ask for his name and shield then he would have provided it to him.

PO Panella’s body-worn camera footage captured this incident in its entirety (**Board Review 05, 07**). At 13:45 in the video, PO Vasquez is fully facing PO Panella as they walk back into their police vehicle after giving § 87(2)(b) summonses. His shield is seen on the top-left side of his shirt. At 13:40, § 87(2)(b) says, “I need the driver of the vehicle’s information.” PO Vasquez tells him that all of the information is on the summonses. PO Panella is standing behind PO Vasquez towards the rear of the vehicle.

PO Vasquez’s body-worn camera footage captured this incident in its entirety (**Board Review 05-06**). At 14:34, PO Vasquez exits the car with § 87(2)(b)’s license and summonses. He approaches § 87(2)(b)’s car and hands him his license and summonses. At 14:50, § 87(2)(b) asks for the driver of the vehicle’s information. PO Vasquez tells him that all the information is on the summons. § 87(2)(b) repeats himself. PO Panella is seen standing close by PO Vasquez towards the rear of the vehicle.

§ 87(2)(g)

According to Patrol Guide Procedure 203-09, an officer must clearly state their rank, name, shield number, and command, or otherwise provide them, to anyone who requests them to do so (**Board Review 14**).

§ 87(2)(g), it is recommended that **Allegation C** be **unfounded**.

§ 87(2)(g)

Therefore, it is recommended that **Allegation D** be **substantiated**.

Therefore, it is recommended that **Allegation E** be **unsubstantiated**.

§ 87(2)(g), § 87(4-b)

#### Civilian and Officer CCRB Histories

- This is the first complaint for which § 87(2)(b) has been a party (**Board Review 12**).
- PO Vasquez has been a member of service for fourteen years and has been the subject in twelve previous CCRB complaints and thirty-four allegations, none of which were substantiated. § 87(2)(g)
- PO Panella has been a member of service for two years and this is the first CCRB complaint for which he has been a subject.

#### Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On March 12, 2021, a request for any Notice of Claim regarding this incident was submitted to the Office of the Comptroller and the results will be added to the case file upon receipt (**Board Review 10**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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Squad No.: 10

