# CCRB INVESTIGATIVE RECOMMENDATION

| Investigator: | Team: | CCRB Case #: | ☐ Force ☐ Discourt. ☐ U.S. |
|---|---|---|---|
| Emilce Quiroz | Squad #03 | 202500168 | ☑ Abuse ☐ O.L. ☐ Injury |

| Incident Date(s) | Location of Incident: | 18 Mo. SOL | Precinct: |
|---|---|---|---|
| Friday, 01/03/2025 6:35 PM | 82 4th Ave. | 7/3/2026 | 78 |

| Date/Time CV Reported | CV Reported At: | How CV Reported: | Date/Time Received at CCRB |
|---|---|---|---|
| Sun, 01/05/2025 5:23 PM | CCRB | On-line website | Sun, 01/05/2025 5:23 PM |

| Complainant/Victim | Type | Home Address |
|---|---|---|
| [redacted] | [redacted] | [redacted] |

| Subject Officer(s) | Shield | TaxID | Command |
|---|---|---|---|
| 1. PO Arthur Roldan | 04638 | 942466 | 078 PCT |
| 2. PO Joseph Giannantonio | 13138 | 956675 | 078 PCT |
| 3. SGT Antonio Gaglione | 02037 | 955936 | 078 PCT |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|---|---|---|---|
| 1. LT Cliff Nieves | 00000 | 933097 | 078 PCT |
| 2. PO Daniel Alvarez | 03017 | 964372 | INT FIO PRG |

| Officer(s) | Allegation | Inv. Div. Recommendation |
|---|---|---|
| A . SGT Antonio Gaglione | Abuse: Sergeant Antonio Gaglione stopped the vehicle in which § 87(2)(b) was an occupant. | A . Within NYPD Guidelines |
| B . SGT Antonio Gaglione | Abuse: Sergeant Antonio Gaglione stopped the vehicle in which § 87(2)(b) was an occupant. | B . Within NYPD Guidelines |
| C . SGT Antonio Gaglione | Abuse: Sergeant Antonio Gaglione questioned § 87(2)(b) | C . Substantiated |
| D . SGT Antonio Gaglione | Abuse: Sergeant Antonio Gaglione frisked § 87(2)(b) | D . Within NYPD Guidelines |
| E . SGT Antonio Gaglione | Abuse: Sergeant Antonio Gaglione searched § 87(2)(b) | E . Within NYPD Guidelines |
| F . PO Joseph Giannantonio | Abuse: Police Officer Joseph Giannantonio questioned § 87(2)(b) | F . Substantiated |
| G . PO Joseph Giannantonio | Abuse: Police Officer Joseph Giannantonio frisked § 87(2)(b) | G . Substantiated |
| H . PO Joseph Giannantonio | Abuse: Police Officer Joseph Giannantonio searched § 87(2)(b) | H . Substantiated |
| I . SGT Antonio Gaglione | Abuse: Sergeant Antonio Gaglione searched the vehicle in which § 87(2)(b) was an occupant. | I . Within NYPD Guidelines |
| J . PO Arthur Roldan | Abuse: Police Officer Arthur Roldan searched the vehicle in which § 87(2)(b) was an occupant. | J . Within NYPD Guidelines |
| K . PO Joseph Giannantonio | Abuse: Police Officer Joseph Giannantonio searched the vehicle in which § 87(2)(b) was an occupant. | K . Within NYPD Guidelines |
| L . PO Joseph Giannantonio | Abuse: Police Officer Joseph Giannantonio failed to provide § 87(2)(b) with a business card. | L . Substantiated |

## Case Summary

On January 5, 2025, § 87(2)(b) filed the following complaint via the CCRB website on behalf of himself and § 87(2)(b)

On January 3, 2025, at approximately 6:35 p.m. in the vicinity of 82 4th Avenue in Brooklyn, § 87(2) and his friend, § 87(2)(b) were sitting in his vehicle, double parked in front of a fire hydrant, when Sergeant Antonio Gaglione, Police Officer Joseph Giannantonio, Police Officer Arthur Roldan, and Lieutenant Cliff Nieves of the 78th Precinct, as well as Police Officer Daniel Alvarez of the Intel Cis Field Intelligence Office ("IC FIO") approached and stopped them **(Allegation A, and B: Abuse of Authority, Within NYPD Guidelines)**. On the driver's side, Sgt. Gaglione ordered § 87(2)(b) to exit the vehicle, he complied, and asked § 87(2)(b) if he had any weapons on him **(Allegation C: Abuse of Authority, Substantiated)**. After § 87(2)(b) acknowledged he had a pocketknife, Sgt. Gaglione frisked and searched him **(Allegation D and E: Abuse of Authority, Within NYPD Guidelines)**. On the passenger side, PO Giannantonio ordered § 87(2)(b) to exit the vehicle, asked him if he had any weapons on him then frisked and searched him **(Allegation F, G, and H: Abuse of Authority, Substantiated)**. Afterwards, Sgt. Gaglione, PO Giannantonio, and PO Roldan searched § 87(2)(b) vehicle **(Allegations I, J, and K: Abuse of Authority, Within NYPD Guidelines)**. PO Giannantonio did not offer § 87(2)(b) an RTKA card **(Allegation L: Abuse of Authority, Substantiated)**. Neither § 87(2)(b) nor § 87(2) were arrested or issued any summonses as a result.

The investigation obtained seven Body-worn camera ("BWC") videos from the NYPD which captured the material aspects of the incident **(BR01-BR06).**

## Findings and Recommendations

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

**Allegation (B) Abuse of Authority: Sergeant Antonio Gaglione stopped the vehicle in which § 87(2)(b) § 87(2)(b) was an occupant.**

§ 87(2)(b) stated **(BR07)** that on January 3, 2025, at approximately 6:30 p.m., in the vicinity of 82 4th Avenue in Brooklyn, he and § 87(2)(b) were seated in his vehicle, which was double-parked near a fire hydrant while waiting for a parking spot to become available. § 87(2)(b) stated that he and § 87(2)(b) had remained parked by the hydrant for nearly an hour when a group of officers—identified through the investigation as Sgt. Gaglione, PO Giannantonio, PO Roldan, Lt. Nieves, and PO Alvarez—pulled up in two unmarked police cars and approached his vehicle. § 87(2) stated that Sgt. Gaglione walked up to the driver side of his vehicle, requested his license and registration, and he complied.

§ 87(2)(b) statement **(BR08)** was generally consistent with § 87(2)(b) in noting they were double-parked in front of a fire hydrant when two unmarked police vehicles arrived and officers approved the them.

Sgt. Gaglione's BWC **(BR02)**, at 00:59, shows him exit his vehicle and approach § 87(2)(b) vehicle, which is double-parked in front of a fire hydrant. Sgt. Gaglione walks up to the driver's side window and asks § 87(2)(b) for his driver's license. § 87(2)(b) opens the car door and hands over his license. At 01:25, Sgt. Gaglione asks § 87(2)(b) to step out of the vehicle.

Sgt. Gaglione stated **(BR09)** that on January 3, 2025, at approximately 6:30 p.m. on the corner of 4th Avenue and St. Marks Place in Brooklyn, he observed § 87(2)(b) double-parked at a fire hydrant and initiated a vehicle stop.

NYS Vehicle & Traffic Law ("VTL") § 1202 provides that "no person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator […] seated in the front seat […] who can immediately move such vehicle in case of emergency […]." **(BR12)**

Rules of the City of New York, ("RCNY") § 4-08 **(BR13)** provides in the section titled "Double Parking," that "[n]o person shall stand or park a vehicle [...] [o]n the roadway side of a vehicle stopped, standing, or parked at the curb[.]"

In *People v. Thomas*, the court held that, "a car blocking the hydrant […] create[s] an 'objective, credible reason' justifying [an] officer in making limited inquiries to determine whether the person behind the wheel is a licensed driver. " *People v. Thomas*, 19 A.D.3d 32 (internal citations omitted) **(BR14)**

It is undisputed that § 87(2)(b) vehicle was double-parked in front of a fire hydrant, § 87(2) It is therefore recommended that **Allegations A and B** be closed as **Within NYPD Guidelines.**

**Allegation (C) Abuse of Authority: Sergeant Antonio Gaglione questioned** § 87(2)(b)
**Allegation (D) Abuse of Authority: Sergeant Antonio Gaglione frisked** § 87(2)(b)
**Allegation (E) Abuse of Authority: Sergeant Antonio Gaglione searched** § 87(2)(b) stated **(BR07)** that after providing his driver's license, Sgt. Gaglione asked him why he was parked there for so long. § 87(2)(b) explained that he was waiting for a parking spot to become available. There were two empty cups in his cupholder as well as a bottle of aloe water. PO Giannantonio, who was standing on the passenger's side window, asked § 87(2)(b) if he and § 87(2) were drinking. Both § 87(2)(b) and § 87(2)(b) said no. PO Giannantonio then asked § 87(2)(b) if he could see the cup. § 87(2)(b) passed PO Giannantonio the empty cup and PO Giannantonio smelled it. Sgt. Gaglione then asked § 87(2)(b) to step out of the vehicle. § 87(2) complied and exited the vehicle. Sgt. Gaglione asked him if he had any weapons, and § 87(2)(b) admitted he had a pocketknife on his person, Sgt. Gaglione then frisked and searched him.

At 01:35 in PO Alvarez's BWC **(BR03)**, PO Alvarez is standing behind § 87(2)(b) vehicle as Sgt. Gaglione and PO Giannantonio simultaneously ask § 87(2)(b) and § 87(2)(b) to step out of the vehicle. Sgt. Gaglione asks § 87(2)(b) if he has any weapons on him. § 87(2)(b) says, "No." Sgt. Gaglione asks, "Are you sure?" At 1:43, § 87(2)(b) answers, "Just my pocketknife. I keep it on me to just to make sure I'm good." Sgt. Gaglione tells § 87(2)(b) that he can see the alcohol in the car, so he wants to make sure he is "not crazy." Sgt. Gaglione then frisks § 87(2) patting down his sides, his pants pockets, pulling out a pocketknife from § 87(2) right pants pocket, then pats his jacket pockets down. After not finding anything else on § 87(2)(b) person, Sgt. Gaglione instructs § 87(2)(b) to step to the back of the vehicle.

Stop Report # STP-§ **(BR15)** prepared by Sgt. Gaglione, provided the following narrative and reasoning for the vehicle stop. Sgt. Gaglione reported that "[u]pon a lawful car stop for tints, [Sgt. Gaglione] observed an individual in the front driver's seat drinking alcohol. Upon stop, driver did state he had a knife on him. Driver was frisked and a non CPW folding knife was recovered from the driver's person."

Stop Report # § 87(2)(b) **(BR15)** prepared by PO Giannantonio, provided the following narrative and reasoning for the vehicle stop. PO Giannantonio reported that, "[u]pon a lawful car stop, [PO Giannantonio] observed § 87(2)(b) in the front passenger seat leaning their body forward while moving their hands in and around the passenger cabin in a manner consistent with concealing a weapon." Additionally, PO Giannantonio reported that, "[u]pon stop, § 87(2)(b) was asked to step out of vehicle, at which point [PO Giannantonio] asked for permission to frisk § 87(2)(b) who] consent[ed] to [the] frisk. Officers observed an open beer can under the passenger seat which § 87(2)(b) was attempting to conceal upon site of officers (sic). Reason was explained for frisk and stop."

Sgt. Gaglione stated **(BR10)** that when he approached § 87(2)(b) driver's side door, he saw two red plastic cups in the center console, which led him to suspect the presence of alcohol in the vehicle. When asked if a plastic cup alone qualifies as an open container, Sgt. Gaglione responded that plastic cups observed inside a vehicle are only considered open containers if they contain alcohol. Sgt. Gaglione could not recall what movements § 87(2)(b) made that made him suspect that he may have had a weapon on him but stated that § 87(2)(b) did "something" that made him fear for his safety and that of the other officers. Sgt. Gaglione acknowledged asking § 87(2)(b) if he had any weapons on him. § 87(2)(b) admitted he had a pocketknife. Sgt. Gaglione could not recall if he took the knife out of § 87(2)(b) pocket or if § 87(2)(b) simply handed it to him but acknowledged that he frisked and searched § 87(2)(b) and recovered a pocketknife from his person.

PO Giannantonio stated **(BR11)** that after stopping to run § 87(2)(b) license plate, Sgt. Gaglione told him that he observed the vehicle's occupants leaning over the cabin and bent down towards the floorboard as though to conceal a weapon. This prompted PO Giannantonio to look over and he, too, observed the inhabitants bent down, leaning towards the floorboard.

PO Giannantonio and the other officers exited the marked RMP and approached the vehicle. PO Giannantonio and PO Roldan approached the passenger's side and Sgt. Gaglione approached the driver's side windows. As he approached the passenger's side window, PO Giannantonio stated that PO Roldan mentioned seeing an empty beer can on the floorboard underneath the passenger's seat. PO Giannantonio asked the passenger, § 87(2)(b) to roll down the window but the car was turned off, so he was unable to. PO Giannantonio noticed a red cup in the center console, so he opened the passenger's side door and asked § 87(2)(b) if he could see the cup. Upon opening the door, PO Giannantonio stated that he "got a whiff of alcohol," and observed that § 87(2)(b) eyes were bloodshot. § 87(2)(b) handed the red cup to PO Giannantonio, who smelled it, noted that it smelled of alcohol, and still contained some alcohol in it. PO Giannantonio asked § 87(2)(b) to step out of the vehicle, and he complied. PO Giannantonio noted that § 87(2)(b) "swayed a bit," after exiting the vehicle.

NY CLS Veh & Tr § 1227 provides that "[t]he drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways […] is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction." **(BR21)**

"In light of the heightened dangers faced by investigating police officers during traffic stops, a police officer may, as a precautionary measure and without particularized suspicion, direct the occupants of a lawfully stopped vehicle to step out of the car […] Whether the individual questioned is a pedestrian or an occupant of a vehicle, a police officer who asks a private citizen if he or she is in possession of a weapon must have founded suspicion that criminality is afoot […]"

*People v. Garcia*, 20 N.Y.3d 317 **(BR16)**.

"Where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor, the CPL authorizes a forcible stop and detention of that person. A corollary of the statutory right to temporarily detain for questioning is the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed[.]" *People v. De Bour*, 40 N.Y.2d 210 **(BR18).**

NYPD Patrol Guide, Procedure 212-11 provides that "[a] Terry Stop/Level 3 […] is any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away. […] Encounters involving nothing more than commands or accusatory questions can rise to the level of a stop, provided that the commands and questions would lead a reasonable person to conclude that she/he was not free to terminate the encounter. […] A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. The police officer may ask accusatory or pointed questions and detain the person while an expeditious investigation is conducted to determine if there is probable cause to arrest the person. During an encounter, […] providing false or inconsistent information at any level may escalate the encounter. The police officer may seek consent to search. The consent must be voluntarily given. Reasonable force may be used to stop a person. The type and amount of force used must be objectively reasonable under the circumstances. The officer may engage protective measures, when he or she has a reasonable concern for his or her safety. The officer may frisk the person, if the officer has reasonable suspicion that the person is armed and dangerous." **(BR20)**

§ 87(2)(g)

§ 87(2)(g)

It is, therefore, recommended that **Allegation C** be closed as ***Substantiated.***

§ 87(2)(g)

the investigation recommends that **Allegations D and E** be closed as

**Within NYPD Guidelines.**

**Allegation (F) Abuse of Authority: Police Officer Joseph Giannantonio questioned** § 87(2)(b)

**Allegation (G) Abuse of Authority: Police Officer Joseph Giannantonio frisked** § 87(2)(b)

**Allegation (H) Abuse of Authority: Police Officer Joseph Giannantonio searched** § 87(2)(b)

alleged that PO Giannantonio walked up to the passenger side window and asked him to roll the window down. § 87(2)(b) told PO Giannantonio that he could not roll the window down as the engine was shut off. PO Giannantonio opened the passenger side door, spotting a cup in § 87(2)(b) cup holder, and asked § 87(2)(b) to pass him the cup. § 87(2)(b) complied with his orders and handed the cup to PO Giannantonio, who smelled the cup, handed it back to him and asked § 87(2)(b) to step out of the vehicle. § 87(2)(b) asked, "For what reason?" but exited the vehicle anyway. PO Giannantonio said, "I've got to search you. Let me search you." § 87(2) asked, "For what? I don't consent to this because I don't believe I did anything wrong." PO Giannantonio then asked § 87(2)(b) for his I.D. § 87(2)(b) asked what for and PO Giannantonio told him they were searching for weapons. PO Giannantonio ran § 87(2)(b) name for warrants then frisked and searched his person, entering his coat and pants pockets.

At 01:00 in PO Giannantonio's BWC **(BR01),** PO Giannantonio exits the police vehicle and approaches the passenger's side window of § 87(2)(b) car, where § 87(2)(b) is seated. At 01:29, PO Giannantonio opens the passenger's side door and points his finger towards the center console toward a red plastic cup, and asks § 87(2)(b) "What's in that cup over there?" § 87(2) picks up the cup from the cup holder, looks in it, then says, "Nothing." PO Giannantonio says, "Let me see," while reaching his hand out for the cup. § 87(2)(b) passes PO Giannantonio the cup. PO Giannantonio sniffs the cup, then says, "Can you step out the car? It ain't that serious. I ain't gonna cuff you or anything." § 87(2)(b) exits the car and says, "Yeah, I know." At 1:43, PO Giannantonio asks § 87(2)(b) "You don't have any weapons on you, do you?" § 87(2)(b) says, "No, no." PO Giannantonio asks, "You alright? You're like swaying a little bit. You got any weapons on you or anything?" § 87(2)(b) says, "No, absolutely not." PO Giannantonio says, "Can I search you real quick?" § 87(2)(b) says, "Why?" PO Giannantonio says, "To make sure you ain't got no weapons on you." § 87(2)(b) says, "For what reason though?" PO Giannantonio says, "I just told you." § 87(2)(b) says, "Alright," and lifts his arms up. PO Giannantonio frisks § 87(2) jacket and pants pockets. At 02:08, PO Giannantonio places his right hand inside of and searches § 87(2)(b) left jacket pocket, during which, § 87(2)(b) remarks, "I don't got no weapons on me, officer." PO Giannantonio says, "I know but you know you can't drink in the car though? Even though the car is off. Nobody can do it in the car." § 87(2)(b) says, "We weren't driving at all though." PO Giannantonio says, "That's fine. That's fine."

Stop Report # § 87(2)(b) **(BR15)** prepared by Sgt. Gaglione, provided the following narrative and reasoning for the vehicle stop. Sgt. Gaglione reported that "[u]pon a lawful car stop for tints, [Sgt. Gaglione] observed an individual in the front driver's seat drinking alcohol. Upon stop, driver did state he had a knife on him. Driver was frisked and a non CPW folding knife was recovered from the driver's person."

Stop Report # § 87(2)(b) **(BR15)** prepared by PO Giannantonio, provided the following narrative and reasoning for the vehicle stop. PO Giannantonio reported that, "[u]pon a lawful car stop, [PO Giannantonio] observed § 87(2)(b) in the front passenger seat leaning [his] body forward while moving [his] hands in and around the passenger cabin in a manner consistent with concealing a weapon." Additionally, PO Giannantonio reported that, "[u]pon stop, § 87(2)(b)

§ 87(2)(b) was asked to step out of vehicle, at which point [PO Giannantonio] asked for permission to frisk § 87(2)(b) who] consent[ed] to frisk. Officers observed an open beer can under the passenger seat, which § 87(2)(b) was attempting to conceal upon site of officers (sic). Reason was explained for frisk and stop."

NY CLS Veh & Tr § 1227 provides that "[t]he drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways […] is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction." **(BR16)**

"In light of the heightened dangers faced by investigating police officers during traffic stops, a police officer may, as a precautionary measure and without particularized suspicion, direct the occupants of a lawfully stopped vehicle to step out of the car […] Whether the individual questioned is a pedestrian or an occupant of a vehicle, a police officer who asks a private citizen if he or she is in possession of a weapon must have founded suspicion that criminality is afoot […]. " *People v. Garcia*, 20 N.Y.3d 317 **(BR17)**

"Where a police officer entertains a reasonable suspicion that a particular person has committed, is committing or is about to commit a felony or misdemeanor, the CPL authorizes a forcible stop and detention of that person. A corollary of the statutory right to temporarily detain for questioning is the authority to frisk if the officer reasonably suspects that he is in danger of physical injury by virtue of the detainee being armed[.]" *People v. De Bour*, 40 N.Y.2d 210 **(BR18).**

NYPD Patrol Guide, Procedure 212-11, provides that "[a] Terry Stop/Level 3 […] is any encounter between a civilian and a uniformed member of the service in which a reasonable person would not feel free to disregard the officer and walk away. […] Encounters involving nothing more than commands or accusatory questions can rise to the level of a stop, provided that the commands and questions would lead a reasonable person to conclude that she/he was not free to terminate the encounter. […] A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a felony or Penal Law misdemeanor. The police officer may ask accusatory or pointed questions and detain the person while an expeditious investigation is conducted to determine if there is probable cause to arrest the person. During an encounter, […] providing false or inconsistent information at any level may escalate the encounter. The police officer may seek consent to search. The consent must be voluntarily given. Reasonable force may be used to stop a person. The type and amount of force used must be objectively reasonable under the circumstances. The officer may engage protective measures, when he or she has a reasonable concern for his or her safety. The officer may frisk the person, if the officer has reasonable suspicion that the person is armed and dangerous." **(BR19)**

It is undisputed that PO Giannantonio questioned § 87(2)(b) about weapons. § 87(2)(g) as evidenced by the BWC footage, PO Giannantonio asked § 87(2)(b) to step out of the vehicle at nearly the same second that Sgt. Gaglione asked § 87(2)(b) to step out of the vehicle. Both Sgt. Gaglione and PO Giannantonio immediately asked the two men if they had weapons on them, to which § 87(2)(b) responded 'no' several times. § 87(2)(g)

§ 87(2)(g) it is recommended that **Allegations F, G, and H** be closed as ***Substantiated.***

**Allegation (I) Abuse of Authority: Sergeant Antonio Gaglione searched the vehicle in which § 87(2)(b) was an occupant.**
**Allegation (J) Abuse of Authority: Police Officer Arthur Roldan searched the vehicle in which § 87(2)(b) was an occupant.**
**Allegation (K) Abuse of Authority: Police Officer Joseph Giannantonio searched the vehicle in which § 87(2)(b) was an occupant.**
After being questioned for weapons, frisked, and searched, § 87(2)(b) and § 87(2)(b) were ordered to stand at the back of § 87(2)(b) vehicle. Both § 87(2)(b) and § 87(2)(b) alleged that Sgt. Gaglione, PO Giannantonio, and PO Roldan searched the interior of the vehicle.

At 02:14 in Sgt. Gaglione's BWC **(BR02),** Sgt. Gaglione asks § 87(2)(b) to step to the back of the vehicle and begins to search the front driver's side of the car. At 02:56, Sgt. Gaglione opens the back driver's side door and starts searching the back seat.

At 02:24 in PO Giannantonio's BWC **(BR01),** PO Giannantonio directs § 87(2)(b) to the back of the vehicle. At 02:30, PO Giannantonio opens the back passenger side door and starts searching the backseat. At 02:38, PO Giannantonio pulls up the backseat cushion and says, "See we've got another bottle back here," and subsequently retrieves an empty tequila bottle from underneath the back seat. He then places the bottle back on the floor of the car. At 4:30, § 87(2)(b) has his back to PO Giannantonio as he chats with PO Roldan in front of him. PO Giannantonio lightly taps § 87(2) on the back to get his attention and tells him that he can get back in the vehicle. § 87(2)(b) turns and gets back in the passenger's seat of § 87(2)(b) vehicle as PO Giannantonio, PO Roldan, and Sgt. Gaglione make their way back to their unmarked vehicle.

Sgt. Gaglione stated **(BR09)** that as he approached the driver's side door of § 87(2)(b) vehicle, he saw two red plastic cups in the center console which led him to believe there might be alcohol in the vehicle. Sgt. Gaglione decided to conduct a search of § 87(2)(b) vehicle because he believed there to be alcohol based on the plastic cup found in the center console and his years of experience performing vehicle stops. After conducting a vehicle search, an open container of tequila was recovered from the back seat. Sgt. Gaglione used his discretion and chose not to issue § 87(2)(b) a summons for the open container.

PO Giannantonio stated **(BR10 and BR11)** that after asking § 87(2)(b) to open the passenger's side door, PO Roldan noted that he observed what he believed to be an open beer can on the floor beneath § 87(2)(b) seat. PO Giannantonio peered into the vehicle and saw a red plastic cup in the center console. He asked § 87(2)(b) to pass the red plastic cup to him and § 87(2)(b) complied. PO Giannantonio sniffed the cup and picked up the scent of alcohol. After smelling the alcohol in the cup, he asked § 87(2)(b) to step out of the vehicle. He then conducted a search of § 87(2)(b) vehicle where he recovered an empty bottle of liquor from the backseat.

According to NY CLS Veh & Tr § 1227, the drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction. **(BR21)**

In *People v. Martin*, the court held that, where "officers [had] detected an odor of alcoholic beverages emanating from the vehicle and observed a cup of alcohol located in plain view in the center console […] the officers had probable cause to suspect a violation of Vehicle and Traffic Law § 1227, and the search of the vehicle for additional open containers was proper." *People v. Martin*, 50 A.D.3d 1169 **(BR00)**.

It is undisputed that Sgt. Gaglione, PO Roldan, and PO Giannantonio conducted a search of the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g) Furthermore, as evinced by BWC, Sgt. Gaglione referenced observing "alcohol in the car," during his initial interaction with § 87(2)(b) and PO Giannantonio stated that the red cup seen in the center console, as well as § 87(2)(b) smelled of alcohol, and noted that the cup still contained some alcohol in it. § 87(2)(g) It is therefore recommended that **Allegations I, J, and K** be closed as **Within NYPD Guidelines.**

**Allegation (L) Abuse of Authority: Police Officer Joseph Giannantonio failed to provide § 87(2)(b) with a business card.**

PO Giannantonio failed to provide § 87(2)(b) an RTKA card.

At 04:19 in Sgt. Gaglione's BWC **(BR02),** Sgt. Gaglione tells § 87(2)(b) "I'm Sergeant Gaglione. If you need a card or anything, let me know." § 87(2)(b) says, "No, you're right, you're right."

At 04:30 in PO Giannantonio's BWC **(BR01),** PO Giannantonio taps § 87(2)(b) and says, "Alright, buddy. You can go back in the car." § 87(2)(b) gets back into the passenger seat and PO Giannantonio walks back to the unmarked police vehicle.

Sgt. Gaglione stated **(BR09)** that he offered § 87(2)(b) his RTKA card, but § 87(2)(b) declined. Sgt. Gaglione did not know whether PO Giannantonio or PO Roldan offered § 87(2)(b) an RTKA card as he could not clearly hear what was being said between them.

PO Giannantonio **(BR10 and BR11)**, acknowledged that he did not provide an RTKA card to § 87(2) at the conclusion of the incident. PO Giannantonio stated that his understanding of the relevant Patrol Guide procedure, was that as long as one officer offered an RTKA card then the RTKA requirements would be satisfied. As a result, PO Giannantonio stated that after overhearing Sgt. Gaglione offer § 87(2)(b) an RTKA card, he did not believe he was required to offer § 87(2) one.

NYPD Administrative Guide, Procedure 304-11, provides that an RTKA "business card is to be offered for a law enforcement activity, except in cases when a summons is issued or an arrest is made, as follows: […] stop where an officer has an individualized, reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime and where a reasonable person would not feel free to end the encounter (Level 3 Encounter), frisk (Level 3 Encounter), or search of persons or property, including vehicles. […] When a uniformed member of the service interacts with a member of the public and/or concludes the above-described law enforcement activities […] Offer pre-printed RIGHT TO KNOW BUSINESS CARD[.]" **(BR20)**

§ 87(2)(g) it is undisputed that PO Giannantonio frisked and searched § 87(2)(b) and did not offer him an RTKA card at the conclusion. § 87(2)(g) It is therefore recommended that **Allegation L** be closed as **Substantiated.**

## Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Gaglione has been a member of service for 11 years and has been a subject in four (4) CCRB complaints, with a total of ten (10) allegations, two (2) of which were substantiated (see Officer History).
  - Case # 202200375 involved substantiated allegations of abuse of authority against Sgt. Gaglione. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
  - Case # 202200375 involved substantiated allegations of discourtesy against Sgt. Gaglione The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
- PO Giannantonio has been a member of service for 10 years and this is the first CCRB complaint to which he has been subject to.

## Mediation and Civil Histories

- Both § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- On April 10, 2025, § 87(2)(b) filed a Notice of Claim with the NYC Comptroller's Office, claiming damages for, *inter alia*, excessive detention, excessive force, false arrest, and unlawful search and seizure, and seeks $750,000 USC in redress **(BR25).**
- On April 10, 2025, § 87(2)(b) filed a Notice of Claim with the NYC Comptroller's Office, claiming damages for, *inter alia*, excessive detention, excessive force, false arrest, and unlawful search and seizure, and seeks $750,000 USC in redress **(BR26).** There is no 50H hearing scheduled.
- § 87(2)(b)

**RPBP History**

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

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Squad No.: 3

| Squad Leader: | Rolando Vasquez | IM Rolando Vasquez | 6/30/2026 |
|---|---|---|---|
| | Signature | Print Title & Name | Date |