201402074 Alejandro Rivas

A civilian, who had been standing on the street with two people he knew stated that a police officer approached them, cursed at them, then frisked them and searched them, then searched a nearby payphone. The officer found a box cutter (which the civilian uses for work) in the civilian's pocket and issued him a summons.

Officer Alejandro Rivas, when interviewed about the incident, stated that he had approached the people because he had arrested the other two for drug offenses before and thought they had stored drugs in the phone booth. He stated that he remembered the incident, that he had not cursed at the individuals, and, other than to take the box cutter, had not frisked or searched them.

As it turns out, the civilian had an audio recording device in his pocket during the encounter. After his statement, Officer Rivas was played the recording, in which an officer is heard saying, "shut the fuck up bro, do you think I am deaf?" Officer Rivas stated that the voice was not his. As the recording continued, the civilian asked the officer his shield number, and the voice, which Officer Rivas said was not his, provided Officer Rivas's shield number.

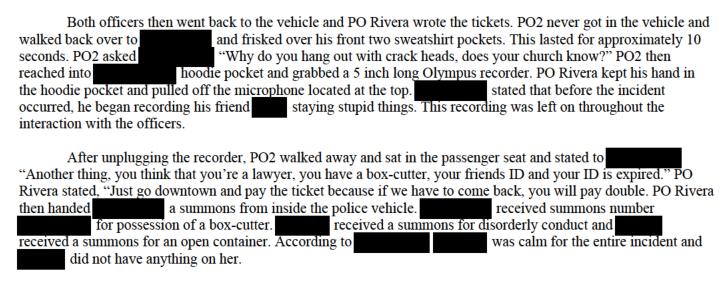
At this point, Officer Rivas's representative cut off the interview to consult with his client. When the interview resumed, Officer Rivas said that he had not remembered the incident before, but the recording had refreshed his recollection and that the civilian (whom he had previously described as calm) was belligerent, which is why he had cursed.

The CCRB found that Officer Rivas had conducted an unlawful frisk and an unlawful search and had lied during his CCRB interview.

The NYPD resolved the incident by issuing Officer Rivas a Command Discipline-A. He has since been promoted to detective and works in the detective squad of the 33rd precinct.

Complainant/Victim:  - works
CCRB Statement On December 11, 2013, at approximately 4:00 p.m., in Manhattan to a Dunkin Donuts.  It took intersection. At the intersection know her last name and stated that he has known her for 6 months. According to approximately 10 minutes to get to the hanging out of the sidewalk.  It took has also tried to help her get clean. approached him and as they talked at the intersection.  It took has also tried to help her get clean. as they talked at the intersection.  It took has also tried to help her get clean. as they talked at the intersection.  It took has also tried to help her get clean. as they talked at the intersection.  It took has also tried to help her get clean. as they talked at the intersection.  It took has also homeless and has known her for approximately 5 years.
According to the conversation he and the three females had occurred on the northwest corner of the intersection. Stated that as they stood there he observed an unmarked light brown police vehicle heading down and talked 4 feet away at a payphone. The police vehicle then made a U-turn and approached and the passenger side was parked closest to the sidewalk. Stated to his friends, "Look the police." Stated he pointed at the officers because he was surprised they pulled up. Two officers then exited the police vehicle. PO1 was described as a Hispanic male, 5'7" to 5'8" tall, dark complexion, medium build and in uniform. PO2 was described as a Hispanic male, 6'2" tall, light skin, medium build and in uniform.
Upon exiting the vehicle, both officers approached PO2 then made his way to the two females. PO1 stated to "Shut-up, why did you warn your friends the police were coming?" PO1 also did not explain to why he was upset and stated to "Let us do our job." According to PO1 also told him to "shut the fuck up" 3 to 4 times. asked PO1 why he was talking to him like that and got a little upset.
PO1 then escorted  Over to a scaffold located on the sidewalk approximately 4 feet away from PO2 and the other females. PO1 told Shield and stated, "Rivera." PO Rivera then read his shield number to Intimidating me bro?" PO Rivera then looked at jeans and noticed a box-cutter in a right pocket located just above his knee. The top of the box-cutter was showing and inches long. PO Rivera then reached and grabbed the box-cutter. In the pulled out a flashlight and screwdriver from his pockets in order to show PO Rivera then told are you taking my box-cutter, I use it for work?" PO Rivera then told are you are going to prison."  Stated that the box-cutter is silver and six then pulled out a flashlight and then asked, "Why are you taking my box-cutter, I use it for work?" PO Rivera then told are you are going to prison."  Stated this conversation lasted 5 minutes before PO2 stated out loud, "Everyone is getting a ticket."
also stated that PO2 frisked both and According to the officers alleged one of the females went to get drugs. Stated that PO2 frisked each woman for one minute before he searched inside the payphone for 30 seconds for drugs. The officers then instructed everyone to walk to the police vehicle. The handed the officers identification and his own. The officers asked why he had identification are explained two days prior, gave him the ID because she did not want to lose it while she was on the street. Was going to take to a methadone clinic. Mr.

Alvarez then asked, "Why am I getting a ticket?" PO Rivera then stated, "If you don't shut-up, I can take you to jail for having your friend's ID and a box-cutter.

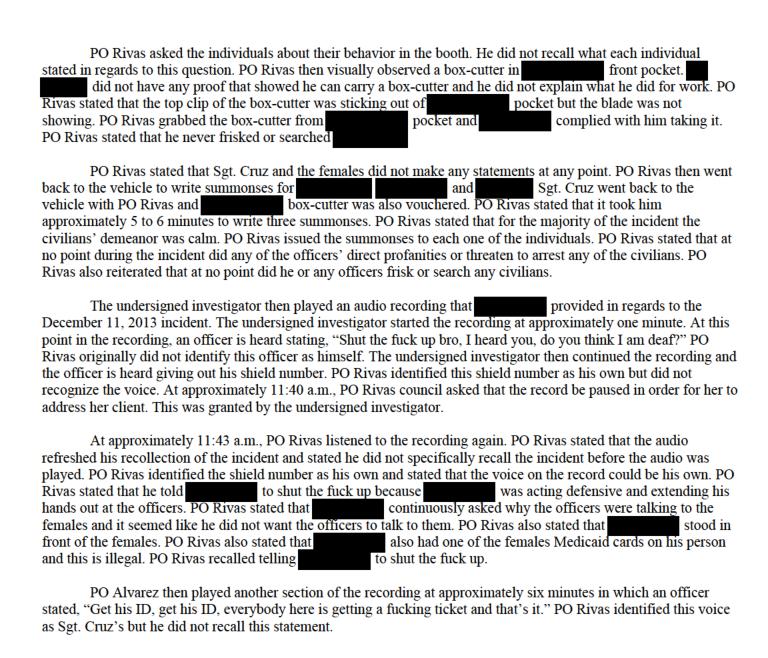


#### Interview: Police Officers Alejandro Rivas CCRB Case No. 201402074 June 5, 2014

On June 5, 2014, PO Rivas was interviewed at the Civilian Complaint Review Board. This interview began at 11:13 a.m. and concluded 11:56 a.m.

PO Rivas is a 42 year old Hispanic male with black hair and brown eyes. He is 5'7" tall and weighs 180 pounds.

On December 11, 2013, PO Rivas worked from 9:30 a.m. to 6:05 p.m. PO Rivas was dressed in uniform and was working as the Conditions Sergeant's Operator for Sgt. Fredy Cruz. The officers were operating an unmarked black Chevy Impala.
Memo Book On December 11, 2013, at approximately 4:00 p.m., summons number Summons number issued to for possession of a box-cutter.
CCRB Statement On December 11, 2013, at approximately 4:00 p.m., PO Rivas and Sgt. Cruz drove past two females standing at a phone booth near the intersection of perator of the vehicle. According to PO Rivas, this area is a known drug location and the sidewalk was only 4 feet wide because construction was going on in the area. PO Rivas stated that space on the sidewalk was very limited and because the women were standing on the sidewalk and not moving, pedestrians had to walk in the street. PO Rivas stated that the vehicle was headed northbound on when he first observed the females. He stated that the vehicle was 4 to 5 feet away from the females when he identified them as individuals that he has arrested before. These females have been identified as
PO Rivas then asked the females to move away from the location as he drove by. He stated that the females moved but he did not observe how far they moved. PO Rivas then continued down onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and turned onto the did not observe how far they moved. PO Rivas then continued down and
Upon arriving at the intersection for a second time. PO Rivas observed and standing in the same spot with a male. This male has been identified as approximately less than 10 feet away when he stated that on the block. PO Rivas stated that he did not hear state anything but he read his lips. PO Rivas stated that the females began to move nervously around the phone booth. PO Rivas stated that the women were making several body movements and also appeared to be nervous. PO Rivas stated that he and Sgt. Cruz believed that something was in the booth.
PO Rivas then parked the vehicle on the side of the street and he and Sgt. Cruz exited the vehicle. PO Rivas stated to the individuals, "I told you earlier to move" and asked each individual for identification. PO Rivas stated that was very defensive but he did not recall any of the specifics of him being defensive. PO Rivas stated that both females were quiet. PO Rivas stated that he asked each individual for identification one time and each one of them complied. PO Rivas stated that Sgt. Cruz stood near him and supervised the stop.



#### Interview: Police Officer Jonathan Rivera CCRB Case No. 201402074 June 10, 2014

On June 10, 2014, PO Rivera was interviewed at the Civilian Complaint Review Board. This interview began at 8:39 a.m. and concluded at 8:42 a.m.

PO Rivera is a 25 year old Hispanic male with black hair and brown eyes. He is 5'8" tall and weighs 190 pounds.

PO Rivera worked from 5:30 p.m. on December 11, 2013 to 2:05 a.m. on December 12, 2013. PO Rivera was dressed in uniform and was working anti-crime with Sgt. Jeffrey Heilig and PO Ruben Pagan.

#### Memo Book

On December 11, 2013, at approximately 5:30 p.m., present for duty. On December 12, 2013, at approximately 2:05 a.m., end of tour.

# CCRB Statement PO Rivera was not working the tour when this incident occurred. He had no recollection of an incident with and did not recognize from a CCRB photograph. PO Rivera stated that at no point during his own tour was he near the vicinity of in Manhattan.

Interview: Sergeant Fredy Cruz CCRB Case No. 201402074 June 17, 2014

On June 17, 2014, Sgt.Cruz was interviewed at the Civilian Complaint Review Board. This interview began 11:16 a.m. and concluded at 11:44 a.m. The interview then went off the record due to audio problem during the uploading of an audio recording provided by the civilian.

Sgt. Cruz was 45 years old at the time of the incident. He is a Hispanic male with brown hair and brown eyes. He is 5'9" tall and weighs 210 pounds.

On December 11, 2013, Sgt. Cruz worked from 8:00 a.m. to 4:57 p.m. Sgt. Cruz was working with PO Alejandr Rivas and the officers were in uniform and assigned to conditions. Sgt. Cruz did not recall the type of vehicle the officers were operating.

#### Memo Book

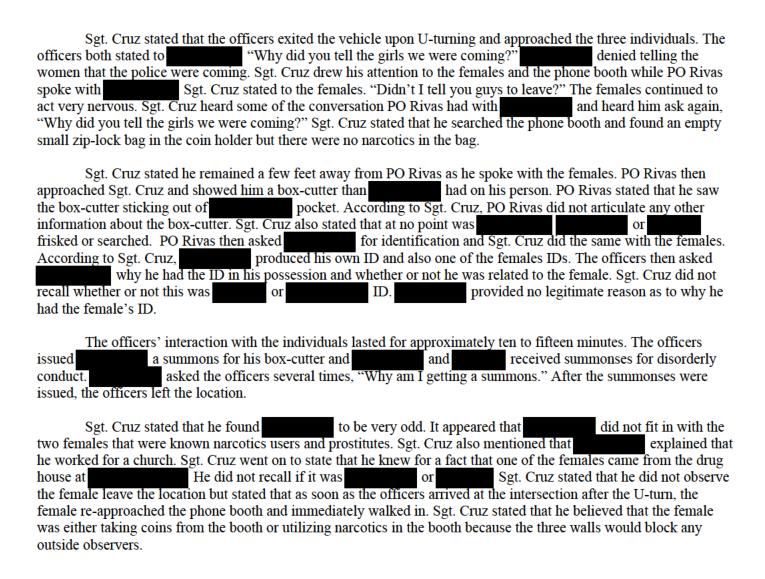
Sgt. Cruz did not have any entries in his memo book in regards to this incident. At approximately 3:15 p.m., two under at 163rd Street and Broadway by PO Rivas.

#### **CCRB Statement**

On December 11, 2013, at approximately 4:00 p.m., Sgt. Cruz was inside of a police vehicle with PO Rivas on in Manhattan. Sgt. Cruz did not recall which officer was operating the vehicle. Sgt. Cruz stated that the officers were parked across the street from a phone booth located on the northwest corner of a According to Sgt. Cruz, at this phone booth, drug dealers meet drug users and escort them to a building on to buy drugs. Sgt. Cruz stated that at this time, two females were at the phone booth. According to Sgt. Cruz, these females are known drug users and he has arrested them before. These females have been identified by the investigation as and Sgt. Cruz stated that the females were standing near the phone booth located on the corner. Near the phone booth was a construction site and there was limited space for pedestrian traffic to walk. According to Sgt. Cruz, because of the construction, the sidewalk was only four feet wide and because the women were standing near the booth, the sidewalk was only two feet wide. Sgt. Cruz observed pedestrians having to walk in the street because the sidewalk was being blocked.

Sgt. Cruz stated that the officers then U-turned the vehicle from across the street and approached the females. The officers stated from the vehicle, "You guys have to move." The officers stated this one time and the women complied and said yes. The officers did not observe if the females walked away but they proceeded to drive around the corner. Sgt. Cruz did not recall which street the officers turned down but stated they took their time circling the block. As the officers travelled eastbound down again with a man identified by the investigation as a second again and then made the decision to U-turn and approach the individuals.

As the officers U-turned towards the individuals, the officers observed staring at them while he was motioning towards the females and tapping one with his arm. Sgt. Cruz stated that he activity was very suspicious and the females in the phone booth were not making a phone call. Sgt. Cruz also stated that the individuals were also standing very close together. Sgt. Cruz also stated that he observed that he read lips and observed him state, "They are coming, they are coming, and they are here." Sgt. Cruz stated that the females appeared to be nervous as the officers approached. Sgt. Cruz also stated that



Attached is the second part of Sgt. Cruz's CCRB Interview. This section of the interview occurred on June 17, 2014, between 11:50 a.m. and 11:56 a.m.

