

201610022
Brandan Dono

On December 4, 2016, PO Dono issued a summons to a driver for a traffic infraction. After the interaction, the driver went to the precinct to complain that PO Dono had threatened to arrest her during the encounter. When the driver arrived, she met with a sergeant, who listened to her and went to speak with PO Dono, who was in the precinct. The sergeant spoke with PO Dono, and brought the officer to speak with the woman. According to the woman, at this point PO Dono asked her for her drivers' license so that he could issue her more summonses. According to the sergeant, PO Dono stated he could issue her an additional summons, and that she had committed more offenses than she had been ticketed for. The encounter did not resolve the situation and the woman filed a complaint.

According to PO Dono, when the woman came to the precinct, the sergeant came to speak to PO Dono, but did not bring him to the part of the precinct where the woman was. PO Dono testified that he did not speak to the woman at all at the precinct. He swore that he only spoke with the sergeant privately, and saw the woman sitting on a chair in the precinct, but never spoke to her directly.

Because PO Dono's statement that he had not spoken to the woman was directly contradicted by the sergeant, the woman, and another officer who saw PO Dono speaking to the woman, the CCRB substantiated the allegation that PO Dono had threatened to summons her, and found that there was evidence he had lied during his interview.

The NYPD issued a command discipline A to PO Dono for the incident.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Perri Fagin	Team: Squad #5	CCRB Case #: 201610022	<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) Sunday, 12/04/2016 3:30 PM	Location of Incident: [REDACTED]	Precinct: 10	18 Mo. SOL 6/4/2018	EO SOL 6/4/2018	
Date/Time CV Reported Mon, 12/05/2016 12:46 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 12/05/2016 12:46 PM		

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Brendan Dono	31863	§ 87(2)(b)	010 PCT
2. An officer			010 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Logan Lefkowitz	02702	§ 87(2)(b)	010 PCT
2. SGT Conor Mcdonald	01481	§ 87(2)(b)	010 PCT
3. POM Edward Testa	28538	§ 87(2)(b)	010 PCT
4. POM Dylan Schoen	15544	§ 87(2)(b)	010 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Brendan Dono	Abuse of Authority: At 34th Street and 9th Avenue in Manhattan, Police Officer Brendan Dono threatened to arrest § 87(2)(b).	A . § 87(2)(g)
B . POM Brendan Dono	Abuse of Authority: At the 10th Precinct stationhouse in Manhattan, Police Officer Brendan Dono threatened to issue summons to § 87(2)(b).	B . § 87(2)(g)
C . An officer	Abuse of Authority: At the 10th Precinct stationhouse in Manhattan, an officer threatened to arrest § 87(2)(b).	C . § 87(2)(g)
D . POM Brendan Dono	Other: There is evidence suggesting Police Officer Brendan Dono provided a false official statement in violation of PG 203-08.	D . § 87(2)(g)

Case Summary

On December 5, 2016, § 87(2)(b) a United States Postal Service worker, called the CCRB and filed this complaint via the CCRB's call processing system.

On December 4, 2016, at approximately 3:30 p.m., § 87(2)(b) was on her mail route when she drove through a red light at the intersection of 34th Street and 9th Avenue in Manhattan, which she attributed to a brake malfunction of her § 87(2)(b) truck. PO Brendan Dono of the 10th Precinct observed this traffic violation and initiated a vehicle stop (see Allegations Not Pleaded). PO Dono requested § 87(2)(b) driver's license, but § 87(2)(b) refused to provide it, as she left it at work. PO Dono ordered § 87(2)(b) multiple times to remove the keys from the ignition of the truck. When § 87(2)(b) did not immediately comply, PO Dono allegedly told her, "Either you turn the truck off, or I'm gonna arrest you," and "You can either turn it off, or you're gonna be taken to bookings" (**Allegation A**). Ultimately, PO Dono issued § 87(2)(b) two summonses, and § 87(2)(b) drove away.

At approximately 4:30 p.m., § 87(2)(b) went to the 10th Precinct stationhouse. There, she spoke with PO Dylan Schoen who directed her to Sgt. Logan Lefkowitz, both of the 10th Precinct. § 87(2)(b) told Sgt. Lefkowitz what happened with PO Dono, and Sgt. Lefkowitz asked if she would like to speak with him. § 87(2)(b) agreed and Sgt. Lefkowitz left to retrieve PO Dono from elsewhere in the stationhouse.

Sgt. Lefkowitz spoke with PO Dono in the back of the stationhouse and then brought him to the front of the stationhouse. § 87(2)(b) and PO Dono had a verbal altercation, during which PO Dono allegedly ordered § 87(2)(b) to produce her license so he could give her another summons (**Allegation B**). An unidentified officer, who was allegedly standing behind a podium, added, "It's not too late to get arrested" (**Allegation C**). After the altercation between PO Dono and § 87(2)(b) was asked multiple times by Sgt. Lefkowitz if she wanted to file a complaint against PO Dono, but she wanted time to think about it. § 87(2)(b) left the stationhouse.

The CCRB found evidence suggesting that PO Dono provided a false official statement regarding this incident (**Allegation D**), which was referred to IAB as a spin-off case (CCRB case number 201702876) on April 13, 2017.

No video footage was available from this incident. § 87(2)(b) received two summons as a result of the initial vehicle stop, one for having earbuds in while driving and one for driving through the red light.

Mediation, Civil and Criminal Histories

- § 87(2)(b) rejected mediation.
- § 87(2)(b) has not been criminally convicted in New York City in the past 10 years (Board Review 01).
- As of January 25, 2017, § 87(2)(b) had not filed a Notice of Claim the New York City Comptroller's Office regarding this incident (Board Review 02).

Civilian and Officer CCRB Histories

- This is the first complaint § 87(2)(b) has filed with the CCRB (Board Review 03).
- PO Dono has been a member-of-the-service for 12 years and has 20 prior CCRB complaints filed against him involving 28 total allegations, none of which were substantiated, but contain two alleged threats of arrest, one which the Board exonerated and one where the complainant was unavailable.

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) (Board Review 04) alleged that a white male plainclothes officer with grey hair, approximately in his 60's, was standing behind a podium during her altercation with PO Dono inside the stationhouse, and said to her, "It's not too late to get arrested." § 87(2)(b) could not estimate his height and weight because her view was obstructed by the podium. § 87(2)(b) testified that while there were "a few" officers present during this interaction, she believed that Sgt. Conor McDonald of the 10th Precinct was the only one in a position to see her interact with the white male officer with grey hair. Sgt. McDonald (Board Review 05) testified that he was the only plainclothes officer present during this incident, and that, aside from Sgt. Lefkowitz, he did not remember which other officers were present. Sgt. McDonald denied hearing any officer threaten to arrest § 87(2)(b).

The tour 3 roll call (Board Review 06) from the incident date revealed that four male officers were assigned to the stationhouse at the time of the incident, two of which were Sgt. Lefkowitz (Board Review 07) and PO Schoen (Board Review 08), however the investigation found that neither officer allegedly threatened to arrest § 87(2)(b) or heard any officer commit this allegation. The MOS photo terminal revealed that the third officer assigned to the stationhouse, PO Jaup Xhunga of the 10th Precinct, is a § 87(2)(b) old white male with a tan complexion, black hair, and thick black eyebrows, and therefore did not fit the description of the subject officer provided by § 87(2)(b). The final officer assigned to the stationhouse was PO Edward Testa of the 10th Precinct, a white male with grey hair, who was interviewed at the CCRB. PO Testa (Board Review 09) was in uniform and processing arrest paperwork at the time of the incident, for an arrest he brought in. PO Testa testified that he was sitting approximately 10-15 feet behind the desk when he saw § 87(2)(b) enter the stationhouse and speak with Sgt. Lefkowitz, but never interacted with her, himself. No interviewed officer testified that PO Testa interacted with § 87(2)(b).

The command log (Board Review 11) revealed that a detective from Narcotics Borough of Manhattan South, Det. Johnpaul Vinculado, brought an arrest in at 3:24 p.m. and may have been present in the stationhouse, but a CTS search revealed that he is an Asian male. The Interrupted Patrol Log (Board Review 10) placed PO Grey Castro and PO Pinkie Fraser, both of the 10th Precinct, at the stationhouse with an arrest at 3:00 p.m., however a CTS search revealed that PO Castro is a black male and PO Fraser is a black female.

As this aspect of this incident occurred at approximately 4:30 p.m., the subject officer in question may have been leaving the stationhouse, having worked the prior tour and already changed out of

his uniform. The tour 2 roll call (Board Review 12) in conjunction with the MOS photo terminal revealed that 12 white or white-Hispanic officers could have been leaving the stationhouse at the time of the incident (Board Review 13). Sgt. David Ondrick of the 10th Precinct was the only white male officer with grey hair who worked tour 2, as the rest of the white and white-Hispanic officers had brown hair, black hair, red hair, or were completely bald. Sgt. Ondrick (Board Review 14) was interviewed at the CCRB and testified that he had already ended his tour and left the stationhouse before this incident took place. Sgt. Ondrick's memo book (Board Review 15) corroborated his testimony.

According to the tour 3 roll call, no officers were assigned to Anti-Crime, which is the only unit at the 10th Precinct that typically operates in plainclothes (Board Review 16). The 10th Precinct Detective Squad is located in the same building as the 10th Precinct stationhouse, however, they do not have any MOS assigned to the 10th Precinct stationhouse on the ground level of the building (Board Review 17).

Given all of the above-mentioned factors, the investigation was unable to determine who may have threatened to arrest § 87(2)(b). Therefore, **Allegation C** is pleaded to "An officer."

Allegations Not Pleaded

- **Abuse of Authority:** PO Dono observed § 87(2)(b) drive through an intersection while the traffic light was in the red phase, which § 87(2)(b) acknowledged doing. A vehicle stop allegation is not being pleaded as it occurred pursuant to observing a traffic violation.

Allegation A –Abuse of Authority: Police Officer Brendan Dono threatened to arrest

§ 87(2)(b)

It is undisputed that PO Dono stopped § 87(2)(b) pursuant to observing her drive through an intersection while the traffic light was in the red phase, and that § 87(2)(b) did not immediately produce her ID when it was requested. It is further undisputed that PO Dono ordered § 87(2)(b) to remove her keys from the ignition of her postal truck, and that § 87(2)(b) did not initially comply. Ultimately, § 87(2)(b) was issued two summonses: one for driving with earbuds in, and one for driving through a red light (Board Review 18).

§ 87(2)(b) alleged that after she produced her § 87(2)(b) ID, PO Dono ordered her turn the truck off. § 87(2)(b) testified that after she asked why she needed to turn the truck off, PO Dono replied, "Either you're gonna turn the truck off, or I'm gonna arrest you." § 87(2)(b) allegedly asked why that was necessary and noted that it was very cold outside, and PO Dono reiterated, "You can either turn it off, or you're gonna be taken to bookings." After this second alleged threat, § 87(2)(b) testified that she immediately complied and removed the key from the ignition.

After § 87(2)(b) was unable to produce her license, PO Dono (Board Review 19) testified that he requested § 87(2)(b) work ID, but she told him she left it at work. PO Dono testified that he ordered § 87(2)(b) to hand him the truck keys so that he could verify who she was. PO Dono repeatedly asked § 87(2)(b) for her keys, but denied

telling § 87(2)(b) “Either you turn the truck off or I’m gonna arrest you,” or “You can either turn it off or you’re gonna be taken to bookings.” PO Dono testified that § 87(2)(b) could not have been arrested for not removing the keys from the truck, but could have been for not having identification with her. PO Dono testified that he informed § 87(2)(b) that she could be arrested for not having identification before she produced the keys.

§ 87(2)(g)
[REDACTED]

Allegation B –Abuse of Authority: Police Officer Brendan Dono threatened to issue summons to § 87(2)(b)

It is undisputed that § 87(2)(b) went to the 10th Precinct stationhouse to report her interaction with PO Dono.

§ 87(2)(b) testified that she told Sgt. Lefkowitz what happened with PO Dono, and Sgt. Lefkowitz left to retrieve PO Dono from elsewhere in the stationhouse. § 87(2)(b) testified that, at one point, Sgt. McDonald approached her and offered to speak with her father on the phone, as her father is a police officer. Sgt. McDonald did so and PO Dono entered the room. PO Dono approached her and asked her if she wanted to file a complaint against him, and she replied that she did. PO Dono then allegedly asked if she had her driver’s license, and when § 87(2)(b) said she did, PO Dono ordered her to produce her license so he could give her another summons, but did not specify what this summons would be for.

PO Dono testified that he was upstairs in the stationhouse when a sergeant summonsed him downstairs. PO Dono complied and saw § 87(2)(b) seated in a chair in the front of the stationhouse. PO Dono spoke with Sgt. Lefkowitz in a back room, where PO Dono recounted his interaction with § 87(2)(b). Sgt. Lefkowitz told PO Dono that § 87(2)(b) was at the stationhouse to make a complaint. After this two-and-a-half minute conversation with Sgt. Lefkowitz, PO Dono testified that he returned upstairs. PO Dono denied threatening to summons § 87(2)(b) and further denied interacting with her at all at the stationhouse. PO Dono testified that he only ever saw § 87(2)(b) from a distance, seated in a chair.

Sgt. Lefkowitz testified that after he spoke with § 87(2)(b) he retrieved PO Dono from elsewhere in the stationhouse, and spoke with him about the vehicle stop. Sgt. Lefkowitz brought PO Dono to § 87(2)(b) hoping that they could speak about the situation. Sgt. Lefkowitz testified that PO Dono asked § 87(2)(b) what the problem was, and § 87(2)(b) asked why she needed to take her key out of the ignition. Sgt. Lefkowitz testified that PO Dono told § 87(2)(b) “I could write you a ticket now, because you came in in-person.” Sgt. Lefkowitz stated that PO Dono mentioned that § 87(2)(b) had “more violations,” but he did not elaborate on what any of the violations were that he could have issued § 87(2)(b) a summons for.

Sgt. McDonald denied witnessing any interaction between § 87(2)(b) and PO Dono, however there was a point in which Sgt. McDonald left the room to speak with § 87(2)(b) father on the phone, in a room about 20 feet away from the front of the stationhouse. During this phone call, Sgt. McDonald testified that he could not hear what was happening with § 87(2)(b) in the front area of the stationhouse. Sgt. McDonald testified that he never witnessed § 87(2)(b) commit any summonsable offenses.

PO Schoen testified that he witnessed PO Dono and § 87(2)(b) interact approximately 20 feet away from him. PO Schoen testified that PO Dono told § 87(2)(b) that if she wanted to file a complaint against him, she could. This conversation lasted a few minutes, and while PO Schoen denied hearing PO Dono threaten to summons § 87(2)(b) he did not remember what was said aside from PO Dono telling § 87(2)(b) that she could file a complaint against him if she wanted to do so.

Police officers must be able to articulate the factors which led them to take enforcement action, in particular probable cause for arresting or issuing a summons to a person. NYPD Patrol Guide, Section 203-25 (Board Review 20).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation C –Abuse of Authority: Police Officer An officer threatened to arrest § 87(2)(b)

§ 87(2)(g)

[REDACTED]

Allegation D-Other: There is evidence suggesting Police Officer Brendan Dono provided a false official statement in violation of PG 203-08.

The CCRB found evidence suggesting that PO Dono provided a false official statement regarding this incident. A spin-off case was referred to IAB in regards; under CCRB case number 201702876. The evidence is as follows:

§ 87(2)(b) testified that when she arrived at the stationhouse she spoke to Sgt. Lefkowitz and informed him of her earlier interaction with PO Dono. She also expressed her desire to file a complaint against PO Dono. Sgt. Lefkowitz then left to retrieve PO Dono from elsewhere in the stationhouse. When PO Dono eventually entered the room he approached § 87(2)(b) and asked her for her license so he could issue her another summons.

Sgt. Lefkowitz testified that after he spoke with § 87(2)(b) he left to go retrieve PO Dono from elsewhere in the stationhouse. He then spoke with PO Dono about the earlier car stop involving § 87(2)(b) and then brought PO Dono to § 87(2)(b) so they could talk about the situation. Sgt. Lefkowitz corroborated § 87(2)(b)'s testimony and confirmed that PO Dono told § 87(2)(b) "I could write you a ticket now, because you came in person" and that PO Dono also stated that § 87(2)(b) had "more violations." PO Schoen, who was also present in the stationhouse at the time, also confirmed that PO Dono and § 87(2)(b) had a conversation that lasted a few minutes however he did not hear PO Dono threaten to issue § 87(2)(b) a summons.

PO Dono's testimony contradicts the reliable testimony of § 87(2)(b) and Sgt. Lefkowitz and to an extent that of PO Schoen. PO Dono testified that he was upstairs in the stationhouse when Sgt. Lefkowitz summoned him downstairs. According to PO Dono he complied and proceeded to speak with Sgt. Lefkowitz in a back room about his earlier interaction with § 87(2)(b). PO Dono stated that Sgt. Lefkowitz informed him that § 87(2)(b) was at the stationhouse to make a complaint. PO Dono maintained that he then returned upstairs following this conversation and denied threatening to summons § 87(2)(b). He also stated that he only saw § 87(2)(b) from a distance.

During his CCRB interview PO Dono flatly denied threatening to issue § 87(2)(b) a summons and also maintained that he never spoke to her while she was in the stationhouse instead stating that he only saw her from a distance before he returned upstairs. This was refuted by not only § 87(2)(b) but also by PO Dono's direct supervisor, Sgt. Lefkowitz and fellow officer PO Schoen. Sgt. Lefkowitz not only confirmed that PO Dono and § 87(2)(b) spoke but that PO Dono told her he was going to issue another summons. While PO Schoen did not hear PO Dono threaten to issue a summons, he too, confirmed that PO Dono and § 87(2)(b) did in fact speak for several minutes.

Patrol Guide Procedure 203-08 states that an officer is prohibited from making a false official statement and that an officer found to have made such a statement will be subject to disciplinary action (Board Review 21).

§ 87(2)(g)

Squad: 5

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date