201901368 Jonathan Rivera

On February 2, 2019, officers pulled over a car for tinted windows and discovered a knife in the back seat. The occupants were taken to the 52nd Precient, where Sergeant Rivera authorized them to be strip searched.

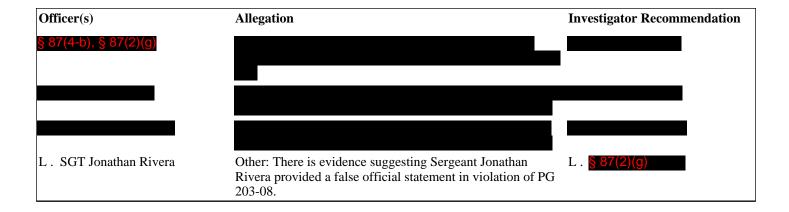
When the complaint was filed, the CCRB asked the NYPD for the officers' memo book entries, and the NYPD provided copies of Sergeant Rivera's memo book, which did not contain any entries for the incident. When he arrived at the CCRB for his interview some time later, Sergeant Rivera produced a memo book that had detailed entries regarding the incident. When asked why he had a memo book with entries that had not been in his memo book earlier, he stated that his earlier memo book had been damaged and he recreated the memo book from memory. He did not explain why his earlier memo book had no entries regarding the incident, and had filed no report about his supposedly damaged memo book.

While the CCRB did not substantiate any of the allegations regarding the stop, it found that Sergeant Rivera had doctored his memo book and made false statements about it to the CCRB.

The NYPD did not discipline PO Rivera for this incident.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator:		Team:	CCRB Case #:	П	Force	☐ Discourt	U.S.
Maura Roche		Squad #10	201901368		Abuse	☐ O.L.	☐ Injury
Triadia Roche		Squau #10	201701300		10usc		<u> піјш</u>
Incident Date(s)		Location of Incident:		Pr	ecinct:	18 Mo. SOL	EO SOL
Saturday, 02/02/2019 3:00 PM					52	8/2/2020	3/19/2021
Date/Time CV Reported		CV Reported At:	How CV Reported:	: Г	Date/Time	Received at CCI	RB
Sat, 02/02/2019 3:00 PM		IAB	Phone	V	Wed, 02/1	3/2019 11:24 AM	М
Complainant/Victim	Type	Home Addre	ess				
Subject Officer(s)	Shield	TaxID	Command				
		Taxib					
 POM Jose Cepeda SGT Jonathan Rivera 	19206 02049		052 PCT 052 PCT				
3. POF Tara Convery	09337		052 PCT				
Witness Officer(s)	Shield N	lo Tax No	Cmd Name				
1. POM Corey Williams	07231		052 PCT				
2. POM Ryan Lawrence	11278		052 PCT				
Officer(s)	Allegation	on			Inve	stigator Recon	nmendation
A . POF Tara Convery	Abuse of	f Authority: At the inters				§ 87(2)(g)	
	Convery	in the stopped the vehicle in v	e Bronx, Police Office	cer Ta	ıra		
	Convery	were occupants.	villen				
B . POM Jose Cepeda	Abuse of	Authority: At the inters		Ţ	В.	§ 87(2)(g)	
	Cepeda s	in the stopped the vehicle in w	e Bronx, Police Office hich	cer Jo	se		
		were occupants.					
C . POM Jose Cepeda	Abuse of	f Authority: At the inters	section of Bronx, Police Office	cer Io		§ 87(2)(g)	
	Cepeda f		Biolix, Folice Offic	cci jo	sc		
D . POM Jose Cepeda	Abuse of	Authority: At the inters			D .	§ 87(2)(g)	
	Cepeda s		e Bronx, Police Office	cer Jo	se		
E . POF Tara Convery	•	f Authority: At the inters	section of		Е.	§ 87(2)(g)	
	Convers		Bronx, Police Office	cer Ta	ıra		
	Convery	searched the vehicle in were occupants.	WIICH				
F. POF Tara Convery	Abuse of	f Authority: At the inters				§ 87(2)(g)	
	Converv	in the damaged	e Bronx, Police Office property.	cer Ta	ıra		
G . SGT Jonathan Rivera	•	f Authority: At the 52nd		se,	G.	§ 87(2)(g)	
	Sergeant	Jonathan Rivera strip-se	earched		_		
H . SGT Jonathan Rivera		f Authority: At the 52nd Jonathan Rivera strip-se		se,	Н.	§ 87(2)(g)	



Case Summary

On February 5, 2019, § 87(2)(b) filed this complaint on behalf of himself and his friend, § 87(2)(b) with IAB by phone. It was received at the CCRB on February 13, 2019, under IAB original log number 2019-5339. On February 2, 2019, at approximately 3 p.m., at the intersection of in the Bronx, PO Tara Convery and PO Jose Cepeda, both of the 52nd Precinct at the time of this incident (PO Convery has since been transferred to the Manhattan Special Victims Squad), who was in a car with \$87(2)(b) for driving with excessive tints (Allegations A and B: Abuse of Authority – Vehicle Stop, § 87(2)(g) . PO Cepeda asked § 87(2)(b) out of the car, and, as soon as §87(2)(b) got out of the car, PO Cepeda patted down the exterior of his clothes (Allegation C: Abuse of Authority – Frisk, \$87(2)(g) and reached into his pockets, removing two cell phones (Allegation D: Abuse of Authority – Search (of person), § 37(2)(6) the same time, PO Convery looked inside the interior of the car (Allegation E: Abuse of Authority – Vehicle Search, § 87(2)(g) . When PO Convery was looking in the back-passenger area of the car, she allegedly damaged a cup holder located within the back-seating panel of the car (Allegation F: Abuse of Authority – Property Damage, 8 87(2)(g) and § 87(2)(b) back to the 52nd Precinct PO Cepeda and PO Convery drove §87(2)(b) stationhouse, where Sgt. Rivera authorized PO Cepeda and PO Ryan Lawrence, also of the 52nd and § 87(2)(b) (Allegations G and H: Precinct, to perform strip-searches of both § 87(2)(b) Abuse of Authority – Strip-Search, $\S 87(2)(9)$. § 87(4-b), § 87(2)(g) The CCRB found evidence suggesting that Sgt. Rivera provided a false official statement on December 18, 2019, when he provided a memo book (**BR 01**) which included entries not contained in the memo book obtained earlier from IAB (BR 02). (Allegation L: Other Misconduct - False Official Statement). This was referred to IAB under CCRB case number 201910831 on December 24, 2019. $(BR 03 \text{ and } BR 04) \text{ and } \frac{\$87(2)(6)}{\$87(2)(6)}$ (BR 05) were both arrested as a result of this incident. Stationhouse footage (BR 06, BR 07, BR 08, and BR 09) and body-worn camera footage from PO Convery (BR 10) and PO Cepeda (BR 11) was obtained, and the relevant portions are discussed below. There was no other video of this incident. **Findings and Recommendations** Allegation (A) Abuse of Authority: At the intersection of in the Bronx, Police Officer Tara Convery stopped the vehicle in which 887(2)(b) were occupants. Allegation (B) Abuse of Authority: At the intersection of in the Bronx, Police Officer Jose Cepeda stopped the vehicle in which \$87(2)(b) were occupants. It was undisputed that PO Convery and PO Cepeda stopped \$87(2)(6) and § 87(2)(b) because § 87(2)(b) was driving a car with tinted windows. (BR 12 and BR 13) consistently stated that all of the windows in his car have a slight tint, but he did not think that the officers could tell that his windows were tinted because his

PO Convery (**BR 13**) and PO Cepeda (**BR 14**) consistently stated that the reason that they stopped \$87(2)(6) was because of his tinted windows.

In PO Cepeda's body-worn camera footage (**BR 11**), beginning at 00:05 seconds, PO Cepeda tells (*We stopped you for the tints, right?" (*87(2)(b)) answers, "I understand that, bro."

Screen shots from PO Cepeda's body-worn camera footage capture the rear windshield and the

sunroof was open.

passenger side windows (**BR 39** and **BR 40**). The rear windshield is opaque, and the interior of the car is not visible. The back-passenger side window is partially rolled down and reflects Sgt. Rivera's shield. The interior of the car is visible through the portion of the window that is rolled down, but not through the window itself.

Although 887(2)(6) was not charged for tinted windows on his arrest report (**BR 03**), the narrative sections states that 887(2)(6) was stopped because he was driving with excessive tints

§ 87(2)(g)

New York State Vehicle and Traffic Law [VAT] § 375 (12) (**BR 16**) states that no person shall operate any motor vehicle upon any public highway, road, or street the front windshield, the side wings or side windows, and/or the rear window of which is composed of, covered by, or treated with any material which has a light transmittance of less than seventy percent.

According to <u>People v. Robinson</u>, 97 N.Y.2d 341 (2001) (**BR 38**), vehicle stops are permissible when an officer can articulate credible facts establishing reasonable cause that the driver of the automobile has committed a traffic violation. Neither the motivation of the officer nor a determination of what a reasonable traffic officer would have done under the circumstances is relevant to the propriety of the stop.

§ 87(2)(g) Allegation (C) Abuse of Authority: At the intersection of in the Bronx, Police Officer Jose Cepeda frisked § 87(2)(b) Allegation (D) Abuse of Authority: At the intersection of in the Bronx, Police Officer Jose Cepeda searched § 87(2)(b) Allegation (E) Abuse of Authority: At the intersection of in the Bronx, Police Officer Tara Convery searched the vehicle in which \$87(2)(b) were occupants. It was undisputed that PO Cepeda patted down § 87(2)(b) and that PO Convery searched s car because of the odor of marijuana. § 87(2)(g) § 87(2)(b) (BR 12 and BR 13) consistently stated that after he stopped the car, PO Cepeda approached him and asked him if he "smoked." \$87(2)(5) interpreted this to mean marijuana and responded that he had smoked earlier in the day but not in the car. \$87(2)(6) interview that his clothes may have smelled like marijuana, but his car did not because he never smoked marijuana in the car, had air fresheners attached to all the vents, and kept scented ricks under

s clothing from his ankles to his shoulders, squeezed his jacket and pants pockets, reached into \$57(2)(0) as front jacket pockets, where he kept two phones, removed the phones, and then put the phones back into the pockets.

After PO Cepeda frisked and searched \$57(2)(0) PO Convery leaned into the car with her knees on the seats starting with the front-passenger side and then moving to the back-passenger side, the front-driver's side, and finally the back-driver's side. PO Convery lifted the center console and opened the glove compartment. Having completed the search of the interior of the car, PO Convery and PO Cepeda told \$57(2)(0) and \$57(2)(0) to get back into the car and asked \$57(2)(0) to open the trunk. When \$57(2)(0) refused to open the trunk, PO Cepeda told him to step back out of

and § 87(2)(b)

step out of the car and stand by the trunk, which they did. PO Cepeda patted down the exterior of

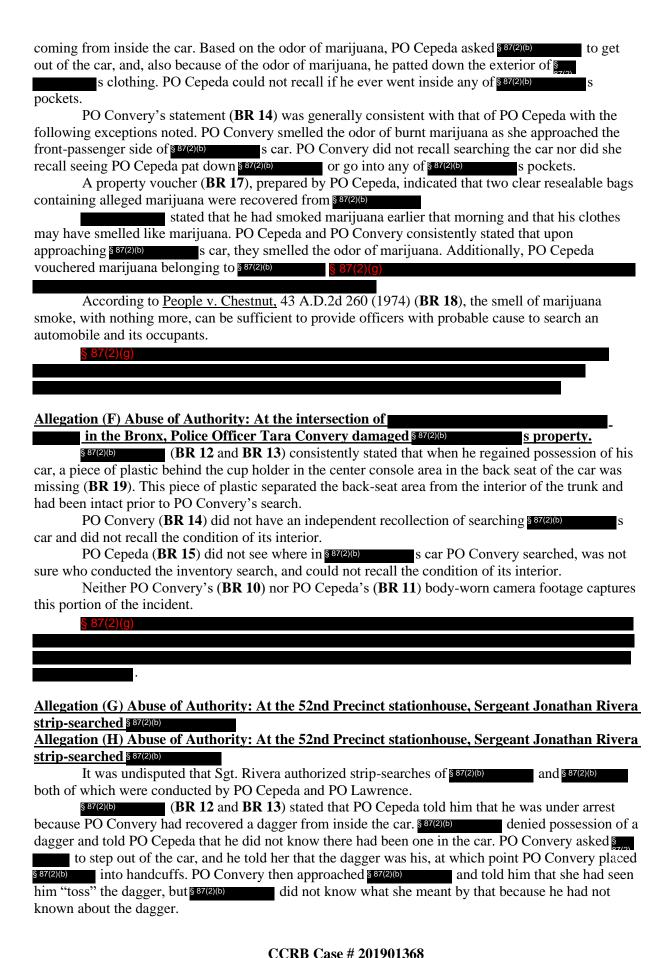
who was in the front passenger seat, to

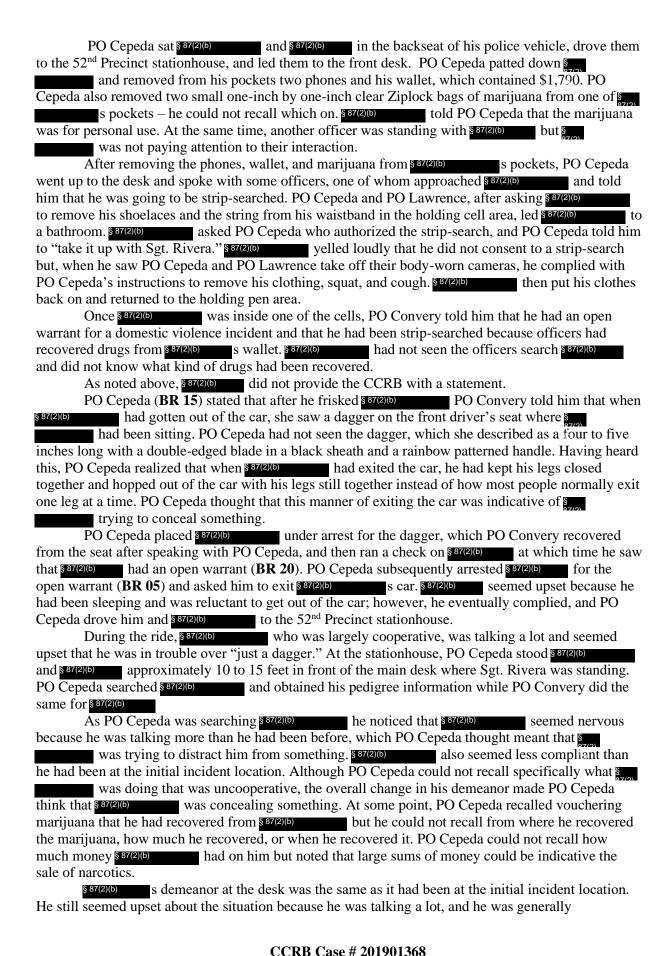
The investigation was unable to establish contact with § 87(2)(b)

the car seats.) PO Cepeda asked \$87(2)(b)

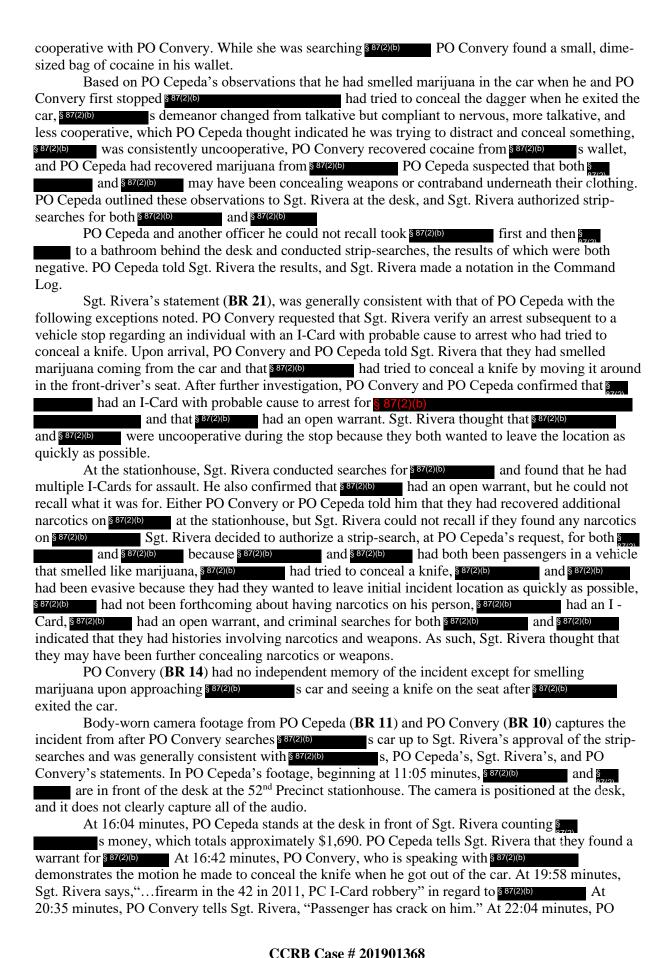
the car and that he was under arrest.

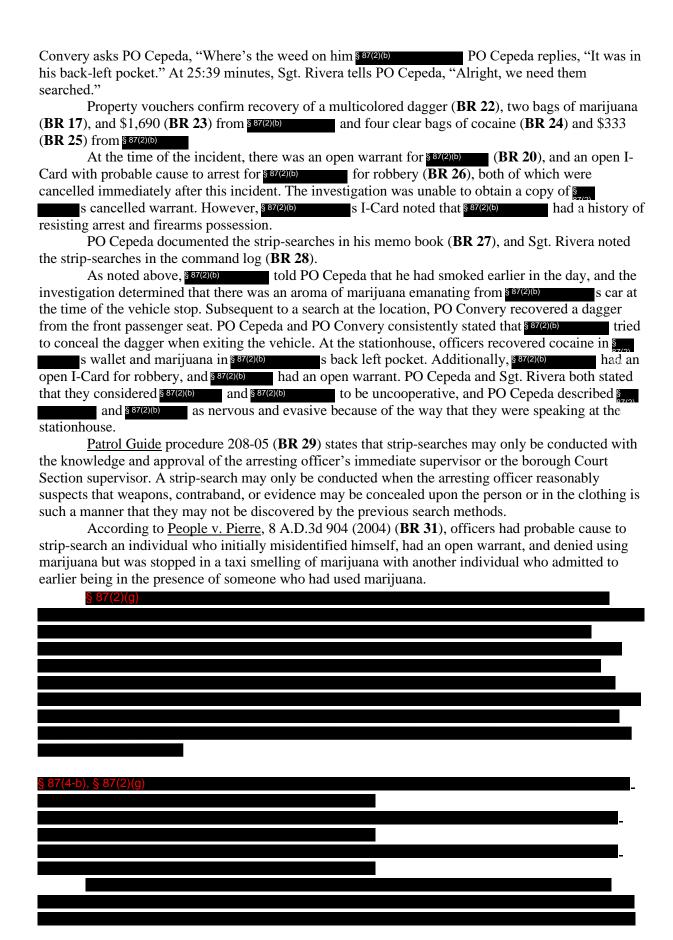
PO Cepeda (**BR 15**) stated that he approached \$87(2)(b) who was in the front-driver's seat, and that as soon as he began speaking with \$87(2)(b) he smelled the odor of marijuana





CCRB CTS – Confidential Page 4





§ 87(4-b), § 87(2)(g)	

Allegation (L) Other Misconduct: There is evidence suggesting Sergeant Jonathan Rivera provided a false official statement in violation of PG 203-08.

On September 16, 2019, the CCRB received a copy of Sgt. Rivera's memo book (**BR 02**) from IAB, which did not contain any entries in regard to this incident. On December 18, 2019, Sgt. Rivera appeared at the CCRB and provided a copy of his memo book that did include reference to this incident (**BR 01**). When asked to explain the discrepancies between the memo books, Sgt. Rivera stated (**BR 21**) that his first memo book was damaged, and he recreated the second memo book from memory. Sgt. Rivera could not recall when the first memo book was damaged or when he created the second memo book. Sgt. Rivera did not complete any complaint reports regarding the damaged memo book (**BR 31**). There were no entries in the recreated memo book by either Sgt. Rivera or his supervisor documenting that the entries were recreated due to damage to the original memo book.

According to <u>Patrol Guide</u> procedure 212-08 (**BR 41**), members of service below the rank of captain are must make memo book entries to include tasks performed, information pertinent to an assignment or observed/suspected violation of law, and actions taken. Officers are not permitted to remove pages from their memo books for any reason. Upon completion of a memo book, officers will submit it to a supervisor for review. After ascertaining that all required information has been entered on the cover of the memo book, the supervisor will enter his signature on the last page and cover of the memo book, complete required entries in "Distribution Record," and issue a new memo book to the member of service.

<u>Patrol Guide</u> procedure 203-08 states that all officers are strictly prohibited from intentionally making a false official statement, and are subject to disciplinary action, up to and including dismissal, for doing so. False official statement may include lying in an NYPD interview, in a CCRB interview, or in an official NYPD document or report (**BR 32**).

or in ai	official 1111 document of report (BR 52).
	§ 87(2)(g)
	Civilian and Officer CCRB Histories
•	§ 87(2)(b)

- PO Cepeda has been a member of service for four years and has been a subject in one CCRB
 complaint and one allegation, which was not substantiated. PO Cepeda's CCRB history does
 not reflect any apparent pattern pertinent to this investigation.
- PO Convery has been a member of service for five years and has been a subject in three CCRB complaints and seven allegations, none of which were substantiated. PO Convery's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Sgt. Rivera has been a member of service for nine years and has been names as a subject in 10 complaints and 18 allegations, none of which were substantiated. Sgt. Rivera's CCRB history does not reflect any apparent pattern pertinent to this investigation.

Mediation, Civil and Criminal Histories

• This complaint was not su	itable for mediation.	
• § 87(2)(b)		
• §87(2)(b) filed a Noti	ce of Claim with the City of New Yo	ork claiming unspecified injuries
	000 as redress (BR 37). There was no	
Squad No.: 10		
Leave Cartain Marin D. Davida	C.I. Marria D. Davila	04/24/2020
Investigator: Maura R. Roche Signature	S.I. Maura R. Roche Print Title & Name	04/24/2020 Date
Signature	Time True & Traine	Bate
Squad Leader: Eric Rigie	IM Eric Rigie	4/24/2020_
Signature	Print Title & Name	Date
Reviewer:		
Signature	Print Title & Name	Date