



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE  
LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE

January 24, 2025

Commissioner Patrick J. Ryder  
Nassau County Police Department  
1490 Franklin Avenue  
Mineola, NY 11501

***Via Email***

Re: Letter regarding Executive Law 75(5)(b) Referral of Officer Frank Accardi  
Matter No. 1-816496668

Dear Commissioner Ryder,

The Office of the Attorney General has reviewed your agency's referral of Police Officer Frank Accardi pursuant to Executive Law Section § 75(5)(b). Based on our review, we have not made a finding of a pattern or practice of misconduct, use of excessive force, or acts of dishonesty on the part of Officer Accardi.

However, we note the following issues with respect to Officer Accardi's referral: (1) BWC footage relating to the referred complaints was not preserved, and thus could not be reviewed by OAG; (2) Officer Accardi engaged in an unauthorized vehicle search in Complaint IA # 341-2022 when he reached into the Complainant's vehicle, and (3) Officer Accardi issued high numbers of traffic tickets in Complaint IA # 247-2022, Complaint IA # 308-2022 and Complaint IA # 341-2022.

1. Absence of BWC footage

NCPD did not preserve body worn camera (BWC) footage relating to the complaints that triggered Officer Accardi's referral, which made OAG's review of the complaints more difficult than it otherwise would have been.<sup>1</sup> Based on correspondence with NCPD, we understand that NCPD's current practice has been changed to preserve BWC footage associated with complaints

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<sup>1</sup> For example, in IA # 308-2022, Officer Accardi and another officer frisked the Complainant and searched the grabbable areas of his vehicle during a traffic stop. While OAG interviewed both Officer Accardi and the Complainant, without BWC, the OAG was not able to conclusively determine whether Officer Accardi had a sufficient basis for the frisk and vehicle search.

for at least three years and that NCPD retention policies are being revised in accordance with that updated practice.

2. Unjustified intrusion into vehicle in IA # 341-2022

The Complainant in this incident alleged that on Thursday, December 1, 2022, Officer Accardi and Officer Oliver Balena pulled him over, and Officer Accardi reached into his vehicle through the open passenger side window and grabbed what the complainant described as a “traveling vitamin case with a label that said ‘Thursday’” located on the front passenger seat. The Complainant further alleged that Officer Accardi was discourteous and gave him an excessive number of tickets. As described below, we conclude that by reaching into the Complainant’s car and retrieving this item, Officer Accardi engaged in an unjustified search.

NCPD conducted an internal investigation that included reviewing BWC, speaking to Complainant 3, and interviewing Officers Balena and Accardi. According to NCPD’s summary of the investigation (Form 361), Officer Balena stated that he observed Complainant 3 operating his cell phone, failing to signal, and committing other VTL violations, and that the vehicle had expired temporary plates. Officer Balena stated that he observed license plates in the vehicle and offered to help Complainant 3 put them on the vehicle, but Complainant 3 refused. Officer Balena further stated that a pill bottle was in plain view.

During his interview with NCPD as described in the Form 361, Officer Accardi stated that he and Officer Balena conducted a vehicle stop after observing Complainant 3 committing traffic infractions. Officer Accardi indicated that when he approached the passenger side of the vehicle, he retrieved a pill bottle from the cup holder compartment to determine if it contained an illegal substance. Once he inspected the container, and determined that it did not contain illegal substances, Officer Accardi returned the container to the Complainant. The Officers issued the Complainant eight tickets following this stop.

Ultimately, NCPD exonerated Officer Accardi on the complaint of “improper tactics” and determined the complaint was unfounded concerning the complaint of “unprofessional conduct.”

The OAG interviewed Officer Accardi regarding this incident on July 8, 2024. During his interview, Officer Accardi stated that he reached inside the vehicle and retrieved the pill bottle because he believed some of the pills inside looked like Xanax. Upon closer inspection, he realized the pills were not Xanax and put the bottle back. As noted above, because NCPD did not preserve BWC footage, we were not able to watch video of the incident.

Reaching into a car during a traffic stop is a search that either requires a warrant or an exception to the warrant requirement. The only exception that would potentially be available here is the automobile exception. “Under the automobile exception, the police may search a vehicle and any containers found inside when they have probable cause to believe that it contains contraband, a weapon, or evidence of a crime.” Barry Kamins, *New York Search & Seizure* § 5.05[2] (2024). In this case, a visible pill bottle, even one that an officer believes may contain a controlled prescription medication such as Xanax, does not on its own establish probable cause

that it contains contraband. *See People v. Carbone*, 184 A.D.2d 648, 650 (2d Dept 1992) (“the three pink and white pills could not have been seized under the plain view doctrine since it was not ‘immediately apparent’ to [the police officer] that the pills were either evidence of criminality or contraband”). Therefore, Officer Accardi violated the Fourth Amendment by reaching into the car and retrieving the Complainant’s pill bottle.

We recommend that NCPD provide in-service training to Officer Accardi on search and seizure law.

3. Using discretion when issuing multiple traffic tickets

In IA 247-2022, Officer Accardi and other NCPD officers issued twelve traffic tickets to the Complainant. In both IA 308-2022 and IA 341-2022, Officer Accardi and other NCPD officers issued eight traffic tickets to each of the Complainants. The Complainant in IA 308-2022 stated to the OAG that he spent thousands of dollars to resolve the tickets. While there is no specific NCPD policy on ticketing, Department procedures “presume that police officers will exercise sound judgment and reasonable discretion when applying procedures to the circumstances at hand.” Dept. Manual, Introduction. NCPD policy also recognizes that an abuse of discretion “can cause deep cynicism about fairness and the legitimacy of law enforcement and the judicial system.” *See* NCPD Department Policy 4103. We advise that Officer Accardi and other NCPD officers use discretion when issuing high numbers of traffic citations given the significant financial hardship they may impose.

We appreciate the cooperation of you and your agency.

Thank you,

s/ Tyler Nims  
Chief, Law Enforcement Misconduct Investigative Office  
New York State Office of the Attorney General