



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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DIVISION OF SOCIAL JUSTICE
LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE

March 26, 2025

Commissioner Jessica Tisch
New York City Police Department
One Police Plaza
New York, NY 10038

Via Email

Re: Letter regarding Executive Law § 75(5)(b) Referral of Lt. Gabriel Cuevas,
OAG Matter No. 1-794584887

Dear Commissioner Tisch,

We have reviewed your agency's referral of Lt. Gabriel Cuevas pursuant to Executive Law Section 75(5)(b). Based on our review, we have concluded that Lt. Cuevas engaged in a pattern of misconduct involving repeated unlawful stops, frisks, and searches.

Our findings are based on the following incidents:

CCRB 201909824: CCRB substantiated allegations of abuse of authority and concluded that Sgt. Cuevas' frisks and searches of Complainants 1A and 1B were improper because there was no indication that the Complainants were armed and none of the officer expressed apprehension for their safety. CCRB concluded that the search and frisk of these individuals were for the sole purpose of recovering marijuana, which was impermissible, citing *People v. DeBour*, 40 N.Y.2d 210 (1976).

On October 1, 2019, Complainants 1A and 1B were standing on the street with several other individuals. Sgt. Cuevas along with two other officers were in an unmarked police vehicle and were in plainclothes. The vehicle approached this group and one of the officers asked if they were smoking marijuana to which Complainant 1B answered in the affirmative. Hearing this answer, the officers exited the vehicle and proceeded to search Complainants 1A and 1B. No contraband was recovered from either man. Complainant 1A was issued a summons for Unlawful Possession of Marijuana. No summons was issued for Complainant 1B. CCRB concluded that Sgt. Cuevas, being the superior officer, was responsible for the actions of his officers and concluded that Sgt. Cuevas ordered the officers to search the Complainants. CCRB reasoned that the search and frisks of these men were improper because they lacked any reason to suspect that the Complainants

were armed, and the searches were for the “express purpose of locating the marijuana” the officers observed the marijuana being smoked earlier, which was not permitted. Citing *P. v. DeBour*, 40 N.Y.2d 210 (1976), which permits officers to frisk an individual if and only if they have a reasonable suspicion that they are armed and dangerous.

CCRB also concluded that Sgt. Cuevas failed to make a memo book entry of this encounter in violation of NYPD Patrol Guide, Procedure 212-08, and that he did not turn on his body-worn camera (BWC) during this encounter in violation of NYPD Patrol Guide, Procedure 212-123.

Charges were brought against Sgt. Cuevas, and he received Command B Discipline and forfeited five vacation days.

CCRB 202002825: CCRB substantiated allegations that then-Sgt. Cuevas abused his authority by stopping, frisking, and failing to obtain medical treatment for Complainant 2. CCRB also found other misconduct when he directed his officers to turn off the BWC prematurely before this encounter ended in violation of NYPD Patrol Guide, Procedure 212-213, which provides that BWC should remain on until the conclusion of law enforcement activity.

On April 20, 2020, the Complainant was on the street with another individual when an unmarked vehicle with plainclothes police officers stopped them. One officer questioned and frisked the other individual. The Complainant stated that he believed he was being robbed because he did not know they were police officers and started to run. One officer drove the police vehicle and pursued him, while Sgt. Cuevas chased the Complainant on foot. The police vehicle hit the Complainant in the leg, and he was then tackled to the ground by the operating officer. Sgt. Cuevas arrived, and the Complainant was detained and searched. No contraband was recovered. The Complainant alleged that officers placed their knees on his back and neck so that his breathing was obstructed, and he lost consciousness momentarily. The officers did not provide or seek medical attention even though the BWC depicted the Complainant to be non-responsive to officers’ questions and he had to be propped up and carried to the police vehicle. A bystander who observed this encounter called 911 and an Emergency Medical Technician arrived, but they said they could not provide the Complainant with medical attention and walked away without administering treatment.

While these charges were substantiated by CCRB, the charges were not served, and these charges were closed.

The Complainant filed a lawsuit in Brooklyn Supreme Court, which settled in April 2024.

CCRB #202103678: CCRB substantiated allegations that Lt. Cuevas unlawfully frisked and was discourteous to Complainant 3. On June 17, 2021, the Complainant was observed walking on the street wearing a mask and unseasonably warm clothes. This observation prompted an officer to chase after the Complainant with his gun drawn shouting, “Stop or I will shoot you.” The Complainant fell as he was running. Lt. Cuevas

responded to the location and, having no independent knowledge of this matter, frisked the Complainant.

Because Lt. Cuevas had no independent knowledge of criminality regarding the Complainant, CCRB concluded that frisking him was unjustified and an abuse of authority. CCRB also substantiated the allegation that Lt. Cuevas used profanity towards the Complainant.

Charges were brought against Lt. Cuevas for failure to provide his business card, wrongful frisk and discourtesy and Lt. Cuevas received Command Discipline B, forfeiting ten vacation days for the improper frisk, discourtesy, and failure to provide an RTKA card.

CCRB #202205361: CCRB substantiated an allegation that Lt. Cuevas abused his authority when he illegally arrested Complainant 4 without probable cause and failed to provide the Complainant with his business card.

On August 13, 2022, the Complainant was in his vehicle and pulled over to clean his rear windshield that was fogged. He was lawfully parked. Lt. Cuevas was driving in an unmarked vehicle with a Captain sitting in the front passenger seat. Lt. Cuevas stopped his vehicle next to the Complainant's car and the captain asked the Complainant if everything was okay, while illuminating his flashlight into the Complainant's car. An argument ensued because the Complainant objected to the flashlight shining into his car. The captain and the Complainant both stepped out of the vehicle during this exchange. Lt. Cuevas then went to the Complainant and demanded his license and registration. When the Complainant refused to give these items, Lt. Cuevas grabbed him and told him that he was under arrest for "failure to provide identification," and handcuffed him but then decided to release him. CCRB concluded that Lt. Cuevas lacked probable cause to arrest the Complainant and was in violation of the NYPD Patrol Guide 212-11, which states that a refusal to answer a question or produce identification does not establish probable cause to arrest.

Charges were brought against Lt. Cuevas and received Command Discipline B, forfeiting ten vacation days for the unlawful arrest and failure to provide an RTKA card.

CCRB #202301513: CCRB substantiated allegations that Lt. Cuevas abused his authority when he stopped, frisked, and was discourteous to Complainant 5 and used excessive force.

On February 22, 2023, Complainant 5 and three others were walking down the street when officers drove by in an unmarked vehicle. According to Lt. Cuevas, one of the officers said that he observed two of the men on the street with bulges. Although he did not observe the bulges himself, Lt. Cuevas called out to the men. When the men walked faster in response, Lt. Cuevas jumped out of the car, grabbed Complainant 5 by his collar, and shoved him into the front of a building. He then frisked his jacket before letting him

go. When the Complainant challenged him as to why he was searched, Lt. Cuevas shoved him away stating: “get the f--- away from me.”

CCRB determined that Lt. Cuevas lacked reasonable suspicion to stop and frisk the Complainant because Lt. Cuevas himself did not observe any criminality involving the Complainant, nor was there any specification as to which individuals had the alleged bulge to justify grabbing the Complainant and frisking him.

Charges were brought against Lt. Cuevas and a decision is pending.

CCRB #202302081: CCRB substantiated an allegation of abuse of authority when Lt. Cuevas stopped Complainant 6 on an alleged observation of a bulge in the pocket.

On March 11, 2023, the Complainant was walking on Flushing Avenue when a sedan made a U-turn and drove slowly alongside him in the wrong lane. Lt. Cuevas along with his fellow officer exited the sedan, and the second officer frisked the Complainant’s jacket and pants. The officers premised the stop and frisk on an alleged observation of a bulge which was contradicted by their BWCs. No contraband was recovered, and the Complainant was released.

CCRB recommended charges for Lt. Cuevas with the disposition Command A Discipline in July 2024. NYPD wrote that “[d]ue to the prohibitive timeframe for the Department to perform the necessary investigation” within the applicable statute of limitations, “charges and specifications were not served.” [NYPD response letter dated 12/17/24.] However, we note that according to IAB Log #23-8281, NYPD IA previously had investigated the incident and determined in April 2023 that Lt. Cuevas was exonerated based on the alleged observation of a bulge in the complainant’s pocket. It is also noted that IA determined that the BWC did not capture the officers’ stop or frisk, but, as the CCRB found, that is corroborated by the footage.

CCRB 202304213: CCRB substantiated the allegations of use of force, discourtesy and failure to provide his business card to Complainant 7 when he was detained.

On November 5, 2024, the Complainant was walking toward his vehicle located outside of 611 Sutter Ave., Brooklyn. He was going to his car to retrieve his wallet. As he was walking towards his car, a sedan made a U-turn and followed him. The Complainant entered his car and was looking into the console of his car to retrieve his wallet when he felt someone grabbing his arm. He turned to find a police officer grabbing him. He asked why the officer was grabbing him and trying to get him out of his car. Then another officer with Lt. Cuevas approached and he heard the Lieutenant order his officers to get him out of the car. All three officers placed their hands on the Complainant, attempting to remove him from the car. The Complainant voluntarily exited his car, and he was handcuffed. His vehicle was searched, and he was frisked. The Complainant can be heard on the BWC footage stating that he does not consent to his car being searched. No contraband was recovered. Nevertheless, he was arrested and taken to the precinct to process his arrest. He was charged with Disorderly Conduct. The stop was premised on

one of the officer's statement that he had observed a triangular bulge in the Complainant's hoodie pocket. CCRB concluded that the complainant's behavior and the other officers' observations were insufficient to justify the stop or frisk of the complainant. Further, no probable cause or exception existed to allow the search of his vehicle.

Once the Complainant was handcuffed and led to the back of the police vehicle, Lt. Cuevas pushed the Complainant several times towards the vehicle without any justification. BWC confirmed that Lt. Cuevas pushed the Complainant several times. CCRB substantiated the allegation of use of force, stating that this use of force was unnecessary, unreasonable and served no legitimate purpose.

At the scene, the Complainant was seen yelling at the officers as to why he was stopped and searched, Lt. Cuevas can be viewed on the BWC mocking the Complainant by gesturing with his right hand opening and closing his fingers, simulating someone talking with their hand. At the precinct, the Complainant asked the Lieutenant why he assaulted him. Lt. Cuevas responded by asking the Complainant to spell the word "assault". This was confirmed by the BWC. CCRB concluded that both actions were discourteous and unprofessional, in violation of NYPD Patrol Guide Procedure 200-02, which required the members of service to maintain a higher standard of integrity and display courtesy and civility.

Lastly, CCRB confirmed that Lt. Cuevas failed to provide the Complainant with his business card in violation of NYPD Administrative Guide Procedure 304-11. Charges were brought against Lt. Cuevas and a decision is pending.

Pending Litigation

In addition to these CCRB matters, Lt. Cuevas has been named in the following litigations. These matters are:

Taylor v. The City of New York, NYPD, Sgt. Cuevas, et.al., Index #523050/19, Brooklyn Supreme Court. This pending case pleads claims for unlawful stop, seizure, search, arrest, use of force, and malicious prosecution.

Marland Kenton, Kevin Williams, Justice Grant, Douglas Robbs, and Unique Unisex Studio, LLC, v. The City of New York, PO Gabriel Cuevas, et.al., Index No. 511248/2017, Brooklyn Supreme Court. This pending case pleads claims for unlawful entry into a business without a warrant, illegal seizure, search and arrest and excessive detention. The Plaintiffs were arrested out of their place of business without a warrant and later released with no crimes charged.

Terry Dupree v. The City of New York; Sgt. Gabriel Cuevas, et.al., Index No. 510321/2019, Brooklyn Supreme Court. The pending case pleads illegal seizure, assault, malicious prosecution, and conspiracy.

Recommendation

Based on the above incidents substantiated by the CCRB, we conclude that Lt. Cuevas engaged in a pattern of unlawful stops, frisks, and searches in contravention of federal and state law and NYPD policy. To prevent future misconduct, and consistent with the NYPD's Discipline Matrix, we recommend that Lt. Cuevas's repeated misconduct and supervisory role be considered as aggravating factors when imposing discipline for substantiated violations, per NYPD's Discipline Matrix.¹ Lt. Cuevas's prior disciplinary history should be considered when assessing appropriate penalties. The Department should also have higher expectations in his conduct, given his supervisory role.²

In addition, we recommend additional training to ensure his compliance with relevant laws and NYPD policies on searches and seizures and recommend that Lt. Cuevas be monitored for one year.

We request a written response within 90 days as to NYPD's remedial actions pursuant to Executive Law § 75(5)(c), specifically including the remedial plan described above.

Thank you,

LETITIA JAMES
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¹ *NYPD Disciplinary System Penalty Guidelines* (Sept. 9, 2024), pp. 10-11. Available at https://www.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd_disciplinary_system_penalty_guidelines_effective_09-09-2024.pdf.

² *Id.* at 51.