



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE

September 30, 2024

Interim Commissioner Thomas G. Donlon
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. Henry Daverin,
OAG Matter No. 1-794654287

Dear Commissioner Donlon,

We have reviewed your agency's referral of Lt. Henry Daverin pursuant to Executive Law § 75(5)(b). Based on our review, we have concluded that Lt. Daverin engaged in a pattern of illegal stops, searches and arrests, he frequently was discourteous to members of the public, and in another incident within the referral period, the Civilian Complaint Review Board concluded that he used excessive force.

Our findings are based on the following incidents:

CCRB 201911006: On October 18, 2019, Complainant One was with three companions on the street outside a deli in Brooklyn, New York. Lt. Daverin stopped these individuals and frisked one of the companions, stating "I just want to make sure you don't have any weapons on you, bro." He later claimed that this individual was a known gang member with a "propensity of violence" and was blocking foot traffic into the deli. CCRB investigated and substantiated the allegation of abuse of authority finding that the companion was not blocking foot traffic, and that Lt. Daverin's knowledge of gang history was insufficient justification to frisk these individuals. Further, CCRB found that while transporting Complainant One to the precinct, Lt. Daverin spoke discourteously to her in response to her question as to why she was being arrested, saying, "because you want to act like an asshole," and later saying, "You want to act like that and cause me a problem? No fucking sweat." Lt. Daverin also did not make any memo book entries of this stop, nor did he fill out the Stop and Frisk Report as required by NYPD Patrol Guide Procedures 212-08 and 212-11. Lt. Daverin received Command Discipline B and forfeited ten vacation days.

CCRB 202003636: On March 14, 2020, Complainant Two-A was outside of his residence in Brooklyn by a vehicle that had several passengers who had been stopped and were being questioned by Lt. Daverin and two other officers. Complainant Two-B was recording this interaction when Lt. Daverin along with his fellow officers prevented the Complainant from recording and arrested him. CCRB investigated this incident and substantiated the allegation that Lt. Daverin was discourteous to the Complainant when he asked him, “You want to do this shit all fucking night?” CCRB also substantiated the allegation that Lt. Daverin failed to properly supervise his Sergeant when this Sergeant threatened to use force against the Complainant, used discourteous language to an occupant of the vehicle and also threatened him with the use of force. NYPD imposed Command Discipline A for the act of discourtesy.

CCRB 202002726: On March 21, 2020, Complainant Three was in his vehicle with his sister, and three other individuals, in Brooklyn, New York. Lt. Daverin and two other officers stopped the vehicle, searched one of the passengers, and recovered a firearm from his waistband. Nevertheless, all four individuals were arrested and charged with Criminal Possession of a Weapon. CCRB investigated this incident and substantiated the allegation that Lt. Daverin unlawfully arrested one occupant who had no contraband on her. CCRB concluded that this one occupant should not have been arrested and charged with Criminal Possession of a Weapon under the “constructive possession” theory since the gun was recovered from the person and not in the vehicle where the constructive possession theory could be applied. As charges were not timely served, no discipline was imposed for these substantiated allegations.

CCRB 202002855: On April 18, 2020, Lt. Daverin observed Complainant Four jaywalking. Upon this observation, Lt. Daverin stepped out of his unmarked vehicle, pursued the Complainant and told him to stop. Lt. Daverin was in plainclothes, and it was unclear if he had identified himself as a police officer. The Complainant proceeded to run away. A chase ensued and Lt. Daverin tackled the Complainant to the ground. As a result, the Complainant suffered injuries. After the Complainant was rear-cuffed and resisted getting into the police vehicle, Lt. Daverin threatened to use a Taser on the Complainant. CCRB investigated this incident and substantiated the allegation of excessive use of force for tackling the Complainant, concluding that this was a minor, nonviolent violation and the Lieutenant’s use of force was unreasonable. CCRB also determined that Lt. Daverin abused his authority by threatening to use the Taser against Complainant because the NYPD Patrol Guide prohibits use of Taser against a rear-cuffed prisoner. Thus, the allegation of his threat to use the Taser was substantiated. During the transport of the Complainant, Lt. Daverin used profanities towards the Complainant and CCRB substantiated an allegation of discourtesy against Lt. Daverin. As charges were not timely served, no discipline was imposed for these substantiated allegations.

CCRB 202003055: On May 2, 2020, Complainant Five was attending an outdoor gathering in Brooklyn with his family. Complainant Five went to a bodega and as he was exiting the deli, he observed several officers approaching the gathering. Complainant Five approached the officers and he was asked to provide his identification. The Complainant provided his identification. Lt. Daverin was one of the officers present. During this interaction, Lt. Daverin was depicted in the body-worn camera footage speaking to the people discourteously. CCRB

investigated this incident and substantiated the allegation of discourtesy. NYPD did not impose any discipline for this act of discourtesy.

CCRB 202204496: On July 4, 2022, Complainants Six-A and Six-B alleged that they were in a vehicle which was pulled over by three officers, including Lt. Daverin, for a purported Vehicle and Traffic Law violation. Complainant Six-C was the driver and Complainant Six-D was a front passenger in the vehicle. Lt. Daverin ordered his officers to take the Complainants out of the vehicle. Lt. Daverin then frisked Complainant Six-D, while the two other officers searched Complainant Six-C. Then Lt. Daverin searched the vehicle and used a profanity when telling the complainants they were free to go with no summonses. CCRB investigated this incident, including interviewing all the involved officers. During the interview, none of the officers were able to articulate what VTL violation purportedly justified the stop. Lt. Daverin was not able to articulate why he ordered his officers to take the occupants out of the vehicle and he was unable to give a reason why the vehicle was searched. None of the officers stated that they feared for their safety, and no one observed any indicia of criminality such as observing a bulge or furtive movements. CCRB substantiated the allegations that Lt. Daverin abused his authority when he frisked Complainant Six-D and spoke discourteously. CCRB also found that Lt. Daverin failed to provide his business card or prepare a memo book entry as required. Charges regarding the substantiated allegations remain pending.

Based on the above incidents, we conclude that Lt. Daverin engaged in a pattern of misconduct by conducting unlawful stops, frisks and searches. We also conclude that Lt. Daverin repeatedly engaged the public in a discourteous manner and did not properly supervise his fellow officers when they acted improperly. We are not recommending specific discipline given that the time to charge Officer Daverin has elapsed or charges for the substantiated misconduct remain pending. However, to prevent future misconduct, NYPD should monitor Lt. Daverin's performance and provide training to ensure his compliance with the NYPD policies and federal and state constitutions.

We request a written response within 90 days as to NYPD's remedial actions pursuant to Executive Law § 75(5)(c).

Thank you,

LETITIA JAMES
Attorney General of the State of New York

By: Mihea Kim
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