

CIVILIAN COMPLAINT REVIEW BOARD
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November 9, 2006

Police Commissioner Raymond W. Kelly
New York City Police Department
One Police Plaza, Room 1400
New York, New York 10038

-by hand-

Re: Recommendation Relating To Police Union "Courtesy" Cards

Dear Commissioner Kelly:

We are writing to bring your attention to the significant number of cases involving police union cards which have come before the New York City Civilian Complaint Review Board ("CCRB") in recent years. Most, if not all, of these cases involved the improper seizure of union cards by police officers who misunderstood the law relating to these cards. We believe that the issuance of an order or directive instructing officers about the proper handling of union cards will reduce the number of substantiated complaints arising out of the seizure of these cards by police officers.

For many years, New York City police officers have bestowed union "courtesy" cards upon their relatives and friends to identify them as having a special relationship to a police officer. The cards list the names of union executives and provide information on how to contact these executives and the unions' main offices. It is not unlawful to possess one of these cards and the cards confer no benefit, although civilians often present them in the hope of receiving one. Simply put, officers often do not have legal justification to seize police union cards—private property—from individuals who lawfully possess them.

Since May 2005, the CCRB has substantiated allegations relating to the seizure of police union cards against eleven officers in ten cases (200405279, 200406016, 200503132, 200504867, 200504854, 200508853, 200513958, 200604160, 200605688 and 200603876, described in the attached addendum.) In these cases, the civilians did not use the police union cards to impersonate law enforcement officers; nor was there any evidence that the cards were stolen or lost. Indeed, not one of the civilians was charged with any crime. During their CCRB interviews, the officers expressed their belief that the cards were union or police department property properly subject to seizure, though in these cases the cards were not vouchered, as required by departmental policy, for investigative purposes, for safekeeping, or as arrest evidence or lost or found property. For ten of the eleven officers, the CCRB substantiated no allegations other than the improper seizure of property.

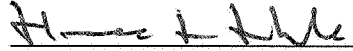
The CCRB believes that issuing an order or directive regarding the proper handling of police union cards could reduce the complaint filings and the number of substantiated allegations of misconduct against police officers. Accordingly, we recommend that the department issue an order informing officers of the

lawful nature of these cards, the limited circumstances under which such cards can be seized and the obligation to voucher seized cards in accordance with departmental policy.

Sincerely,



Franklin H. Stone
Chair



Florence L. Finkle
Executive Director

encs.

c: Board members

CASES IN WHICH THE BOARD SUBSTANTIATED ALLEGATIONS THAT OFFICERS IMPROPERLY SEIZED CIVILIANS' POLICE UNION COURTESY CARDS

Case 200405279

In the early evening of May 30, 2004, a 52 year-old man left a movie theatre in the Park Slope neighborhood of Brooklyn in order to retrieve a pair of glasses from his car. Without noticing two officers sitting in a marked New York City Police Department van, the man walked in front of the van, coughed, and then spit. One of the officers yelled at the man, complaining that the man had acted disrespectfully to the officers. Perplexed, the man, who did not realize that spitting on the street was against the law, told the officer he didn't want any trouble and began walking away. The officer left the van, confronted the man, berated him, and demanded his identification.

When the man took out his wallet to search for identification, the officer saw that the man possessed a Patrolmen's Benevolent Association (PBA) card, which had been given to the man by his son, a police officer. The officer demanded that the man turn over to the officer the PBA card because it was "city property." After the officer gave the man a summons for spitting on the street, the man asked the officer to return the PBA card to him. The officer told the man that the card was not signed, and asked the man to tell him where the man's son worked. The man told the officer that his son was an undercover officer and that he could not say with specificity where he worked. As a result, the officer told the man that he was confiscating the card.

The front of the PBA card lists the name of the organization, the name of the PBA's president, the year the card was issued, and an image of a shield in which a name, a word, or number is preprinted. The rear of the PBA card, which lists the executive officers and trustees of the union, has two lines: one for the name of the person to whom the card was issued and the second for the name of the person who issued the card. It also indicates that the card is the "PROPERTY OF NYC PBA."

A pedestrian, who observed the officer's interaction with the man, called the precinct and a sergeant responded. The sergeant told the man that he could not return the PBA card because it was not signed. The officer admittedly did not vouch for the man's PBA card and told the CCRB investigator that the PBA card was the property of the NYPD and had to be turned over to an officer upon request.

On June 15, 2005, the board determined that the officer spoke discourteously to the man and unlawfully seized his PBA card; it also determined that the sergeant permitted the officer to seize the man's PBA card. In October 2005, the New York City Police Department issued instructions to both the officer and the sergeant.

Case 200406016

On June 21, 2004, officers on patrol stopped a livery driver's van because it did not have a front license plate. The officer who approached the driver asked for his license and registration. The driver gave the officer both his license and registration, along with a PBA card. According to the officer, the driver told the officer that his family was "on the job," indicating that a family member worked as a New York City police officer. The officer, however, told both the driver and the CCRB that the PBA card is a courtesy card and did not belong to the driver. The officer

did not return the card to the driver; the officer said he had intended to give the card back to the PBA.

The board reviewed the case on May 11, 2005, and substantiated only one of four allegations against the officer: that the officer improperly seized the driver's PBA card. During September 2005, the department issued instructions to the officer.

Case 200503132

Assigned to patrol the Gateway Mall in Brooklyn on April 6, 2005, an officer observed a man in a commercial van that had passenger license plates idling in the lot. One week before, the same officer had issued the same man a summons for improper vehicle registration. The officer told the man to turn off his ignition and put his keys on the dashboard. The man complied but asked why the officer was bothering him. The officer explained that the man was driving a van used for commercial purposes and that the van was not registered as a commercial vehicle. According to the officer, the van's back seat had been removed and the van was filled with tools. As the officer issued the man another summons, the officer noticed a PBA card on the dashboard of the van. The man told the officer that his cousin, assigned to the 75th Precinct, had given him the card, and the officer seized it. The officer explained to the CCRB that, "It's not his property. It's the property of the PBA." The officer said that it was his understanding that officers "reserve the right" to confiscate PBA cards from civilians. The officer told the CCRB investigator that he used interdepartmental mail to return the PBA card he seized to the officer he determined had issued it, an officer assigned to the 63rd Precinct.

Of the three allegations raised by the man's complaint, on December 16, 2005, the CCRB substantiated only the allegation that the officer improperly seized the man's PBA card. In May 2006, the officer received a level A command discipline.

Case 200504854

Two men were leaving Shea Stadium after watching a night baseball game on May 4, 2005. The men became separated after an officer closed off an exit with a police barricade. A physical altercation subsequently ensued between one of the men and the officer in charge of the barricade. The officer handcuffed the man and searched him. The man claimed that the officer searched his wallet and found a PBA card issued to the man by his brother-in-law. The officer said he was told that the man had a PBA card and only then did he obtain the card from the man's wallet. Still outside Shea Stadium, the officer called the man's brother-in-law, a New York City police officer, to confirm that the brother-in-law had issued the man a PBA card and to discuss what had happened. Although the officer released the man without issuing a summons, the officer retained the man's PBA card. Twice interviewed by the CCRB, the officer said that he seized the man's card on behalf of the PBA, did not voucher the card, and was still in possession of the card seven months after the encounter because the man's brother-in-law had not contacted him to request the card.

Of the five allegations raised by the complaint, on August 30, 2006, the board substantiated just one: the officer's improper seizure of the man's PBA card. During September 2006, the department issued instructions to the officer.

Case 200504867

On May 5, 2005, a man driving his brother-in-law's car made a turn without signaling. Two uniformed officers pulled the man over. One of the officers approached the driver's side of the car and asked the man for his license and registration. As the man opened his wallet, the officer noticed two police union courtesy cards on the dashboard of the car and two cards in the man's wallet. A brother-in-law of the driver and the vehicle's owner—an officer who was promoted to detective—issued the two cards on the dashboard: a PBA card and a Detectives' Endowment Association (DEA) card. Of the two cards in the driver's wallet, one was a DEA card issued by the same brother-in-law and the other was a PBA card issued by a cousin, a retired police officer. The front of the DEA card lists the organization's name, the year the card was issued, and the names of the DEA's president and vice-president. The rear of the DEA card has a line for the name of the person to whom the card was issued and has the following disclaimer: "This card is the property of the NYC DEA and may be rescinded by any law enforcement officer."

The officer confiscated all four cards, the man's driver's license, and the vehicle's registration and insurance and walked back to his patrol car. After speaking with his partner, the officer decided against issuing the driver a summons, but told the driver that he was not returning the union courtesy cards. By his own account, the officer told the driver that the cards were "police department property." The officer admittedly did not vouch for the cards, did not make any effort to contact the officers who ostensibly issued the cards, and at the time of his CCRB interview on August 22, 2005, still possessed all four cards.

On March 21, 2006, the board determined that the officer unlawfully seized the four union courtesy cards. In July 2006, the officer received instructions.

Case 200508853

On July 29, 2005, an officer positioned his patrol car in order to observe whether vehicles were abiding by traffic laws and regulations at the intersection of 114th Street and Northern Boulevard in Queens. The officer spotted a driver talking on his cell phone and attempted to stop him. The driver did not immediately pull over, but instead pulled over either further down the block or several blocks away. The officer pursued the man and parked behind the man's car. The officer and the man argued about why the man did not immediately pull over. The officer then asked for the man's license. The officer sat in his car preparing two summonses. While he was writing the summonses, the man approached the officer to show him a Sergeants Benevolent Association (SBA) card. The front of the SBA card includes the organization's name, the year it was issued, and the name of the SBA's president. The rear of the card lists the names and contact information of the organization's executive officers and has two lines: one for the name of the person to whom the card was issued and the second for the name of the person who issued the card. It also indicates that the card is the "property of the Sergeants Benevolent Association, Police Department, City of New York."

The man claimed that he had obtained the card from a deputy comptroller for the city of New York. In his CCRB interview, the officer claimed that the man did not know from whom the man had obtained the SBA card, that the card was not signed, and that he confiscated the card because the man "had no legitimate reason for having it." The officer told the CCRB investigator that the SBA card was the property of the New York City Police Department and that "we have a right to seize it."

On January 26, 2006, the board determined that the officer committed misconduct when he seized the man's SBA card; it closed the other three allegations raised by the complaint as unsubstantiated. As of September 30, 2006, this disciplinary case is pending resolution within the police department.

200513958

A police officer and his partner pulled over a tow truck driver on November 19, 2005, on Cross Bay Boulevard in Queens, after the tow truck driver allegedly drove through a stop sign without stopping and changed lanes without signaling. Upon approaching the driver, the driver asked the officer for a courtesy; the driver told the officer that he towed vehicles on behalf of the police department. The officer rejected the driver's request and went back to his vehicle to draft three separate summonses for moving violations. When the officer returned to the driver to hand the driver the summonses, he either noticed that the driver had numerous union courtesy cards in his wallet, or the driver showed the officer his police union cards. The officer told the CCRB investigator that the driver was abusive towards him and, based upon the driver's attitude, the officer decided to confiscate approximately five signed PBA cards, but not a card issued by the SBA.

The officer said he mailed the cards to the PBA and explained that confiscating the cards and returning them to the union is standard procedure for dealing with civilians who abuse "the privilege" afforded to them through possession of union cards. In the officer's view, he was entitled to seize the cards because they belonged to the union, not the individuals to whom union members give the cards.

On April 28, 2006, the board considered the sole allegation the driver lodged against the officer and found that the officer committed misconduct when he seized the driver's PBA cards. As of September 30, 2006, the department has not yet resolved this disciplinary case.

200604160

At approximately 4:15 a.m. on April 2, 2006, two officers responded to a civilian complaint of excessive noise emanating from an apartment in Queens. From outside the apartment the officers heard loud music and knocked on the door. A woman who was a friend of the apartment's tenant opened the door. One of the officers took the lead in speaking to the woman and explained that people had complained about the noise the apartment's occupants were making. At some point during the conversation, the woman gave the officer a PBA card listing the woman's name and the officer who issued her the card. At his CCRB interview, the officer admitted that he told the woman, "This is a courtesy card, and you're not being very courteous." He informed the woman that he intended to keep the card, because "it doesn't belong to you, it belongs to the PBA." After warning all the occupants about the noise, the officers turned to leave. The woman followed them to the elevator, prevented the elevator door from closing, and demanded that the officer return to her the PBA card he had confiscated. The officer threatened to arrest the woman for holding open the elevator door. After the woman persisted in refusing to allow the elevator door to close, the officer handcuffed her and transported her to his precinct. The officer subsequently released the woman with a summons for disorderly conduct. The officer did not voucher the PBA card, but gave it to his own PBA delegate.

The board voted on June 20, 2006, to substantiate the only allegation against the officer: improper seizure of the woman's PBA card. As of September 30, 2006, the disciplinary case against the officer is still pending resolution at the police department.

