

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sheila Donovan	Team: Team # 7	CCRB Case #: 200703739	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 03/14/2007 1:00 AM	Location of Incident: § 87(2)(b) and the 52nd Precinct	Precinct: 52	18 Mo. SOL 9/14/2008	EO SOL 9/14/2008	
Date/Time CV Reported Fri, 03/16/2007 12:14 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 03/16/2007 12:14 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Maurice Harrington	06286	934992	052 PCT
2. POM Joel Medina	30430	935297	052 PCT
3. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Albert Flores	04929	922356	052 PCT
2. POM Modesto Alamo	08608	934377	052 PCT
3. POF Jeanmarie Enderes	22841	898528	052 PCT
4. POM Miguel Masso	22115	937040	052 PCT
5. POM Frankie Hernandez	15838	940254	052 PCT
6. POM Christop Small	27447	929183	052 PCT
7. SGT Harold Murphy	00687	912022	052 PCT
8. SGT Benjamin Gottlieb	03670	921389	H BX/Q
9. POM Matthew Vanhorn	04749	935901	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Joel Medina	Abuse: PO Joel Medina threatened § 87(2)(b) with the use of force outside of § 87(2)(b)	[REDACTED]
B.POM Joel Medina	Discourtesy: PO Joel Medina spoke obscenely and rudely to § 87(2)(b) outside of § 87(2)(b) and at the 52nd Precinct, 3016 Webster Avenue.	[REDACTED]
C. Officers	Force: Officers used physical force against § 87(2)(b) outside of § 87(2)(b)	[REDACTED]
D.POM Joel Medina	Force: PO Joel Medina used physical force against § 87(2)(b) outside of § 87(2)(b)	[REDACTED]
E.POM Maurice Harrington	Discourtesy: PO Maurice Harrington spoke obscenely and rudely to § 87(2)(b) at the 52nd Precinct, 3016 Webster Avenue.	[REDACTED]
F.POM Joel Medina	Force: PO Joel Medina struck § 87(2)(b) with a nightstick at the 52nd Precinct, 3016 Webster Avenue.	[REDACTED]
G.POM Maurice Harrington	Abuse: PO Maurice Harrington did not obtain medical treatment for § 87(2)(b) at the 52nd Precinct, 3016 Webster Avenue.	[REDACTED]

Synopsis

On March 16, 2007, § 87(2)(b) made his complaint via the CCRB's Call Processing System. On March 14, 2007 at 1:00AM, § 87(2)(b) was arrested outside of § 87(2)(b) in the Bronx after entering § 87(2)(b) apartment through the fire escape window and allegedly breaking a phone. § 87(2)(b) claimed that as he was apprehending him, PO Joel Medina stated, "Now you are going to get fucked. We are going to fuck you up." (Allegations A and B) § 87(2)(b) stated that officers tackled him to the ground and PO Joel Medina dragged him down the street before handcuffing him (Allegations C and D). When § 87(2)(b) told the officers to be careful because he had had back surgery, PO Medina and his partner, PO Maurice Harrington, stated that they "Did not give a shit." (Allegations B and E) § 87(2)(b) claimed that when they arrived at the 52nd Precinct, PO Medina called § 87(2)(b) a "dick sucker," a "mother-fucker" and "Mama huero," a Spanish equivalent to these terms (Allegation B). § 87(2)(b) also claimed that as they entered the stationhouse, PO Medina took out his nightstick and struck him in the neck with it (Allegation F). § 87(2)(b) stated that he asked his arresting officer, PO Harrington, for medical attention but did not receive any (Allegation G). According to § 87(2)(b) he suffered from a swollen back, a bruised left shoulder and scrapes on his hands, as a result of his arrest. He was charged with § 87(2)(b).

§ 87(2)(g)

[REDACTED]

Summary of Complaint

When § 87(2)(b) called the CCRB's Call Processing System on March 16, 2007, he claimed that PO Medina called him a "motherfucker" and a "dick sucker" in Spanish (encl. 2A-2B). § 87(2)(b) also alleged that PO Harrington called him a "motherfucker." § 87(2)(b) stated that he had scratches on his hands, neck and chin and that his back was aggravated "from the blows that he received from PO Medina and PO Harrington."

On March 30, 2007, § 87(2)(b) was interviewed at a McDonald's restaurant on Dykeman Street and Broadway in Manhattan (encl. 3A-3D). He was not interviewed at the CCRB because he claimed that he had an injury to his back that prevented him from traveling to the CCRB. However, when he was interviewed he did not appear to have any decreased mobility or need the assistance of any bracing or walking device. § 87(2)(b) stated that on March 14, 2007, he and his baby's mother, § 87(2)(b) had had an argument. She had come to his apartment to speak to him but he refused to speak to her.

At approximately 1:00AM, he went to § 87(2)(b) apartment at § 87(2)(b) in the Bronx to bring by some clothing that he had washed for her and the baby at his other apartment on Sherman Avenue. § 87(2)(b) claimed some ownership to the apartment at § 87(2)(b) calling it "his own" apartment. § 87(2)(b) did not think anyone was home at § 87(2)(b) that night, so he tried to get in via the fire escape. He had left his keys to the apartment in his car that he parked a few blocks away at an Amoco Station. He planned on staying overnight at her apartment. She let him in through the window and he told her that he had just come to bring the clothes over and that there were more in the car. § 87(2)(b) went back downstairs. Someone called the police, probably § 87(2)(b) sister or her sister's friend. As he was going back to his car, § 87(2)(b) called § 87(2)(b) and told him, "You're fucked." § 87(2)(b) went back to § 87(2)(b) apartment building and was ringing the bell in the

vestibule but she would not let § 87(2)(b) in. § 87(2)(b) attempted to leave. He saw a police car and realized that something was wrong. He walked down Decatur Avenue and hid near where they put the garbage. He saw that two officers were there. § 87(2)(b) could not describe these officers. The officers did not see him.

§ 87(2)(b) started to leave. Six officers had arrived. § 87(2)(b) described PO Joel Medina, whose name he provided when he first reported the complaint, as a Hispanic male who had light skin and was 5'5" tall with a medium build. A second unidentified officer was a Hispanic male with darker skin who was tall, skinny and muscular. The third officer was a black male, whom § 87(2)(b) also identified by name as PO Maurice Harrington. § 87(2)(b) could not describe PO Harrington further. An officer, § 87(2)(b) could not remember who, told him to stop. He proceeded to walk. An officer said, "Why were you running? You don't run away from us." § 87(2)(b) stated that he was not running. PO Medina told him, "Now you are going to get fucked. We are going to fuck you up." The officers tackled § 87(2)(b) to the ground and PO Medina began to drag § 87(2)(b) by holding underneath his arms for about two feet. Officers put their knees into his back near his head. They asked him, "Why are you resisting?" § 87(2)(b) was not resisting, his hands were already towards them in front of him. § 87(2)(b) told them to please relax because he had had back surgery. PO Medina and PO Harrington stated that they did not "Give a shit." § 87(2)(b) was handcuffed. Ten to fifteen officers showed up at the scene in uniform and in marked cars. § 87(2)(b) could not describe them.

PO Medina and PO Harrington transported § 87(2)(b) back to the precinct. PO Medina said to § 87(2)(b) "Why are you looking at me, dick-sucker? Are you disrespecting me?" § 87(2)(b) had no idea why PO Medina said that. They had not had any conversation prior to that. After going through the first set of doors at the precinct, PO Medina struck § 87(2)(b) with his nightstick at the side of his neck. § 87(2)(b) said, "Hey man, I'm not looking at you. Please, leave me alone. Please, I'm not saying anything." The nightstick was brown and made of wood. The arresting officer, PO Harrington, was there and a third officer, the officer who was there at the beginning. A fourth officer was there but § 87(2)(b) could not describe him. PO Medina continued to swear at § 87(2)(b) calling him a "Motherfucker" and "Mama huero."

§ 87(2)(b) asked PO Harrington for medical attention and he refused. PO Medina told § 87(2)(b) that he was like Spiderman, jumping onto fire escapes. § 87(2)(b) stated that he was charged with breaking into § 87(2)(b) home and damaging a phone. § 87(2)(b) did not get medical attention when he was released. His doctor at Mt. Sinai could not see him because there was a fire at the Hospital and then his doctor went on vacation. Besides his back feeling swollen, § 87(2)(b) also claimed to have scrapes to his hands and a bruise to his left shoulder. None of these injuries were apparent during his interview. Photos were taken.

Arrest Photo (encl. 4)

§ 87(2)(b)'s arrest photo does not reveal any noticeable injury to his face or neck.

Results of Investigation

Civilians Not Interviewed

§ 87(2)(b) was called by the investigator. She did not attempt to return this call. There is no evidence that she witnessed § 87(2)(b)'s apprehension. Her statements regarding the events prior to his arrest are provided in police documentation.

Officer Identification

When § 87(2)(b) made his complaint he provided the names of both his arresting officer, PO Maurice Harrington, and PO Harrington's partner, PO Joel Medina. It is unclear how § 87(2)(b) got these names. § 87(2)(b) described PO Medina as being 5'5" with a medium build. PO Medina is 5'5" and weighs 165 lbs., therefore fitting the description provided by § 87(2)(b). § 87(2)(b) claimed that he could not describe PO Harrington except to say that he was a black male. PO Harrington is a black male. Other officers were identified from the SPRINT generated during the radio call (encl. 20A-20B). The SPRINT indicated that Sector G (PO Jeanmarie Enderes and PO Miguel Masso), Sector I (PO

demeanor during the incident as apologetic. § 87(2)(b) was saying, "I'm sorry. I'm sorry. I'm sorry."

UF61 Complaint Report (encl. 7A-7B)

A complaint report was filed by PO Joel Medina. § 87(2)(b) was noted as the victim. The details state that, "§ 87(2)(a) 160.50

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

PO Joel Medina was interviewed at the CCRB on May 18, 2007 (encl. 9A-9B). On March 14, 2007, PO Medina worked from 11:15PM to 7:50AM and was assigned to sector M. He worked with PO Harrington in a marked RMP. PO Medina is a Hispanic male who is 5'5" tall and weighs 165 lbs. His memo book states that at 1:25AM he went to § 87(2)(b) in regards to a dispute. At 2:29AM, a domestic incident report was prepared for a disorderly person and a vertical was conducted with negative results. At 2:30AM, a dispute with a firearm was reported at § 87(2)(b). At 3:39AM PO Medina wrote that an arrest had been made. He wrote that they arrived at the 52nd Precinct at 3:50AM for arrest processing.

On March 14, 2007, PO Medina and PO Harrington received a radio run to which they responded, a high priority job. When they arrived at the scene they encountered a female complainant, identified through this investigation as § 87(2)(b) who had had an altercation with her baby's father, identified as § 87(2)(b). She told the officers that she was nervous and frightened because § 87(2)(b) had gotten into the apartment via the fire escape without her consent and broken her house phone. PO Medina had never encountered her before. PO Medina prepared a DIR and a UF61. He told her to call 911 if anything else happened. She was not injured. They did not take the damaged phone.

They received a second radio run approximately twenty minutes later. When they responded § 87(2)(b) was frightened so they conducted a vertical and found the perpetrator, identified as § 87(2)(b) when they got to the roof. He was on the fire escape lying on his stomach. PO Medina had not encountered § 87(2)(b) before this incident. PO Medina told him, "Police, don't move." § 87(2)(b) got up and ran down the fire escape. PO Medina made a radio call for assistance but could not remember when. Other officers apprehended him in front of the building when PO Medina was on the roof. PO Medina did not know who those officers were. § 87(2)(b) was in a marked RMP when PO Medina saw him outside the building. PO Medina did not know which officers' RMP it was. PO Medina encountered § 87(2)(b) again at the stationhouse. PO Medina could not remember who escorted § 87(2)(b) into the stationhouse. PO Medina did not use any profanity towards § 87(2)(b). He does speak Spanish. He did not call § 87(2)(b) "mama huero." He did not say, "Now you're going to get fucked. We are going to fuck you up." PO Medina denied using physical force against § 87(2)(b). PO Medina could not remember what § 87(2)(b)'s demeanor was during the incident. § 87(2)(b) did not complain of any injuries and did not appear to be injured. PO Medina did not tell § 87(2)(b) that he "didn't give a shit." He did not take out his nightstick and make any physical contact with § 87(2)(b). PO Medina did not see any officers use physical force against § 87(2)(b). § 87(2)(b) did not ask for medical attention from anyone.

PO Albert Flores was interviewed at the CCRB on August 20, 2007 (encl. 11A-11B). On March 14, 2007, PO Flores worked from 12:00AM to 8:00PM. He was assigned to patrol in sector EF with PO Modesto Alamo. He was working in uniform and was assigned to a marked vehicle. He was assigned to RMP 2747. PO Flores did not have an entry in his memo book regarding this arrest. He did not recognize a photo of § 87(2)(b). At 11:56PM PO Flores was at § 87(2)(b) on the south side of the precinct. He did not interact with § 87(2)(b) during his tour. PO Flores is a Hispanic male who is 5'11," weighs 225 lbs and is bald.

PO Christopher Small was interviewed at the CCRB on November 27, 2007 (13A-13B). On March 14, 2007, PO Christopher Small worked from 11:15PM to 7:50AM. He was assigned to patrol in sector I with

PO Frankie Hernandez. PO Small was wearing a uniform and riding in a marked RMP. He did not have any memo book entries indicating that he reported to § 87(2)(b). At 3:30AM, it reflects that PO Small was transporting an individual to the stationhouse. He could not recall that individual's description. PO Small was shown a photo of § 87(2)(b) and did not recognize him. He could not recall going to the location where § 87(2)(b)'s arrest was made. At 1:00AM he had written in his memo book that he was at Jerome Avenue and East 98th Street. The location is far from § 87(2)(b). PO Small is a black male who is 5'8" tall and weighs 260 lbs.

PO Modesto Alamo was interviewed at the CCRB on January 22, 2008 (encl. 17A-17B). PO Alamo is a Hispanic male who is 6'0" tall and weighs 170 lbs. On March 14, 2007, PO Modesto Alamo worked from 11:15PM to 7:50AM. He was assigned to sectors EF and he worked with PO Flores. They were assigned to a marked RMP and were wearing uniforms. His closest entry to the time of this incident is at 12:45AM. This entry puts him at § 87(2)(b), about ten to twelve blocks from § 87(2)(b). PO Alamo could not recall going to § 87(2)(b). § 87(2)(b)'s arrest photo was shown to PO Alamo but he stated that he did not recognize § 87(2)(b). PO Alamo was shown the SPRINT which indicates that his sector made a communication. PO Alamo stated that the SPRINT did not incite any memory of the incident.

Sgt. Harold Murphy was interviewed at the CCRB on January 4, 2008 (encl. 15A-15B). Sgt. Harold Murphy is a white male who is 6'2" tall and weighs 195 lbs. On March 14, 2007, Sgt. Murphy worked from 11:05PM to 8:02AM. He was assigned to Aqua Court Yard, a courtyard that had collapsed in the vicinity. Sgt. Murphy was there with several officers to make sure that no one was going in or out of the buildings until the Court Yard was repaired. Sgt. Murphy did not have any memo book entries that indicate that he went to § 87(2)(b). Sgt. Murphy was told that he was listed as the supervising officer in regards to § 87(2)(b)'s arrest. He was shown the arrest report. Sgt. Murphy then stated that he recalled going to § 87(2)(b). He stated that he went to the location because he received the radio transmission. When he arrived, he spoke to the officers involved, PO Harrington and PO Medina. The sergeant on the scene was Sgt. Gottlieb. PO Harrington and PO Medina told Sgt. Murphy what had happened. They told Sgt. Murphy that § 87(2)(b) had entered the apartment through the window and had a hammer. Sgt. Murphy did not see the perpetrator at the scene or speak to the perpetrator. Sgt. Murphy did not know if any force was used in making the arrest or if § 87(2)(b) was complaining of any police misconduct. Sgt. Murphy did not witness any officer use profanity towards § 87(2)(b). Sgt. Murphy was there for five minutes and then returned to the courtyard. He did not see § 87(2)(b) at any time later in the night and did not recognize his photo. Sgt. Murphy did not remember if other officers were at the scene.

Sgt. Benjamin Gottlieb was interviewed at the CCRB on February 7, 2008 (encl. 19A-19B). Sgt. Gottlieb is a white male who is 6'0" tall and weighs 245 lbs. On March 14, 2007, he worked from 11:05PM to 8:02AM. He was assigned as the patrol supervisor and worked with PO James McGovern. Sgt. Gottlieb was wearing a uniform and was assigned to a marked RMP. He did not make any memo book entries regarding the incident and did not independently recall the incident. Upon viewing the arrest photo of § 87(2)(b), Sgt. Gottlieb stated that he recognized § 87(2)(b).

Sgt. Gottlieb stated that he went to § 87(2)(b) in response to a radio run. He did not recall what kind of job it came over the radio as, where he was when he received the call, or how long it took him to get to the scene of the incident. He stated that § 87(2)(b) was in the hallway of the apartment building with PO Medina and PO Harrington. Sgt. Gottlieb did not remember what floor they were on. § 87(2)(b) was in handcuffs and did not appear to have any injuries. § 87(2)(b) did not complain of any injuries. Sgt. Gottlieb verified the arrest by speaking to the officers, who told him that § 87(2)(b) had entered an apartment that was not his and was in possession of a knife and a hammer. They did not discuss the apprehension of § 87(2)(b) or mention anything unusual about his arrest. No force was used against § 87(2)(b) in Sgt. Gottlieb's presence. Sgt. Gottlieb could not recall if other officers were present. When Sgt. Gottlieb left, the other officers were bringing him out to their car. Sgt. Gottlieb resumed patrol and did not remember if he saw § 87(2)(b) again. Neither PO Harrington nor PO Medina used any profanity towards § 87(2)(b). He did not witness any officer use force against § 87(2)(b). Sgt. Gottlieb did not recall what § 87(2)(b)'s demeanor was like during the incident. Sgt.

Gottlieb was a supervisor at the 52nd Precinct for three months prior to this incident and changed commands the day after this incident. Sgt. Gottlieb could not recall if any other supervisors came to the scene. Sgt. Gottlieb had not seen § 87(2)(b) prior to this incident. § 87(2)(b) did not request medical attention. Sgt. Gottlieb did not hear either of the officers use the word “fuck” or “fucked.” § 87(2)(b) was not tackled or dragged. Sgt. Gottlieb did not recall if § 87(2)(b) was non-compliant in any way. Sgt. Gottlieb did not recall if either of the officers told § 87(2)(b) that they, “did not give a shit,” call him a “dick-sucker” or “motherfucker.” Sgt. Gottlieb does not understand Spanish.

SPRINT (encl. 20A-20B)

The SPRINT states that at 3:08AM § 87(2)(b) called to report that § 87(2)(b) was back at § 87(2)(b) § 87(2)(b), banging on the door. Officers from Sector M arrived at the location at 3:12AM. Sectors I, G and E also went to the scene as well as the patrol supervisor. § 87(2)(b) was arrested at 3:38AM and transported by sector I.

Command Log Entry (encl. 21A-21C)

The command log entry regarding § 87(2)(b)'s arrest states that he was charged with § 87(2)(b) and that that he was of apparently normal physical and mental condition.

Civilian Criminal Conviction History (encl. 23A-23G)

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
§ 87(2)(b)

Civilian CCRB History (encl. 1A-1C)

§ 87(2)(b) has no prior complaints.

Officer CCRB Histories (encl. 1A-1B)

PO Harrington and PO Medina have no substantiated complaints at the CCRB.

Conclusions and Recommendations

Undisputed Facts

§ 87(2)(b) was arrested and brought to the 52nd Precinct stationhouse where he was charged with § 87(2)(b).

Disputed Facts

§ 87(2)(g)
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Assessment of Evidence

§ 87(2)(g)
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§ 87(2)(g)

§ 87(2)(g) The claims of discourteous language that § 87(2)(b) made when he filed his complaint were not consistent with those made during his interview at the CCRB. When he filed the complaint he stated that PO Medina called him a “motherfucker” and “dicksucker” in Spanish and that PO Harrington also called him a “motherfucker.” When he made his statement § 87(2)(b) stated that PO Medina was swearing in both Spanish and English and did not claim that PO Harrington called him a “motherfucker.” He made several other allegations of discourteous language during his in person interview. § 87(2)(b) stated that § 87(2)(b) called him as he was on

his way back to her apartment and told him, "You are fucked." He similarly described PO Medina saying, "Now you are going to get fucked. We are going to fuck you up." § 87(2)(b) quoted the same words from both individuals. He also stated that both PO Medina and PO Harrington told him that they, "Did not give a shit," when § 87(2)(b) complained of back pain during his handcuffing. Both PO Medina and PO Harrington stated that they were not present during his handcuffing and denied using any profanity during the incident.

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§ 87(2)(g) PO Harrington described § 87(2)(b)'s demeanor as apologetic and claimed that § 87(2)(b) was saying, "I'm sorry." Neither officer stated that there was any kind of conversation with § 87(2)(b) or any reason for any conflict. Both PO Medina and PO Harrington claimed that they had never encountered § 87(2)(b) before this arrest and that they had very little interaction with him other than processing his arrest.

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§ 87(2)(g) claimed that he was forcibly apprehended by PO Medina. However, both PO Medina and PO Harrington deny that they had anything to do with putting him in handcuffs. His arrest report, the 52nd Precinct command log and other officer statements attest to the fact that § 87(2)(b)'s apprehension was unremarkable, that there was no struggle, and that no force was used. § 87(2)(g)
§ 87(2)(g) His arrest photo shows no signs of injury.

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Allegation A: PO Joel Medina threatened § 87(2)(b) with the use of force outside of § 87(2)(b)

Allegation B: PO Joel Medina spoke obscenely and rudely to § 87(2)(b) Rodriguez outside of § 87(2)(b) and at the 52nd Precinct, 3016 Webster Avenue.

Allegation C: Officers used physical force against § 87(2)(b) outside of § 87(2)(b)

Allegation D: PO Joel Medina used physical force against § 87(2)(b) outside of § 87(2)(b)

Allegation E: PO Maurice Harrington spoke obscenely and rudely to § 87(2)(b) Rodriguez at the 52nd Precinct, 3016 Webster Avenue.

Allegation F: PO Joel Medina struck § 87(2)(b) with a nightstick at the 52nd Precinct, 3016 Webster Avenue.

Allegation G: PO Maurice Harrington did not obtain medical treatment for § 87(2)(b) at the 52nd Precinct, 3016 Webster Avenue.

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Investigator: _____ Date: _____

Supervisor: _____ Date: _____

Reviewed by: _____ Date: _____

Reviewed by:

Date: