

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maia Armaleo	Team: Team # 3	CCRB Case #: 200706341	<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 type="checkbox"/> Injury
Incident Date(s) Friday, 02/09/2007 9:00 PM	Location of Incident: in front of § 87(2)(b)	Precinct: 46	18 Mo. SOL 8/9/2008	EO SOL 8/9/2008	
Date/Time CV Reported Mon, 05/07/2007 1:31 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 05/07/2007 1:31 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Merlin Alston	00023	939865	046 PCT
2. POM Ronald Hobson	17689	941908	046 PCT
3. POM Thomas Dekoker	15364	940065	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Edwin Jerez	09352	941258	046 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Merlin Alston	Abuse: PO Merlin Alston questioned § 87(2)(b)	§ 87(2)(b)
B.POM Merlin Alston	Abuse: PO Merlin Alston stopped § 87(2)(b)	§ 87(2)(b)
C.POM Merlin Alston	Abuse: PO Merlin Alston frisked § 87(2)(b)	§ 87(2)(b)
D.POM Merlin Alston	Abuse: PO Merlin Alston searched § 87(2)(b)	§ 87(2)(b)
E.POM Merlin Alston	Discourtesy: PO Merlin Alston spoke obscenely to § 87(2)(b)	§ 87(2)(b)
F.POM Ronald Hobson	Abuse: PO Ronald Hobson frisked § 87(2)(b)	§ 87(2)(b)
G.POM Ronald Hobson	Abuse: PO Ronald Hobson searched § 87(2)(b)	§ 87(2)(b)
H.POM Thomas Dekoker	Abuse: PO Thomas Dekoker frisked § 87(2)(b)	§ 87(2)(b)
I.POM Thomas Dekoker	Abuse: PO Thomas Dekoker searched § 87(2)(b)	§ 87(2)(b)
J.POM Merlin Alston	Force: PO Merlin Alston used physical force against § 87(2)(b)	§ 87(2)(b)
K.POM Ronald Hobson	Force: PO Ronald Hobson used physical force against § 87(2)(b)	§ 87(2)(b)
L.POM Thomas Dekoker	Force: PO Thomas Dekoker used physical force against § 87(2)(b)	§ 87(2)(b)
M.POM Ronald Hobson	Discourtesy: PO Ronald Hobson spoke obscenely to § 87(2)(b)	§ 87(2)(b)
N.POM Thomas Dekoker	Discourtesy: PO Thomas Dekoker spoke obscenely to § 87(2)(b)	§ 87(2)(b)

Synopsis

On May 7, 2007, § 87(2)(b) a § 87(2)(b)-old black male, filed a complaint with the CCRB over the phone (Encl. 4a-c). The following is a summary of the incident as he described it.

At approximately 8:55 PM on February 9, 2008, § 87(2)(b) was approached by PO Merlin Alston as he exited § 87(2)(b) in the Bronx, where he was visiting a friend. PO Alston asked § 87(2)(b) where he was coming from (Allegation A), and when § 87(2)(b) answered that he was coming from the building, PO Alston told him to put his hands against the wall (Allegation B). PO Alston requested § 87(2)(b) identification, but § 87(2)(b) was not carrying any at the time. PO Alston then frisked § 87(2)(b) searched his pockets, and told him to “Shut the fuck up,” (Allegations C, D and E.) PO Ronald Hobson and PO Thomas Dekoker then approached and frisked and searched § 87(2)(b) (Allegations F, G, H and I). All three officers then took § 87(2)(b) to the ground (Allegations J, K and L). § 87(2)(b) complained that he had had wrist surgery, and all three officers stated, “Shut the fuck up,” (within Allegations E, M and N). The officers handcuffed § 87(2)(b) and placed him in a marked van. In the van, PO Alston stated to § 87(2)(b) “Shut the fuck up and stop acting like a little bitch because no one in the van gives a fuck about you,” (within Allegation E). § 87(2)(b) was taken to the 46th Precinct stationhouse and charged with § 87(2)(b). He was also given two summonses for § 87(2)(b).

§ 87(2)(g)

This case was assigned to Investigator Edward Hughes until his resignation from the CCRB in July of 2007. On July 30, 2007, it was reassigned to Investigator Maia Armaleo. The closing report was prepared by Investigator Armaleo, and upon her resignation, it was amended and updated by Assistant Supervising Investigator Benjamin Roth.

Summary of Complaint

In addition to his initial narrative, § 87(2)(b) made statements about this incident to medical personnel at § 87(2)(b) on February 12, 2007 (Encl. 3a-b), and provided a formal statement to Inv. Hughes at the CCRB on May 25, 2007 (Encl. 5a-d). The CCRB attempted to schedule a photo array with § 87(2)(b) but he did not respond to the agency’s calls and letters. § 87(2)(b) statements have been combined and summarized below.

At approximately 8:55 PM on February 9, 2007, § 87(2)(b) left his friend § 87(2)(b) apartment on the 5th Floor of a building near Morris Avenue and Creston Avenue, identified by the CCRB as § 87(2)(b) in the Bronx. § 87(2)(b) is not related to § 87(2)(b). § 87(2)(b) had been in the building since approximately 4:00 PM. When § 87(2)(b) exited the building, he turned left and walked approximately ten feet before an officer identified by the CCRB as PO Alston approached him and asked where he was coming from. In his official statement, § 87(2)(b) described PO Alston as a stocky, black or Hispanic male wearing navy cargo pants and a sweater with NYPD on the neck, and in his initial statement, he described him as a 6-foot, muscular, light-skinned black male in his late twenties. (PO Alston, whose shield number is 23, was § 87(2)(b) arresting officer, and § 87(2)(b) claimed that his arresting officer, whose shield number he believed was 23, was not the officer who stopped him. However, as discussed in the Subject Officer Identification section below, the CCRB has determined that PO Alston was in fact the officer who conducted the stop.) PO Alston approached § 87(2)(b) from across the street, where three additional officers were parked in a marked van. § 87(2)(b) explained to PO Alston that he had come from the building, and PO Alston immediately told him to place his hands on the wall. § 87(2)(b) stated that he was in the building to visit a friend. PO Alston asked § 87(2)(b) for identification, but § 87(2)(b) was not carrying identification. § 87(2)(b) told PO Alston that he wanted to go home, and PO Alston told him again to put his hands on the wall. § 87(2)(b) s hands were already on the wall at this time. PO Alston then frisked § 87(2)(b) from his ankles up to his arms and reached into the pockets of his jacket and pants. PO Alston then told § 87(2)(b) to “Shut the fuck up.” § 87(2)(b) had not said anything.

Two officers, identified by the CCRB as PO Hobson and PO Dekoker, whom § 87(2)(b) described only as white males, then approached and frisked and searched § 87(2)(b) in the same areas that PO Alston had. (In his initial statement, § 87(2)(b) described PO Hobson as a 6'1", 240 lbs white male in his late twenties, with black hair and glasses, and PO Dekoker as a white male in his late twenties. He stated that all the officers were wearing the same kind of uniform. He did not mention that PO Hobson and PO Dekoker frisked and searched him.) All three officers then grabbed § 87(2)(b) by the back of his jacket and threw him to the ground. § 87(2)(b) landed face-down on the ground. § 87(2)(b) explained to the officers that he had previously had reconstructive surgery on his left wrist and that his right elbow was injured. The officers ignored him and all three said, "Shut the fuck up." § 87(2)(b) could not see the officers but felt a knee in his back and felt that he was hit in his back by "objects." § 87(2)(b) did not know what the objects were. He did not see the officers holding any objects, but speculated that he could have been hit with radios, guns, or "anything else they had." While he was on the ground, all three officers said, "Shut the fuck up." The officers handcuffed § 87(2)(b) and pulled him back to his feet by his arms.

The officers placed § 87(2)(b) in the marked police van with two additional prisoners, identified by the CCRB as § 87(2)(b) and § 87(2)(b). (In his initial statement, § 87(2)(b) noted that PO Dekoker was driving.) PO4, whom § 87(2)(b) described as a black or Hispanic male, was seated in the front passenger's seat. § 87(2)(b) believed that PO4 was his arresting officer, because he was the officer who dealt with him at the stationhouse. (In his initial statement, § 87(2)(b) described PO4 as a 5'11", bald black male of medium build in his mid-twenties and said that his shield number was 23. § 87(2)(b) also clarified in his initial statement that PO4 was not involved in his apprehension.) In the van, § 87(2)(b) asked to have his handcuffs loosened. PO Alston said, "Shut the fuck up, because no one in this van gives a fuck about you." § 87(2)(b) also alleged that PO Alston said, "Shut the fuck up and stop acting like a little bitch because no one in the van gives a fuck about you." PO Alston was sitting on the right side of the van's second row.

The officers brought § 87(2)(b) into the 46th Precinct stationhouse, and after he was logged in by the desk officer, PO4 brought him to a bathroom area near the holding cells. PO4 told § 87(2)(b) to pull his pants down to his ankles. He asked § 87(2)(b) to do this after learning that § 87(2)(b) was wearing sweatpants under his jeans. § 87(2)(b) pulled down his jeans and left the sweatpants on. § 87(2)(b) was charged with § 87(2)(b). He received a property voucher for his keys and a dog chain, but the officers also confiscated a keychain, a lighter and cigarettes from him that were never returned. § 87(2)(b) did not return to the stationhouse to follow up with retrieving these items because he "didn't want to deal with it." On October 9, 2007, the CCRB created an IAB spin-off under case number § 87(2)(b) for § 87(2)(b) allegations of missing property. § 87(2)(b) later discovered that the officers had placed two summonses for § 87(2)(b) in his jacket pocket.

On February 12, 2007, § 87(2)(b) went to the emergency room at § 87(2)(b) to have his wrists, shoulders and back x-rayed. His wrists and elbow had been injured previously, but his shoulder was injured by the officers. His medical records from the hospital reveal that he stated to medical personnel that he had been experiencing pain in his wrists, shoulders and upper back since he was handcuffed and arrested by officers on February 9, 2007. He also informed them that he had had wrist surgery in the past.

On § 87(2)(b), § 87(2)(b) appeared in court for the two summonses, and they were dismissed. On § 87(2)(b), § 87(2)(b) appeared in court for the § 87(2)(b) charge. It was dismissed and the arrest was sealed.

Results of Investigation

Witness Statement

The following is a summary of the statement § 87(2)(b) a § 87(2)(b)-old black female, provided to the CCRB on February 12, 2008 (Encl. 5e).

On February 9, 2007, § 87(2)(b) visited § 87(2)(b) in her apartment at § 87(2)(b) in the Bronx. They watched movies together. He left at approximately 9:00 p.m. § 87(2)(b) later received phone calls from § 87(2)(b) family members. They did not know where he was. § 87(2)(b) later learned that § 87(2)(b) had been arrested when he exited her building. Normally, when officers stop someone leaving the building and the person claims to have been visiting a resident, the

officers go to the apartment of the resident in question to verify that the person stopped was not trespassing. No officers came to § 87(2)(b) apartment on the incident date. § 87(2)(b) testified in court on behalf of § 87(2)(b) and his charges were dismissed.

Attempts to ID and Locate Additional Witnesses

The CCRB initially identified two witnesses to this incident and § 87(2)(b) and § 87(2)(b). On June 9, 2008, a Lexis Nexis search revealed that their name was likely § 87(2)(b). Calls were placed to § 87(2)(b) and § 87(2)(b) on June 9, 2008 and June 12, 2008 and messages were left for them. On June 16, 2008, the CCRB contacted § 87(2)(b) who provided a brief statement regarding the incident, which was both consistent and inconsistent with portions of § 87(2)(b) statement. He stated that he was arrested for driving with a suspended license at approximately the same time that § 87(2)(b) was arrested. § 87(2)(b) stated that when the officers approached § 87(2)(b) they "jumped him," but then recanted and stated that they "put him on the ground." § 87(2)(b) stated that the officers wanted to put § 87(2)(b) on his knees, but he refused to go to his knees noting that he had a medical condition, at which time the officers brought him down to the ground. § 87(2)(b) added that § 87(2)(b) "put up a fight" because he did not want to go to his knees. § 87(2)(b) stated that he did not witness any officers hit § 87(2)(b) at any time during the incident. § 87(2)(b) was then placed in handcuffs, stood up, and put inside the van where § 87(2)(b) was already seated. In the van, § 87(2)(b) attempted to explain his medical condition to the officers and the officers "did not want to hear it." § 87(2)(b) kept attempting to explain, and PO1, a tall white male with a large build and dark brown hair, approximately 26-years-old with glasses, who was the driver of the van, responded "Shut the fuck up, you don't have any friends in this fucking van." PO1 stated "shut the fuck up" to § 87(2)(b) approximately two times. Once they arrived back at the stationhouse, § 87(2)(b) stated that everyone was separated and searched and placed into cells. He had no further interaction with § 87(2)(b).

On June 17, 2008, the CCRB called the § 87(2)(b) residence and scheduled a tentative field visit to their apartment on June 23, 2008, however they were unable to provide the undersigned with an appointment time. On June 23, 2008, the undersigned placed three calls to the § 87(2)(b) residence to schedule a time for the visit. Additional calls were placed to the § 87(2)(b) residence on June 24, 2008 and June 25, 2008. Although § 87(2)(b) provided a statement regarding the incident over the telephone, the CCRB was unable to obtain a verified statement from either § 87(2)(b) or § 87(2)(b) due to their failure to cooperate with several attempts by the CCRB.

Officer Identification

The 46th Precinct command log from February 9, 2007, indicates that § 87(2)(b) was arrested by PO Alston for § 87(2)(b). It also indicates that PO Edwin Jerez arrested § 87(2)(b) at the same time and location, and that an officer with tax #941908, which belongs to PO Hobson, § 87(2)(b) there as well. PO Dekoker is listed as PO Alston's partner on the 46th Precinct's tour 1 roll call from the incident date.

Subject Officer Statements

PO Merlin Alston, a 6'2", 200 lbs § 87(2)(b) -old black male with brown hair, was interviewed at the CCRB on October 10, 2007.

Memo Book (Encl. 6a-c)

PO Alston's memo book indicates that at 9:25 p.m. a male was stopped at § 87(2)(b) and that at 9:31 p.m. he was arrested. At 9:40 p.m., PO Alston arrived at the stationhouse.

CCRB Statement (Encl. 7a-b)

On February 9, 2007, PO Alston worked from 8:00 p.m. to 4:35 a.m. and was assigned to Conditions with PO Dekoker in a marked van. He was in uniform.

PO Alston and PO Dekoker stopped § 87(2)(b) in front of § 87(2)(b) which is a clean-halls building and a drug-prone location. PO Alston did not recall whether it was he or PO Dekoker who initially

asked § 87(2)(b) to stop. PO Alston believed he and PO Dekoker had seen § 87(2)(b) walk out of the building and stated to the CCRB that they stopped § 87(2)(b) “to do [their] regular investigation as far as Operation Clean Halls.” They wanted to find out if § 87(2)(b) lived in the building and to make sure he was not loitering or trespassing. PO Alston did not recall if there was anything else in addition to the fact that § 87(2)(b) was exiting a clean-halls building that motivated the stop. PO Alston asked § 87(2)(b) if he lived in the building and if he knew anybody in the building, and § 87(2)(b) answered, “No.” PO Alston asked what § 87(2)(b) was doing there, and § 87(2)(b) answered, “Nothing.” PO Alston then told § 87(2)(b) to put his hands behind his back and attempted to handcuff him, but § 87(2)(b) resisted by moving his arms. PO Dekoker assisted PO Alston in attempting to restrain § 87(2)(b). PO Hobson and PO Jerez were also present, but PO Alston did not recall if they were assisting in § 87(2)(b) arrest or if they came into physical contact with him at all. PO Alston did not recall if he or PO Dekoker frisked or searched § 87(2)(b). § 87(2)(b) was being loud, but PO Alston did not recall what he was saying. PO Alston did not recall if § 87(2)(b) was taken to the ground. No officer struck § 87(2)(b). PO Alston eventually succeeded in handcuffing § 87(2)(b) and § 87(2)(b) complained that his wrists hurt because of a prior injury. PO Alston told § 87(2)(b) that if he calmed down, he would relieve the strain on his wrists by using two pairs handcuffs linked together instead of one. § 87(2)(b) calmed down a bit, and PO Alston added a pair of handcuffs. § 87(2)(b) was then placed in the van. There were other defendants in the van at the time, but PO Alston did not recall how many. PO Alston, PO Dekoker, PO Hobson and PO Jerez then transported the defendants to the stationhouse. No officer used profanity during the incident.

PO Ronald Hobson, shield #17689, is a 6’0”, 200 lbs, § 87(2)(b)-old black male with black hair. He was interviewed at the CCRB on October 10, 2007.

Memo Book (9a-b)

PO Hobson’s memo book indicates that at 9:31 p.m. one arrest was made at § 87(2)(b).

CCRB Statement (10a-b)

On February 9, 2007, PO Hobson worked from 8:00 p.m. to 4:35 a.m. with PO Jerez. He was assigned to a foot post at East 184th Street and Morris Avenue. He was in uniform.

PO Hobson and PO Jerez arrested two individuals, identified by the CCRB as § 87(2)(b) and § 87(2)(b), and called for back up. PO Alston and PO Dekoker responded in a van, and as PO Hobson and PO Jerez were loading § 87(2)(b) and § 87(2)(b) in the van, PO Alston and PO Dekoker approached a male, identified by the CCRB as § 87(2)(b). PO Hobson believed § 87(2)(b) had come out of a clean-halls building. PO Hobson had his back turned to § 87(2)(b) when he was stopped, because he was still handling § 87(2)(b) and § 87(2)(b) at the time. PO Hobson then heard PO Alston and PO Dekoker arguing with § 87(2)(b) but he did not recall what the officers or § 87(2)(b) were saying. PO Alston then saw that PO Alston and PO Dekoker were attempting to arrest § 87(2)(b) and that § 87(2)(b) was resisting by moving and saying “no.” PO Hobson did not recall § 87(2)(b) tone of voice or the way in which § 87(2)(b) was moving. PO Hobson then approached to assist in restraining § 87(2)(b). He did not recall how he assisted. He believed § 87(2)(b) was standing at this time. He did not recall if § 87(2)(b) was taken to the ground at any point. PO Hobson did not frisk or search § 87(2)(b). He did not recall if any other officer did. § 87(2)(b) complained that his wrists hurt as a result of surgery, and PO Hobson stated, “Stop resisting.” § 87(2)(b) was eventually placed in two pairs of linked handcuffs instead of one, because his wrists were in pain. No officer struck § 87(2)(b) in any way. § 87(2)(b) was then placed in the van, and all four officers drove with him and the § 87(2)(b) brothers to the stationhouse. PO Hobson assumed that PO Alston dealt primarily with § 87(2)(b) at the stationhouse, because PO Alston was the arresting officer. No officer used profanity during the incident.

PO Thomas Dekoker is a 6’3”, 250 lbs white male with blonde hair and blue eyes. He was interviewed at the CCRB on October 19, 2007.

Memo Book (Encl. 12a-b)

PO Dekoker has an entry in his memo book from 9:31 p.m., the time of § 87(2)(b) arrest, but it is not legible. He did not read the entry on record because he did not bring his memo book with him to the CCRB.

Summonses (Encl. 13a-b)

At 9:31 p.m. on the incident date, PO Dekoker issued § 87(2)(b) two summonses: #§ 87(2)(b), for § 87(2)(b) and § 87(2)(b) for § 87(2)(b).

CCRB Statement (Encl. 14a-b)

On February 9, 2007, PO Dekoker worked from 8:00 p.m. to 4:35 p.m. and was assigned to Conditions with PO Alston in an unmarked vehicle. He was in uniform.

PO Dekoker and PO Alston were on patrol when they saw PO Hobson with several civilians he had stopped. PO Dekoker and PO Alston then transported the defendants to the stationhouse. He did not recall if he or PO Alston stopped anyone themselves. The CCRB informed PO Dekoker that PO Alston made an arrest at that time and briefly summarized the incident. PO Dekoker maintained that he only recalled transporting defendants to the stationhouse. PO Dekoker stated that § 87(2)(b) is a clean-halls building. When asked to explain the procedure for stops at a clean-halls building, PO Dekoker stated that if someone in the building does not live there and does not know anybody there, they can be arrested for trespassing. When asked if that applied to people walking out of the building, he said it did. PO Dekoker stated that officers can question people simply because they walk out of a clean-halls building. The questioning does not have to be motivated by an additional factor.

Witness Officer Statement

PO Edwin Jerez, shield #9352, is a 5'11", 225 lbs § 87(2)(b)-old Hispanic male with brown hair. He was interviewed at the CCRB on September 26, 2007.

Memo Book (Encl. 16a-b)

PO Jerez has no entries in his memo book regarding this incident.

CCRB Statement (Encl. 17a-b)

On February 9, 2007, PO Jerez worked from 8:00 p.m. to 4:00 a.m. with PO Hobson. He was assigned Hotspot Post 1, which is an over-time post for arrests and criminal summonses. He was in a standard uniform and on foot.

PO Jerez was placing two defendants, § 87(2)(b) and § 87(2)(b) into a police van in front of § 87(2)(b) when he heard § 87(2)(b) stating, "I don't have to give you anything." He turned around and saw PO Hobson, PO Alston and PO Dekoker standing near § 87(2)(b). All three officers were in standard uniforms. No supervisors were present. The officers were approximately ten feet from PO Jerez. PO Jerez did not see § 87(2)(b) come out of the building. One of the officers then asked § 87(2)(b) what apartment he was coming from and requested his identification. PO Jerez did not recall which officer was speaking to § 87(2)(b). § 87(2)(b) stated, "I don't have to tell you guys anything." When asked why § 87(2)(b) was stopped, PO Jerez said, "It's a clean halls building. We have the right to stop everyone who comes in or out. Plus, it's a known drug location." When asked if there was any other reason § 87(2)(b) was stopped, PO Jerez said that the stop was "routine" and said that officers stop "anyone who comes out of the building." After § 87(2)(b) refused to provide identification the second time, the officer speaking to him told him to stop and put his hands against the wall. § 87(2)(b) complied and was frisked. PO Jerez did not recall which or how many officers frisked him, nor did he recall if § 87(2)(b) was searched. PO Jerez was still attending to § 87(2)(b) and § 87(2)(b) during this time. Two officers then attempted to handcuff § 87(2)(b) but he pulled his arms away and struggled. § 87(2)(b) was screaming and cursing, stating things such as, "Fucking cops." When asked if he was taken to the ground, PO Jerez stated that he was. When asked how and by whom, PO Jerez stated that he believed § 87(2)(b) fell to the ground after losing his balance while resisting the officers. PO Jerez did not see an officer throw § 87(2)(b) to the ground. Once on the ground, § 87(2)(b) continued to move around and resist the officers' attempts to handcuff him. He stated to the officers that he had had surgery on his arm and told them not to pull on it. Eventually he was handcuffed and taken to his feet. The officers did not strike or kick him at any time. § 87(2)(b) was then placed in the van with § 87(2)(b) and § 87(2)(b).

All four officers entered the van and drove the defendants to the stationhouse. PO Jerez did not see who handled § 87(2)(b) at the stationhouse. PO Jerez never interacted with § 87(2)(b) or came into physical contact with him. No officer used profanity during the incident.

Medical Records (Encl. 19a-g)

On § 87(2)(b), § 87(2)(b) was treated at § 87(2)(b) for pain in his wrists, shoulders and back. X-rays revealed no evidence of fracture or dislocation in § 87(2)(b) wrists or shoulders. Similarly, no fracture or subluxation was detected in his spine. He was prescribed Motrin.

Police Documents

SPRINT Report (Encl. 20)

The SPRINT for this incident indicates that at 9:31 on the incident date, 46SP7 (conditions) made two criminal arrests at Field Place and Morris Avenue in the Bronx.

Roll Call (Encl. 21)

The 46th Precinct tour 1 roll call for February 10, 2007, indicates that PO Alston and PO Dekoker were assigned to conditions together from 8:00 p.m. on February 9, 2007, to 4:35 a.m. on February 10, 2007. Their vehicle number, 5931, is crossed out. Neither PO Hobson nor PO Jerez is listed on the tour 3 roll for February 9, 2007, or the tour 1 roll call for February 10, 2007.

Command Log (Encl. 22)

The 46th Precinct command log from February 9, 2007, indicates that § 87(2)(b) was arrested by PO Merlin Alston for § 87(2)(b) in front § 87(2)(b) at 9:31 p.m. It also indicates that PO Edwin Jerez arrested § 87(2)(b) at the same time and location for § 87(2)(b), and that an officer with tax #941908, which belongs to PO Ronald Hobson, arrested § 87(2)(b) there as well, for § 87(2)(b).

Online Booking Sheet/Arrest Report

§ 87(2)(b) arrest was sealed, so the CCRB could not access his arrest documents.

Summons and Arrest Dispositions

Arrest

Because § 87(2)(b) arrest is sealed, the CCRB cannot access its disposition.

Summonses

The CCRB was informed by the Manhattan Criminal Court summons part that both summons § 87(2)(b) and summons § 87(2)(b) were dismissed.

Civilian Criminal Conviction History

A search of the Booking and Arraignment Disposition System revealed no criminal convictions for § 87(2)(b).

Subject Officer CCRB History

PO Alston and PO Dekoker have each been on the force for two years, and PO Hobson has been on the force for two. None has ever been the subject of a substantiated allegation.

Conclusions and Recommendations

Subject Officer Identification

§ 87(2)(b) stated that an approximately 6-foot Hispanic or light-skinned black male initially approached him. This describes both PO Alston and PO Hobson (Encl. 8 & 11), but PO Alston was § 87(2)(b) arresting officer, and § 87(2)(b) stated that the officer who processed him was not involved in his apprehension. He also noted in his initial statement that this officer's shield number was 23, and that number belongs to PO Alston. However, PO Alston acknowledged that he and PO Dekoker, § 87(2)(g) conducted the initial stop and struggled to handcuff § 87(2)(b) and PO Hobson's testimony supports this. PO Dekoker claimed not to recall the substance of the incident, and PO Jerez claimed not to have interacted with § 87(2)(b) at all. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b) stated that only three officers restrained him – the officer who stopped him and two white males. PO Alston and PO Hobson both acknowledged restraining § 87(2)(b) and both claimed that PO Dekoker was also involved, though PO Dekoker claimed not to recall the arrest. PO Jerez claimed not to have assisted, and no other officer stated that he did. It therefore appears that PO Alston, PO Hobson and PO Dekoker were the three officers in question. PO Dekoker is the only white male among them (Encl. 15) – both PO Alston and PO Hobson are light-skinned black males, and neither appears to be white § 87(2)(g)

§ 87(2)(b)

PO Jerez is visibly Hispanic (Encl. 18), and there is no testimony indicating his involvement in § 87(2)(b) apprehension. Further, PO Hobson wears glasses and PO Jerez does not, and § 87(2)(b) stated that one of the two assisting officers wore glasses. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Between September 4, 2007 and September 20, 2007, five calls were placed to § 87(2)(b) and two letters were mailed to his address, requesting that he appear to view photos in regards to CCRB case number § 87(2)(b) at which time photographs were to be shown to him in regards to this incident as well. § 87(2)(b) failed to cooperate with these attempts to have him view photographs.

Undisputed Facts

It is not disputed that one or more officers stopped § 87(2)(b) and that PO Alston questioned him. It is also undisputed that § 87(2)(b) did not produce identification, that some level of physical force was used to restrain him during the arrest process, and that PO Alston, PO Hobson and PO Dekoker were involved in his arrest.

Disputed Facts

§ 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegations Not Pleaded

§ 87(2)(b) alleged that during his arrest, officers struck him with "objects" while he was on the ground. At no time did § 87(2)(b) witness any officers holding anything in their hands, did not see anyone strike him with any instruments, and was unable to articulate what, if anything, he might have been hit with. § 87(2)(g)

§ 87(2)(b)

Assessment of Evidence

PO Alston stated that he questioned § 87(2)(b) because he had exited a clean-halls building, and stated that he did not recall the additional reasons for the questioning. PO Alston did not state explicitly, as the other three officers did, that he believes police may legitimately question anyone they observe exiting a clean-halls building. PO Alston did not state that there were no additional factors that led to the stop, and rather stated that he could not recall any additional factors. § 87(2)(g)

Though PO Alston and PO Hobson claimed not to recall whether § 87(2)(b) was frisked and PO Dekoker claimed not to recall anything about the encounter, PO Jerez's account of the incident fully comports with § 87(2)(b) statement that PO Alston frisked him after instructing him to put his hands against the wall. § 87(2)(g)

§ 87(2)(g) PO Alston claimed that he asked whether § 87(2)(b) lived in or knew anyone in the building, and that § 87(2)(b) replied that he did not. Neither PO Hobson nor PO Dekoker recalled the initial interaction, but PO Jerez claimed that he first heard § 87(2)(b) state, "I don't have to give you anything," and that an officer then asked what apartment he was coming from and instructed him to provide identification, to which he replied, "I don't have to give you anything." § 87(2)(b) stated that PO Alston asked only where he was coming from, and that when he answered that he was coming from the building, immediately ordered him to put his hands against the wall, at which point he insisted that he had been visiting a friend. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) alleged that officers used profane language to him at several points during the incident. None of the officers acknowledged that profanity was used at any time. The CCRB made several attempts to contact § 87(2)(b) and § 87(2)(b) who were present for the alleged profanity that was used against § 87(2)(b). § 87(2)(b) was contacted via telephone, and provided a statement in which he corroborated some of § 87(2)(b) allegations regarding the obscene language. However, despite several attempts by the CCRB to obtain an official statement from either § 87(2)(b) or § 87(2)(b) neither individual was willing to cooperate with this investigation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Analysis

Allegation A: PO Merlin Alston questioned § 87(2)(b)

NYPD guidelines specify that the observation of a person exiting a TAP building does not in itself properly support even mere suspicion of criminality, the necessary basis for investigative questioning. § 87(2)(g)

§ 87(2)(g)

Allegation B: PO Merlin Alston stopped § 87(2)(b)

Allegation C: PO Merlin Alston frisked § 87(2)(b)

§ 87(2)(g)

Allegation D: PO Merlin Alston searched § 87(2)(b)

Allegation E: PO Merlin Alston spoke obscenely to § 87(2)(b)

Allegation F: PO Ronald Hobson frisked § 87(2)(b)

Allegation G: PO Ronald Hobson searched § 87(2)(b)

Allegation H: PO Thomas Dekoker frisked § 87(2)(b)

Allegation I: PO Thomas Dekoker searched § 87(2)(b)

Allegation M: PO Ronald Hobson spoke obscenely to § 87(2)(b)

Allegation N: PO Thomas Dekoker spoke obscenely to § 87(2)(b)

§ 87(2)(g)

Allegation J: PO Merlin Alston used physical force against § 87(2)(b)

Allegation K: PO Ronald Hobson used physical force against § 87(2)(b)

Allegation L: PO Thomas Dekoker used physical force against § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: