

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Robyn Howell	Team: Team # 4	CCRB Case #: 200805840	<input 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, 04/18/2008 9:00 PM	Location of Incident: 183rd Street and Third Avenue, 183rd Street and Bathgate Avenue	Precinct: 48	18 Mo. SOL 10/18/2009	EO SOL 10/18/2009	
Date/Time CV Reported Wed, 04/23/2008 5:12 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 04/23/2008 5:12 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Dennis Palinkas	09924	918117	048 PCT
2. POM Miguel Frias	02814	930184	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Dennis Palinkas	Discourtesy: PO Dennis Palinkas gestured obscenely toward § 87(2)(b) at 183rd Street and Third Avenue.	
B.POM Miguel Frias	Abuse: PO Miguel Frias stopped the car in which § 87(2)(b) was an occupant at 183rd Street and Bathgate Avenue.	
C.POM Miguel Frias	Discourtesy: PO Miguel Frias acted rudely toward § 87(2)(b) at 183rd Street and Bathgate Avenue.	

## Synopsis

§ 87(2)(b) filed a complaint on CCRB's online website against members of the New York City Police Department on April 23, 2008. She reported that on April 18, 2008 at approximately 9:00PM she was driving East on 183<sup>rd</sup> Street when PO Frias turned right in front of her and nearly hit her. PO Frias made a u-turn and pulled her over at 183<sup>rd</sup> Street and Third Avenue and issued her a summons for a broken taillight. § 87(2)(b) alleged that during the course of the stop, PO Frias' partner, PO Dennis Palinkas, stuck his middle finger up at her (**Allegation A**). After § 87(2)(b) received the summons, she drove off and was pulled over again by the same officers at 183<sup>rd</sup> Street and Bathgate Avenue (**Allegation B**). PO Frias issued § 87(2)(b) a summons for § 87(2)(b) and threw the summons at her (**Allegation C**).

§ 87(2)(g)

§ 87(2)(g)

## Summary of Complaint

§ 87(2)(b) provided a phone statement on May 9, 2008 (Encl.6a-6b). She was interviewed at the CCRB on May 14, 2008 (Encl.7a-7f). § 87(2)(b)'s initial complaint, phone statement, and verified statement were consistent. She explained that she was driving eastbound on 183<sup>rd</sup> Street towards Third Avenue in the Bronx. Two officers in a patrol car driving westbound on 183<sup>rd</sup> Street made a left turn right in front of § 87(2)(b) onto Third Avenue. The driver, described as Hispanic, approximately 5'9" with an average build, and identified in this investigation as PO Miguel Frias nearly swerved into § 87(2)(b)'s car. As a result, § 87(2)(b) quickly swerved to her right. As she did that, she mumbled under her breath "stupid ass". She did not look at the officers when she said it. She believed that PO Frias read her lips because the officers subsequently made a u-turn. PO Frias pulled up to the passenger side of her car. He yelled, "What did you say?" and § 87(2)(b) told him that he needed to be more careful and watch where he was going. PO Frias yelled again "What did you say?" and § 87(2)(b) repeated to PO Frias that he needed to be more careful and watch where he was going. PO Frias then said "No, what did you call me? You called me a stupid ass?" § 87(2)(b) explained to him that she did not call him a stupid ass.

PO Frias instructed § 87(2)(b) to pull over. When § 87(2)(b) pulled over, PO Frias approached her driver's side and the officer that was in the passenger seat of the patrol car believed to be Hispanic with a medium to husky build, and a little bald in front, who was identified through this investigation as PO Dennis Palinkas, approached the passenger side of the car. PO Frias asked § 87(2)(b) for her license, insurance, and registration. § 87(2)(b) asked him why he pulled her over and PO Frias repeated his request for her information and she complied. At that point because PO Frias was yelling at her, she called her friend § 87(2)(b) who lived up the street from where she was pulled over and told § 87(2)(b) to meet her. As she was waiting for § 87(2)(b) to arrive, she looked at PO Frias and PO Palinkas who were in the patrol car, through her side mirror. She saw both officers looking at her license and laughing. She continued to look at them through her side mirror. PO Palinkas saw § 87(2)(b) looking at them and he stuck his middle finger up and circled it around his nose. § 87(2)(b) arrived and got into § 87(2)(b)'s car. After waiting for approximately ten minutes, both officers went back to § 87(2)(b)'s car and PO Frias issued her a summons for a broken taillight.

§ 87(2)(b) drove northbound on Third Avenue and made a left turn onto Bathgate Avenue. The same officers pulled behind her with the turret lights on near 183<sup>rd</sup> Street and Bathgate Avenue. § 87(2)(b) pulled over and PO Frias approached § 87(2)(b) and asked for her information. PO Palinkas approached the passenger side of her vehicle. § 87(2)(b) asked PO Frias why he pulled her over again and PO Frias again told her to give him her information. § 87(2)(b) complied. § 87(2)(b) called 911

and was transferred to a sergeant. § 87(2)(b) gave the phone to § 87(2)(b). The sergeant identified himself as such § 87(2)(b) could not remember his name) and § 87(2)(b) explained the situation to him. The sergeant told her to stay at the location and he was going to send a supervisor. PO Frias returned to § 87(2)(b)'s car and threw the summons at her and it fell on her lap and issued her a summons for disorderly conduct. PO Frias told her that she had twenty-four hours to go to court otherwise he was going to put out a warrant for her arrest. PO Frias then went back to the patrol car. PO Frias drove away and § 87(2)(b) waited for the supervisor to arrive.

A supervisor arrived to the location and reviewed the summons and asked her if she had a broken taillight. § 87(2)(b) told him "No" however they both looked at the car and realized that there was a crack in the middle of the light. She explained to the officer that PO Frias told her that she had twenty-four hours to go to court for the § 87(2)(b) summons or else there would be a warrant for her arrest. The supervisor explained that she had twenty-four hours to fix the taillight and that she had to go to court for the § 87(2)(b) summons or else there would be a warrant for her arrest. He then told her to go to the precinct once she got the taillight fixed so that the summons could be dismissed.

## **Results of Investigation**

### **Witness Statements**

§ 87(2)(b)  
On July 10, 2008, § 87(2)(b) provided a phone statement in connection with this complaint (Encl.8a). § 87(2)(b) explained that after § 87(2)(b) got pulled over the first time, she called § 87(2)(b). When § 87(2)(b) got to § 87(2)(b)'s car which was pulled over at 184<sup>th</sup> Street and Third Avenue, PO1, the driver, described as Hispanic, approximately 5'9" with dark brown hair and a medium complexion, and identified as PO Frias, was rude when he handed § 87(2)(b) a ticket. § 87(2)(b) was in the passenger seat of § 87(2)(b)'s car and noticed from looking through the rearview mirror that PO2, who was in the passenger seat and identified as PO Palinkas, stuck his middle finger up at § 87(2)(b). After § 87(2)(b) got the summons, they drove away while the officers remained at the location. The same officers pulled § 87(2)(b) over again at 183<sup>rd</sup> Street and Bathgate Avenue. When § 87(2)(b) asked why she was being pulled over, PO Frias yelled for her to give him her license and registration which she gave to him. § 87(2)(b) stated that PO Frias laughed in § 87(2)(b)'s face when she gave him her ID because it had § 87(2)(b) on her ID. § 87(2)(b), § 87(2)(g)  
§ 87(2)(b) PO Frias refused to tell her why he stopped her. § 87(2)(b) also alleged that PO Frias tried to intimidate § 87(2)(b) by getting very close to her face. PO Frias issued her another summons for a broken taillight. § 87(2)(b) alleged that when PO Frias gave § 87(2)(b) back all of her information, he threw the papers in her face and they hit her chin.

PO Frias threatened § 87(2)(b) that if she did not fix the broken taillight within twenty-four hours, there was going to be a warrant for her arrest. § 87(2)(b) called 911 because she felt like PO Frias was harassing § 87(2)(b).

At some point, a captain arrived at the location and he gave § 87(2)(b) the number to file a complaint against PO Frias and instructed her to fix her brake light which was out and not a defective taillight.

### **Identification of Officers:**

PO Frias issued § 87(2)(b) a summons (§ 87(2)(b)) for having a defective taillight. PO Frias' memo book indicated that he was present for duty on April 18, 2008 and worked with PO Palinkas. PO Palinkas' memo book also indicated that he was present for duty on April 18, 2008 and worked with PO Frias.

### **Officer Statements**

#### **PO Miguel Frias**

PO Frias was interviewed at the CCRB on July 24, 2008 (Encl.10a-10b). PO Frias explained that on April 18, 2008 he was assigned to sector Adam with PO Dennis Palinkas. He observed § 87(2)(b) driving on 184<sup>th</sup> Street and Third Avenue. He did not recall if he was going straight or if he made a left turn onto 184<sup>th</sup> Street. He put his turret lights on and pulled § 87(2)(b) over on the westbound side of 184<sup>th</sup>

Street for a defective taillight but could not remember which taillight. Before pulling her over, PO Frias explained that as he was driving, he did not swerve or almost cause a collision between him and § 87(2)(b). He also did not make eye contact with her. He did not witness § 87(2)(b) mouth or mumble “stupid ass”. PO Frias approached § 87(2)(b) s driver’s side and PO Palinkas approached the passenger side. PO Frias asked § 87(2)(b) for her license, registration, and proof of insurance. § 87(2)(b) began looking for her paper work where she took some time but eventually gave them to him. At that time, PO Palinkas remained quiet. Once PO Frias had § 87(2)(b) s paperwork he and PO Palinkas went back to the patrol car. He did not witness PO Palinkas stick his middle finger up at § 87(2)(b). It took PO Frias approximately five minutes to write the summons. When he returned to § 87(2)(b) s car, he noticed that there was another individual in her car.

He gave § 87(2)(b) the summons and returned her information and explained to her that she had to fix the taillight within twenty-four hours and that she could go to any precinct to get the ticket resolved once the taillight was fixed. As PO Frias headed back to the patrol car, § 87(2)(b) looked out of her window and became “irate”. She screamed at the top of her lungs calling PO Frias disrespectful names however he could not recall exactly what she said. She also used profanity but he could not recall exactly what was said. PO Frias went inside of the patrol car and § 87(2)(b) sped away. § 87(2)(b) drove approximately two blocks before PO Frias put his turret lights on and pulled her over again. PO Frias explained that he stopped her again for § 87(2)(b). He approached her driver’s side and PO Palinkas approached her passenger side. PO Frias asked her for her driver’s license. § 87(2)(b) asked him why he pulled her over and he explained that she was getting a summons for § 87(2)(b). He then went back to his car to write her the summons. Within approximately five minutes he returned to § 87(2)(b) s car and handed her the summons. He was asked if there would have been any reason for § 87(2)(b) to believe that he intentionally threw the summons at her and he replied that he would not have thrown the summons at § 87(2)(b). Before PO Frias went back to his patrol car, § 87(2)(b) told him that she was going to call 911. PO Palinkas did not have any interaction with § 87(2)(b) or her friend. PO Frias also did not have any interaction with § 87(2)(b) s friend. At some point during the interaction, he explained to § 87(2)(b) that she had to go to criminal court to resolve the § 87(2)(b) summons or else there would be a warrant for her arrest. After he gave her the summons, he resumed patrol.

### **PO Dennis Palinkas**

PO Palinkas was interviewed at the CCRB on August 7, 2008 (Encl.12a-12b). PO Palinkas worked with PO Frias and was assigned to sector Adam conducting routine patrol. PO Palinkas sat in the passenger seat. PO Palinkas noticed that § 87(2)(b) had a defective taillight when she pushed the brakes. He did not remember which taillight. There was no prior discussion with PO Frias before § 87(2)(b) was pulled over. PO Frias approached § 87(2)(b) s driver’s side and PO Palinkas approached the passenger’s side. PO Frias asked § 87(2)(b) for her paperwork and then he began to issue her a summons. PO Palinkas did not have any conversation with § 87(2)(b). PO Palinkas had no idea what § 87(2)(b) s demeanor was at the time that she was approached by PO Frias as he explained he was on the other side of the car. As he stood on the passenger’s side he observed the car stop to ensure that § 87(2)(b) did not pull a weapon on PO Frias. § 87(2)(b) immediately complied and gave PO Frias her paperwork and both PO Frias and PO Palinkas went back to the patrol car so that PO Frias could write her a summons. While in the car, PO Palinkas observed a person enter the passenger’s side of § 87(2)(b) s vehicle. PO Frias then gave § 87(2)(b) the summons. PO Palinkas did not know what § 87(2)(b) s demeanor was when she was given the summons.

PO Palinkas was asked directly if he stuck his middle finger at § 87(2)(b) and he replied that he did not. After § 87(2)(b) received the summons for the broken taillight she was free to leave.

Once § 87(2)(b) left the location, PO Frias immediately pulled her over again. He was asked what PO Frias told him was the reason why he pulled her over again and he explained that PO Frias did not tell him anything and there was no conversation as to why (after he was asked the question a second time, he stated that § 87(2)(b) raised her voice and began cursing). There was no discussion between PO Palinkas and PO Frias as to why PO Frias allowed § 87(2)(b) to pull off from the first location instead of issuing her a § 87(2)(b) summons after she got the first summons.

During the second stop, PO Frias approached § 87(2)(b) and PO Palinkas approached the passenger's side. He did not have any interaction with the passenger or § 87(2)(b). He also did not hear the conversation that took place between § 87(2)(b) and PO Frias. PO Frias went back to the patrol car and began writing her another summons. He then went back to § 87(2)(b) and handed her the summons and PO Palinkas followed. He did not recall what § 87(2)(b)'s demeanor was at that time. He was also unaware if § 87(2)(b) mentioned that she was going to call for a sergeant because PO Frias was giving her a hard time. § 87(2)(b) remained in the car throughout the entire interaction. After she received the summons PO Palinkas and PO Frias immediately resumed patrol.

PO Palinkas did not recall if PO Frias told him if at any point throughout the interaction that § 87(2)(b) mouth or told him in person that he was a "stupid ass."

### **Police Documents**

On April 18, 2008, PO Frias, tax number 930184, issued summons number § 87(2)(b) to § 87(2)(b) for § 87(2)(a) 160.50, § 87(2)(b)

### **Summons Disposition**

Summons number § 87(2)(b) for § 87(2)(b) was dismissed and sealed. The summons for the taillight was dismissed at the 48<sup>th</sup> Precinct since § 87(2)(b) had it fixed within twenty-four hours of receiving the summons.

### **Complainant/Victim Criminal History**

A search in BADS beginning on January 1, 2002, revealed that § 87(2)(b) has no criminal conviction history in the City of New York.

### **Complainant's CCRB History**

This is § 87(2)(b)'s first CCRB complaint (Encl.3a)

### **Subject Officer's History**

PO Miguel Frias is a six year veteran and has been the subject of four substantiated CCRB allegations. In case 200401687, the board substantiated an abuse of authority allegation-refusal to provide name and shield and recommended charges and PO Frias received instructions. In case 200703392, the board substantiated allegations, abuse of authority- strip-search, retaliatory summons, and a stop, and recommended charges for each allegation. Currently, no final disposition has been determined by the police department for those allegations (Encl.1a).

PO Dennis Palinkas is a twelve year veteran and has not been the subject of any CCRB substantiated allegations (Encl.2a).

### **Conclusions and Recommendations**

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

### **Pleading of Allegations**

§ 87(2)(g) § 87(2)(b) stated that it was the passenger in the patrol car who stuck his middle finger up at her. Both PO Frias and PO Palinkas confirmed that PO Palinkas was in the passenger seat. § 87(2)(g) he initiated the car stop when he stopped § 87(2)(b) on 183<sup>rd</sup> Street and Bathgate Avenue and confirmed that he issued her a summons for § 87(2)(b). § 87(2)(g) § 87(2)(b) § 87(2)(g) § 87(2)(b) alleged that he threw the summons at her and it fell on her lap.

**Undisputed Facts**

It is not disputed that § 87(2)(b) was driving with a defective taillight when she was first pulled over by PO Frias and PO Palinkas at 183<sup>rd</sup> Street and Third Avenue. It is also not disputed that § 87(2)(b) was pulled over again at 183<sup>rd</sup> Street and Bathgate Avenue by PO Frias and issued a summons for § 87(2)(b).

**Disputed Facts**

§ 87(2)(g)  
[Redacted]

**Assessment of Evidence**

§ 87(2)(b) alleged that once PO Palinkas noticed her looking at him through her side mirror, he stuck his middle finger up at her and circled it around his nose. PO Palinkas and PO Frias denied any such action. § 87(2)(g)

[Redacted]

PO Frias initiated the car stop and interacted with § 87(2)(b) throughout the incident while PO Palinkas stood by the passenger’s side of the car. § 87(2)(g)

[Redacted]

After § 87(2)(b) received the first summons, she drove away and PO Frias and PO Palinkas pulled her over a second time. PO Frias issued her a summons for § 87(2)(b). PO Frias explained that he stopped § 87(2)(b) a second time because upon receiving the first summons, she looked out of her window and screamed at the top of her lungs, calling him disrespectful names and using profanity before speeding away. PO Palinkas corroborated PO Frias’ statement in that § 87(2)(b) yelled and cursed while stopped, however neither officer provided specific statements that § 87(2)(b) allegedly made. § 87(2)(b) did not indicate that she said anything to or had any conversation with PO Frias during or after she received the VTL summons. Specifically, neither she nor § 87(2)(b) indicated that § 87(2)(b) was arguing, cursing, or yelling at PO Frias. § 87(2)(g)

[Redacted]

Lastly, § 87(2)(b) alleged that during the second stop, PO Frias threw the § 87(2)(b) summons at her and it fell on her lap. § 87(2)(b) alleged that PO Frias threw the papers in § 87(2)(b) s face and the papers hit her on the chin. PO Frias and PO Palinkas denied the allegation. § 87(2)(g)

[Redacted]

**Allegation A: PO Dennis Palinkas gestured obscenely toward § 87(2)(b) at 183<sup>rd</sup> Street and Third Avenue.**

§ 87(2)(g)  
[Redacted]

**Allegation B: PO Miguel Frias stopped the car in which § 87(2)(b) was an occupant at 183<sup>rd</sup> Street and Bathgate Avenue.**

§ 87(2)(g) § 87(2)(g)  
[Redacted]

**Allegation C: PO Miguel Frias acted rudely toward § 87(2)(b) at 183<sup>rd</sup> Street and Bathgate Avenue.**

A§ 87(2)(g)  
[Redacted]

Investigator:	Date:
Supervisor:	Date:
Reviewed by:	Date:
Reviewed by:	Date: