

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Angel Rendon	Team: Team # 1	CCRB Case #: 201016405	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/27/2010 3:45 AM	Location of Incident: § 87(2)(b); en route to the 52nd Precinct stationhouse		Precinct: 52	18 Mo. SOL 5/27/2012	EO SOL 5/27/2012
Date/Time CV Reported Mon, 11/29/2010 7:13 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 11/29/2010 7:13 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)

Subject Officer(s)	Shield	TaxID	Command
1. POM Maurice Harrington	06286	934992	052 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Samantha Osorioperez	11644	939156	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Maurice Harrington	Abuse: At § 87(2)(b) in the Bronx, PO Maurice Harrington threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
B.POM Maurice Harrington	Off. Language: Inside of a marked patrol car en route to the 52nd Precinct stationhouse, PO Maurice Harrington made remarks to § 87(2)(b) based upon ethnicity.	§ 87(2)(b)

## Case Summary

On November 29, 2010, § 87(2)(b) called the CCRB and filed the following complaint using the Call Processing System (encl. 3a-3b). § 87(2)(b) subsequently called the IAB Command Center to report the same complaint, which was assigned IAB log #10-59366 and referred to the CCRB on November 30, 2010 (encl. 2b).

On November 27, 2010, at approximately 3:45 a.m., PO Maurice Harrington and PO Samantha Osorioperez of the 52<sup>nd</sup> Precinct responded to § 87(2)(b), in the Bronx for an assault in progress. § 87(2)(b) was arrested at the location, and the following allegations resulted.

**Allegation A – Abuse of Authority:** At § 87(2)(b) in the Bronx, PO Maurice Harrington threatened § 87(2)(b) with the use of force.

**Allegation B – Offensive Language:** Inside of a marked patrol car en route to the 52<sup>nd</sup> Precinct stationhouse, PO Maurice Harrington made remarks to § 87(2)(b) based upon ethnicity.

§ 87(2)(g)  
[REDACTED]

This case was forwarded to the mediation unit on December 16, 2010. On March 2, 2011, the case was returned to the undersigned investigator because § 87(2)(b) declined to proceed with the mediation.

## Results of Investigation

### Civilian Statement(s)

**Complainant:** § 87(2)(b)

- § 87(2)(b)  
[REDACTED]

### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on December 8, 2010 (encl. 4c-4d). § 87(2)(g)  
[REDACTED]

On November 27, 2010, § 87(2)(b) and § 87(2)(b) had a party at § 87(2)(b) in the Bronx. § 87(2)(b) and § 87(2)(b) had consumed alcoholic beverages that evening. § 87(2)(b) said that he had two glasses of wine and § 87(2)(b) had much more to drink. § 87(2)(b) described his state as “tipsy” and stated that § 87(2)(b) was intoxicated. At approximately 2:30 a.m., § 87(2)(b) decided to go out and see friends. § 87(2)(b) became irate, telling § 87(2)(b) that he could not leave. § 87(2)(b) began hitting and pushing § 87(2)(b)

§ 87(2)(b) dialed 911 in order to get § 87(2)(b) to pack his belongings and leave the house. The lobby area of the apartment building was vacant and there were no passersby on the street outside. § 87(2)(b) remained at the top of a set of stairs and at the door to her apartment throughout § 87(2)(b) s encounter with the officers. From § 87(2)(b) s vantage point, she could not see the interaction between § 87(2)(b) and the officers.

Within five to eight minutes, PO Maurice Harrington (identified by name and described as a 32-year-old black male, standing 6'2", of average build, and in uniform) and PO2 (described as a Hispanic female, standing 5'9", of average build, in her late 20s, and in uniform; subsequently identified by the investigation as PO Samantha Osorioperez) responded to the location. § 87(2)(b) was escorted to the lobby area of the apartment building and frisked from head to toe immediately by PO Harrington. PO Harrington then searched § 87(2)(b)'s front and back pants pockets, removed a set of keys, and then replaced them. § 87(2)(b) was wearing a white crew sweater and blue jeans. In the lobby, PO Harrington raised his baton and made threatening motions yelling, "Shut up!" at § 87(2)(b). § 87(2)(b) stated that he never raised his voice to the officers but did ask why he was being arrested. According to § 87(2)(b)'s phone statement to the CCRB, PO Harrington told him, "If you don't shut up, I'm going to arrest you," and "Since you have a big mouth, I'm going to arrest you." According to § 87(2)(b)'s statement to IAB, PO Harrington told § 87(2)(b) "Shut up or I'll break your mouth," and "Fuck you, you're going down."

PO3 (described as a 40-year-old black male, standing 5'0", of stocky build, and in uniform) and PO4 (described as a Hispanic male, standing 6'0", with dark curly hair, wearing glasses, and in uniform) responded to the incident approximately 5 minutes after PO Harrington and PO Osorioperez. PO5 (described as a black male standing 6'0", of muscular build, in his late 20s, and in uniform) and PO6 (described as a black male, standing 5'9", of average build, in his late 30s, and in uniform) also responded to the location. After speaking with § 87(2)(b) upstairs at the entrance to the apartment, PO3 placed § 87(2)(b) in handcuffs, at PO Harrington's request. PO3 and PO4 escorted § 87(2)(b) from the building lobby to a marked patrol car. § 87(2)(b) complained that the officers shoved him along the way, pulling him by the shirt collar. At the door of the marked patrol car, PO3 and PO4 ducked § 87(2)(b)'s head into the marked patrol car and shoved him inside.

PO Harrington and PO Osorioperez transported § 87(2)(b) to the 52<sup>nd</sup> Precinct stationhouse. While inside the marked patrol car, PO Harrington repeatedly accused § 87(2)(b) of enjoying "beating up immigrants." PO Harrington also called § 87(2)(b) a "Fucking African." According to § 87(2)(b)'s phone statement, PO Harrington called him a "Fucking African" as he was loaded into the marked patrol car. § 87(2)(b)'s statement to IAB omitted PO Harrington referring to him as a "Fucking African." According to § 87(2)(b)'s initial statement to the CCRB, PO Harrington also threatened to imprison him for life.

At the 52<sup>nd</sup> Precinct stationhouse, § 87(2)(b) requested medical attention because the holding cell area was very cold and § 87(2)(b) was feeling congested. An ambulance was called and responded to the stationhouse. PO Harrington and SGT1 (no description provided) explained to § 87(2)(b) that if he went to the hospital, his trip to Central Booking would be delayed. § 87(2)(b) signed a form rejecting further medical care. PO Harrington then recommended a psychiatric evaluation. PO Harrington accompanied § 87(2)(b) in the ambulance to a hospital. Inside of the ambulance, PO Harrington repeatedly told the EMTs that § 87(2)(b) enjoys beating up illegal immigrants. At the hospital, a doctor asked § 87(2)(b) if anything was wrong with him. § 87(2)(b) replied that there was not and he was transported back to the 52<sup>nd</sup> Precinct stationhouse. § 87(2)(b) could not recall where he received medical treatment but stated that the hospital was near the 52<sup>nd</sup> Precinct stationhouse.

## NYPD Statement(s):

### Subject Officer: PO MAURICE HARRINGTON

- *PO Harrington is a § 87(2)(b)-old black male, who stands 5'10", weighs 196 lbs., and has black hair and brown eyes.*
- *On November 27, 2010, PO Harrington was assigned to 52<sup>nd</sup> Precinct Sectors G and H and worked from 11:15 p.m. to 7:50 a.m. He was partnered with PO Samantha Osorioperez, dressed in uniform, and assigned to marked patrol car #4536.*

### Memo Book

PO Harrington has entries in his memo book regarding this incident, which were consistent with his other statements (encl. 5a-5d).

### UF-61 Complaint Report

PO Harrington prepared UF-61 #§ 87(2)(b) (encl. 5e-5f), which was consistent with his other statements.

### Online Booking System Worksheet

PO Harrington prepared the OLBS Worksheet for Arrest #§ 87(2)(b) (encl. 5g-5h), which was consistent with his other statements.

### AIDED Report

PO Harrington prepared AIDED report #§ 87(2)(b) (encl. 5j-5n), which was consistent with his other statements.

### CCRB Testimony

On March 23, 2011, PO Harrington was interviewed at the CCRB (encl. 5m-5o). On November 27, 2010, at approximately 3:45 a.m., PO Harrington and his partner, PO Osorioperez, responded to § 87(2)(b) § 87(2)(b), for an assault in progress. PO Harrington knocked on the door to § 87(2)(b) and § 87(2)(b) answered. PO Harrington explained that they were responding to a call that an individual was being assaulted. § 87(2)(b) assured the officers that everything was fine and tried to close the door. PO Harrington could see § 87(2)(b) § 87(2)(b)'s girlfriend, standing in the background, and he asked to speak to the woman of the house. When § 87(2)(b) came to the door PO Harrington observed several welts and scratches on her face and neck.

PO Harrington asked § 87(2)(b) to step outside of the apartment so that he and PO Osorioperez could speak to § 87(2)(b) individually. At this time, approximately six other uniformed officers had also responded to the location. PO Harrington could not recall the identities of the additional officers. § 87(2)(b) § 87(2)(b) walked approximately six feet away from the door of the apartment, where he was watched by the other officers at the location. PO Harrington returned his attention to § 87(2)(b) who told him and PO Osorioperez that she wanted § 87(2)(b) arrested. Her son, who had come to the door, explained to the officers that § 87(2)(b) had assaulted § 87(2)(b). During this conversation, § 87(2)(b) repeatedly gave § 87(2)(b) what PO Harrington interpreted as threatening or intimidating stares. In response to this, § 87(2)(b) was escorted out of the building by the additional officers.

After speaking with § 87(2)(b) PO Harrington and PO Osorioperez walked back to the front entrance of the building where § 87(2)(b) was placed in handcuffs. PO Harrington did not recall who placed § 87(2)(b) § 87(2)(b) in handcuffs, but did recall that § 87(2)(b) never physically resisted the process. Instead, § 87(2)(b) repeatedly contested his arrest and began constantly asking the officers why he was being

arrested. This continued until § 87(2)(b) was at the 52<sup>nd</sup> Precinct stationhouse. During this time, PO Harrington never lifted his asp to threaten § 87(2)(b) and never unholstered his asp at any point to gain compliance. Additionally, no other officers present lifted their asps to threaten § 87(2)(b) with force. After § 87(2)(b) was handcuffed, he was searched incident to the arrest. PO Harrington could not recall if § 87(2)(b) was frisked for weapons before this point, but did recall an officer asking § 87(2)(b) if he had any weapons on him as he was asked to step out of the apartment initially.

PO Harrington and PO Osorioperez transported § 87(2)(b) to the 52<sup>nd</sup> Precinct stationhouse. PO Harrington could not recall who was driving. Inside of the patrol car, the plexiglass divider between the front seat and the back seat was shut, and PO Harrington did not hear anything that § 87(2)(b) might have been saying during the transport to the stationhouse. Likewise, PO Harrington said nothing to § 87(2)(b) during the transport. Specifically, he never made any reference to § 87(2)(b)'s affinity for "beating up illegal immigrants" or referred to § 87(2)(b) as a "Fucking African." PO Harrington did not recall if any other officers made any remarks related to § 87(2)(b)'s race or ethnicity but was certain that no other officers referred to § 87(2)(b) as a "Fucking African."

At the stationhouse, § 87(2)(b) complained of an asthma condition, and EMS was called to transport § 87(2)(b) to § 87(2)(b). Once EMS arrived, § 87(2)(b) attempted to refuse medical treatment. § 87(2)(b) was transported to a hospital despite this fact to ensure his safety. PO Harrington accompanied § 87(2)(b) to the hospital. During that transport, PO Harrington never discussed the facts surrounding § 87(2)(b)'s arrest with either of the EMTs. Specifically, PO Harrington never told the EMTs that § 87(2)(b) enjoys "beating up illegal immigrants." PO Harrington could not recall what, if any, verbal interaction § 87(2)(b) had with the EMTs during his medical transport. At § 87(2)(b), § 87(2)(b) was declared to be in normal health, and was subsequently returned to the stationhouse.

**Witness Officer: PO SAMANTHA OSORIOPEREZ**

- PO Osorioperez is a § 87(2)(b)-old Hispanic female, who stands 5'6", weighs 160 lbs., and has black hair and brown eyes.
- On November 27, 2010, PO Osorioperez was assigned to 52<sup>nd</sup> Precinct Sectors G and H and worked from 11:15 p.m. to 7:50 a.m. She was partnered with PO Maurice Harrington, dressed in uniform, and assigned to marked patrol car #4536.

**Memo Book**

PO Osorioperez had entries in her memo book regarding this incident, which were consistent with her other statements (encl. 6a-6c).

**CCRB Testimony**

On March 28, 2011, PO Osorioperez was interviewed at the CCRB (encl. 6d-6e). Her statement was consistent with PO Harrington's testimony.

**NYPD Document(s)**

**SPRINT #§ 87(2)(b)**

SPRINT #§ 87(2)(b) (encl. 7a-7c) confirmed the units that responded to the incident. The print-out also noted § 87(2)(b) dialing 911 at 3:25 a.m. and reporting a verbal domestic dispute in progress. At 3:28 a.m. § 87(2)(b) called 911 and reported that his girlfriend had cut him on his hand and that he was bleeding.

### **Arrest for Incident and Disposition**

- All criminal charges in connection with the incident on November 27, 2010 have been dismissed (encl. 12a).

### **Status of Civil Proceedings**

- § 87(2)(b) filed a Notice of Claim with the City of New York on February 2, 2011, claiming personal injuries and physical, emotional, mental, and psychological pain and suffering, medical expenses, embarrassment and humiliation and seeking damages for medical bills, lost earnings, damages to his personal property, damages for pain and suffering and punitive damages, and diverse general and special damages, the extent of which have not as yet been fully determined, as redress (encl. 13a-13d). § 87(2)(b)'s claim was disallowed on account of his late filing; no 50-H hearing was held.

### **Civilian(s) Criminal History**

- As of March 28, 2011, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b) (encl 12c-12m):

- § 87(2)(b)
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### **Civilian(s) CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. 2a).

### **Subject Officer(s) CCRB History**

- PO Harrington has been a member of the service for six years and there is one substantiated CCRB allegation against him (encl. 1a).
  - Pursuant to case #200810117, PO Harrington received instructions for excessive use of force.

## **Conclusion**

### **Identification of Subject Officer(s)**

PO Harrington was identified by name, arrest paperwork, and pedigree information, which matched PO Harrington's physical appearance, provided by § 87(2)(b). Additionally, PO Harrington acknowledged interacting with § 87(2)(b) transporting him to the 52<sup>nd</sup> Precinct stationhouse, and accompanying him during his medical transport.

### **Investigative Findings and Recommendations**

#### **Allegations Not Pleaded**

§ 87(2)(b) alleged that he was unlawfully frisked and searched in the lobby of the apartment building. The SPRINT indicated that officers were aware of an assault in progress stemming from a domestic dispute. Furthermore, the officers were consistent in describing their immediate observation at the doorway to the apartment that § 87(2)(b) was visibly injured. Following this immediate observation, § 87(2)(b)

§ 87(2)(b) was asked to step out of the apartment and was subsequently placed under arrest. § 87(2)(g)

Additionally, § 87(2)(b) stated that the officers questioned § 87(2)(b) about her immigration status but admitted that he did not hear these questions first-hand, since § 87(2)(b) spoke with officers at the door to her apartment. § 87(2)(b) allegedly complained about these questions to § 87(2)(b) at a later date. According to § 87(2)(b)'s initial statement to the CCRB, PO Harrington threatened to report § 87(2)(b) to Immigration and Customs Enforcement regarding her undocumented status. In § 87(2)(b)'s phone statement to the CCRB, he omitted the allegation that PO Harrington threatened to report § 87(2)(b)'s undocumented status. On November 6, 2011, § 87(2)(b) provided a statement in Spanish over the telephone to Investigator Rivera. It was subsequently translated into English by Investigator Rendon. § 87(2)(b) did not allege that a threat was lodged at her to notify Immigration and Customs Enforcement of her undocumented status; § 87(2)(g)

**Allegation A – Abuse of Authority: At § 87(2)(b) in the Bronx, PO Maurice Harrington threatened § 87(2)(b) with the use of force.**

The following issues are undisputed: PO Harrington was one of several officers who responded to § 87(2)(b) on November 27, 2010 at approximately 3:45 a.m.; PO Harrington was the arresting officer on § 87(2)(b)'s arrest; PO Harrington was present for § 87(2)(b)'s transport to the stationhouse, and later during his medical transport. It remains disputed whether PO Harrington threatened § 87(2)(b) with the use of force. According to § 87(2)(b) PO Harrington maintained an accusatory demeanor throughout the encounter. This aggression manifested itself in PO Harrington unholstering his asp and holding it up in a threatening manner at § 87(2)(b) as if he was going to strike him with it, in the lobby of § 87(2)(b).

Despite PO Harrington's assertion that § 87(2)(b) verbally protested his arrest during the entire encounter, he also confirmed that § 87(2)(b) did not physically resist the officers at any point. This, according to PO Harrington, precluded any need for any of the officers to unholster an asp and raise it in a threatening gesture. Additionally, PO Harrington testified that no officer, including him, ever unholstered his or her asp and threatened § 87(2)(b) with it. PO Osorioperez's testimony was consistent with PO Harrington's on this issue. § 87(2)(g)

**Allegation B – Offensive Language: Inside of a marked patrol car en route to the 52<sup>nd</sup> Precinct stationhouse, PO Maurice Harrington made remarks to § 87(2)(b) based upon ethnicity.**

It remains disputed whether PO Harrington made offensive remarks to § 87(2)(b) based on his ethnic background. According to § 87(2)(b) in addition to making several claims regarding § 87(2)(b)'s affinity for assaulting undocumented immigrants, ostensibly on account of their greater vulnerability in legal settings, PO Harrington also called § 87(2)(b) a "Fucking African."

According to PO Harrington, few sentiments were exchanged between himself and § 87(2)(b). PO Harrington recalled being in the patrol car that transported § 87(2)(b) but stated that no words were exchanged between himself and § 87(2)(b) during the transport. Additionally, PO Harrington specifically denied that he ever made any remarks regarding § 87(2)(b)'s ethnic background. PO Osorioperez was unable to recall § 87(2)(b)'s transport, § 87(2)(g). However, PO Osorioperez did state that no officers

directed an offensive remark regarding § 87(2)(b) s ethnic background during the periods of the encounter that she did recall. § 87(2)(g)

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Team: \_\_\_\_\_

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Investigator: \_\_\_\_\_  
Signature Print Date

Supervisor: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
Title/Signature Print Date

Reviewer: \_\_\_\_\_  
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