

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Alexander Lai	Team: Team # 1	CCRB Case #: 201105746	<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) Thursday, 04/28/2011 1:35 PM, Friday, 04/29/2011	Location of Incident: § 87(2)(b) 102 Precinct stationhouse.	Precinct: 102	18 Mo. SOL 10/28/2012	EO SOL 10/28/2012	
Date/Time CV Reported Sat, 04/30/2011 7:46 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/05/2011 2:03 PM		

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Joseph Martins	01839	932972	102 PCT
2. POM Jason Fritz	05286	938504	102 PCT
3. POM Joseph Cortright	03788	944466	102 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Joseph Martins	Abuse of Authority: On April 28, 2011, at § 87(2)(b) in Queens, PO Joseph Martins frisked § 87(2)(b).	A . § 87(2)(g)
B . POM Joseph Cortright	Abuse of Authority: On April 28, 2011, at § 87(2)(b) in Queens, PO Joseph Cortright frisked § 87(2)(b).	B . § 87(2)(g)
C . POM Joseph Cortright	Abuse of Authority: On April 28, 2011, at § 87(2)(b) in Queens, PO Joseph Cortright searched § 87(2)(b).	C . § 87(2)(g)
D . POM Joseph Martins	Abuse of Authority: On April 28, 2011, at § 87(2)(b) in Queens, PO Joseph Martins searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	D . § 87(2)(g)
E . POM Jason Fritz	Abuse of Authority: On April 28, 2011, at § 87(2)(b) in Queens, PO Jason Fritz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	E . § 87(2)(g)
F . POM Joseph Martins	Abuse of Authority: On April 29, 2011, in front of the 102 Precinct stationhouse, PO Joseph Martins threatened § 87(2)(b) with the use of force.	F . § 87(2)(g)
G . POM Joseph Martins	Discourtesy: On April 29, 2011, in front of the 102 Precinct stationhouse, PO Joseph Martins spoke rudely to § 87(2)(b).	G . § 87(2)(g)
§ 87(4-b), § 87(2)(g)	§ 87(2)(b)	§ 87(2)(g)
I . POM Joseph Martins	Other: PO Joseph Martins intentionally made a false official statement in violation of Patrol Guide Procedure 203-08.	I . § 87(2)(g)

### Case Summary

§ 87(2)(b) filed this complaint on April 30, 2011, via IAB, generating referral number 11-19729. His complaint was sent to the CCRB, where it was received on May 5, 2011 (encl. D1-2).

On April 28, 2011, at approximately 1:35 p.m., § 87(2)(b) and his friend, § 87(2)(b) were approached by PO Joseph Martins, PO Joseph Cortright, and PO Jason Fritz of the 102<sup>nd</sup> Precinct in the vicinity of 101<sup>st</sup> Avenue and 121<sup>st</sup> Street in Queens. Ultimately, § 87(2)(b) was arrested for criminal possession of a weapon. The following day, April 29 at 1:00 p.m., § 87(2)(b) and § 87(2)(b) went to the 102<sup>nd</sup> Precinct stationhouse to inquire about missing property. Their interactions with the police on both days resulted in the following allegations:

- **Allegation A – Abuse of Authority:** On April 28, 2011, in the vicinity of 101<sup>st</sup> Avenue and 121<sup>st</sup> Street in Queens, PO Joseph Martins frisked § 87(2)(b) § 87(2)(g) § 87(2)(b) § 87(2)(b) § 87(2)(b)
- **Allegation B – Abuse of Authority:** On April 28, 2011, in the vicinity of 101<sup>st</sup> Avenue and 121<sup>st</sup> Street in Queens, PO Joseph Cortright frisked § 87(2)(b)
- **Allegation C – Abuse of Authority:** On April 28, 2011, in the vicinity of 101<sup>st</sup> Avenue and 121<sup>st</sup> Street in Queens, PO Joseph Cortright searched § 87(2)(b) § 87(2)(g) § 87(2)(b) § 87(2)(b)
- **Allegation D – Abuse of Authority:** On April 28, 2011, in the vicinity of 101<sup>st</sup> Avenue and 121<sup>st</sup> Street in Queens, PO Joseph Martins searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.
- **Allegation E – Abuse of Authority:** On April 28, 2011, in the vicinity of 101<sup>st</sup> Avenue and 121<sup>st</sup> Street in Queens, PO Jason Fritz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. § 87(2)(g) § 87(2)(b) § 87(2)(b) § 87(2)(b)
- **Allegation F – Abuse of Authority:** On April 29, 2011, in front of the 102<sup>nd</sup> Precinct stationhouse, PO Joseph Martins threatened § 87(2)(b) with the use of force.
- **Allegation G – Discourtesy:** On April 29, 2011, in the vicinity of the 102<sup>nd</sup> Precinct stationhouse, PO Joseph Martins spoke rudely to § 87(2)(b) § 87(2)(g) § 87(2)(b) § 87(2)(b) § 87(2)(b)
- § 87(4-b), § 87(2)(g) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)

An IAB spin-off case was filed in regards to an allegation of missing property, as documented in CCRB case number 201106262, IAB log number 11-19401. It is currently under investigation (encl. M10).

## **Results of Investigation**

### **Civilian Statement**

#### **Complainant/ Victim:** § 87(2)(b)

§ 87(2)(b)

#### **CCRB Testimony**

§ 87(2)(b) provided a phone statement on May 13, 2011, and he was interviewed at the CCRB on May 23, 2011 (encl. E1-16). During his interview, § 87(2)(b) read from a note that he typed into his iPhone on April 29, 2011, that described the incident (encl. E7-8). § 87(2)(g)

On April 28, 2011, § 87(2)(b) left his house, located at § 87(2)(b) § 87(2)(b) in Queens, to meet his friend, § 87(2)(b) did not recall what time he left his house, but speculated it was about 11:00 or 11:15 a.m.; the investigation determined that § 87(2)(b) left his apartment at approximately 12:30 p.m. based on police records and § 87(2)(b) account of the duration of time he spent outside. § 87(2)(b) wore white and blue Nike sneakers, blue jeans, a grey hoodie, and a blue New York Yankees baseball cap. He had his wallet in his front right pants pocket, his iPhone, keys, gum, Chapstick, and coins in his front left pants pocket, and a painter's knife (a foldable curved blade 2.5" in length, with a 3" black rubber handle without a clip) in his back right pants pocket. The knife was used during his job at a digital print company; he was no longer employed at the company at the time of his CCRB interview.

Without stopping anywhere else or interacting with anyone, § 87(2)(b) drove to § 87(2)(b) § 87(2)(b) where § 87(2)(b) was waiting for him. § 87(2)(b) drove a red two-door § 87(2)(b); he did not know the New York license plate number of the car during his CCRB interview as the car was registered under his father's name. In the rear passenger seat, § 87(2)(b) had a black backpack containing a grey 17" MacBook Pro laptop with a clear rectangular sticker the size of an iPhone and the words "V-Moda" in black lettering, a laptop charger, an external hard drive, a folder with various documents, an iPhone charger, a broken digital camera, a leather bag holding earphones, and a pen. A stack of approximately 50 blank CDs held in a spindle with a handle was on the floor of the rear passenger side.

The drive to pick up § 87(2)(b) took about ten to fifteen minutes. § 87(2)(b) was described as a skinny § 87(2)(b). § 87(2)(b) wore a fitted cap and baggy pants, but § 87(2)(b) did not recall any other details regarding his attire or possessions, except that § 87(2)(b) did not have any packages or bags with him. § 87(2)(b) and § 87(2)(b) drove five to ten minutes to a bodega on § 87(2)(b), a one-way street, and § 87(2)(b) without stopping anywhere else or interacting with anyone; at this point, the time was approximately 1:00 p.m. With the car double-parked, § 87(2)(b) remained seated in the driver's seat listening to music, while § 87(2)(b) went into the store to buy cigarettes. § 87(2)(b) returned to the car within five minutes with

cigarettes; § 87(2)(b) did not recall where the cigarettes were on § 87(2)(b)'s person and he did not recall if § 87(2)(b) was holding anything in his hands when he exited the store.

§ 87(2)(b) and § 87(2)(b) then drove and parked in a metered parking spot two blocks away on § 87(2)(b) in front of a Citibank, because § 87(2)(b) wanted to buy something to eat. Approximately 30 seconds later, as § 87(2)(b) was inside his car smoking a cigarette still seated with § 87(2)(b) an unmarked black four-door sedan that appeared to be a Crown Victoria pulled up to the right side of § 87(2)(b) car. Three plainclothes officers from the 102<sup>nd</sup> Precinct exited and approached § 87(2)(b) and § 87(2)(b). PO Joseph Martins, who provided his name to § 87(2)(b) the next day at the stationhouse, was described as an athletically-built fair-complexioned white male in his late 20s to early 30s who stood 5'6", had short black hair, and wore blue jeans. PO Joseph Cortright, identified via investigation based on police records and subsequent officer testimony, was described as a stocky white male in his early to mid-30s who stood 5'10", had short light-colored hair, and wore a dark-colored nylon jacket. PO Jason Fritz, identified via investigation based on police records and subsequent officer testimony, was described as an athletically-built white male in his mid to late 30s who stood 5'10", had blue eyes and a buzzcut, and also wore a dark-colored nylon jacket.

PO Martins approached § 87(2)(b) driver side while PO Cortright and PO Fritz stood by § 87(2)(b)'s front passenger side. All three officers asked § 87(2)(b) and § 87(2)(b) "What are you doing?" and both replied, "Nothing." PO Martins asked § 87(2)(b) for his license and registration, which he produced. § 87(2)(b) and § 87(2)(b) were then asked by the officers if they had anything that they "[weren't] supposed to have" and when both denied it, the officers told them to exit the car and they complied. Upon exiting the car and standing at the driver's side door, PO Martins frisked § 87(2)(b) patting his waistband and pants pockets. PO Martins placed his hands into § 87(2)(b) hoodie and pants pockets, removing § 87(2)(b) keys, gum, Chapstick, and wallet. During this time, § 87(2)(b) remembered that he had his painter's knife in his back pocket and informed PO Martins, who removed the knife. § 87(2)(b) looked towards § 87(2)(b) who was by the front passenger door, and saw PO Cortright patting and placing his hands into § 87(2)(b)'s front pockets, but he did not see any officer remove any of § 87(2)(b)'s belongings. § 87(2)(b) did not mention in his intake statement or his phone statement that he or § 87(2)(b) were frisked or searched.

After they were searched, PO Cortright instructed § 87(2)(b) and § 87(2)(b) to lean their backs on the rear of § 87(2)(b) car. The pair complied, walking to the back of the car and leaning against it, with PO Cortright facing them. § 87(2)(b) glanced behind him and saw that PO Martins was sweeping his hands under the driver's seat. At the same time, PO Fritz was searching the rear passenger seats, where he took out § 87(2)(b) backpack. PO Fritz removed § 87(2)(b) headphones from their black leather case and then placed them back. PO Fritz also looked and placed his hands into the sleeve pockets on the back of the driver and front passenger seats. PO Cortright told § 87(2)(b) to face him and "look into his eyes," which § 87(2)(b) then did. He could no longer see where PO Martins and PO Fritz were searching within his car, and he did not recall if § 87(2)(b) ever attempted to look back at the officers searching the vehicle. PO Cortright asked § 87(2)(b) why he wanted to look at the officers searching his car, and § 87(2)(b) said that he "heard stories." PO Cortright responded, "Oh, don't worry, we're not going to plant anything in your car." As the car was searched, PO Martins asked § 87(2)(b) if he was a DJ; § 87(2)(b) assumed he asked this question because of the stack of blank CDs and the laptop in his backpack that were in the car. § 87(2)(b) noted that he uses his laptop to create music. Also during this time, PO Cortright asked § 87(2)(b) "You know this guy?" referring to

§ 87(2)(b) PO Cortright and § 87(2)(b) began speaking to each other “as if they knew each other,” but § 87(2)(b) did not recall what they spoke about. § 87(2)(b) estimated that the officers searched his car for approximately five minutes.

PO Martins informed § 87(2)(b) that he was going to be arrested for possession of the painter’s knife, but allowed § 87(2)(b) to finish his cigarette before he was handcuffed by PO Martins or PO Cortright. He did not recall which of those two officers handcuffed him. After § 87(2)(b) was informed that he was not allowed to have anything other than his identification, all the belongings on his person were given to § 87(2)(b) and he instructed § 87(2)(b) to drive the car to his home, since he did not want to leave the car at a metered parking spot. § 87(2)(b) did not recall if the officers gave his belongings to § 87(2)(b) or if he handed his belongings to § 87(2)(b) personally. He did not check for his belongings inside the car prior to leaving, and he did not see any officer holding his laptop at any point.

§ 87(2)(b) was transported to the 102<sup>nd</sup> Precinct stationhouse and placed in a holding cell. As he sat in the holding cell, between 2:00 and 2:30 p.m., he saw an unidentified uniformed officer, PO1, approximately ten feet away, pass a MacBook Pro laptop to another unidentified uniformed officer, PO2, who then placed the laptop into a black canvas bag. The black bag, which § 87(2)(b) did not recognize, was then placed into a clear plastic bag and placed into what § 87(2)(b) believed to be an evidence room, which was visible from where § 87(2)(b) was situated. PO1 was described as a stocky white male in his mid-to-late 30s who stood 5’10”. PO2 was described as a white female in her mid-to-late 30s who stood 5’8” to 5’9” and had reddish brown hair. § 87(2)(b) noted that he was unsure if PO1 passed the laptop to PO2, or vice versa. Additionally, although he believed that the laptop belonged to him, he only saw the bottom of it, which did not have any unique features (such as the sticker on top of his laptop). § 87(2)(b) was not given a voucher for his laptop.

§ 87(2)(b) was charged with criminal possession of a weapon. At some point in the stationhouse, PO Fritz told § 87(2)(b) that he observed § 87(2)(b) exit the bodega at 121<sup>st</sup> Street and 103<sup>rd</sup> Avenue and tug at his back pocket as if he was about to remove his knife. § 87(2)(b) denied ever exiting the car until the officers stopped them.

At approximately 12:00 p.m. on April 29, § 87(2)(b) was released and took the bus home, where § 87(2)(b) met him to return his car and belongings. However, § 87(2)(b) laptop was missing from his backpack, and § 87(2)(b) stated that he had placed the unzipped backpack into the trunk of the car after the arrest and that he did not know that there was a laptop inside of it. § 87(2)(b) and § 87(2)(b) went together to the 102<sup>nd</sup> Precinct to inquire about § 87(2)(b) missing property. At approximately 1:00 p.m., § 87(2)(b) parked his car across the street and entered the 102<sup>nd</sup> Precinct stationhouse while § 87(2)(b) remained in the front passenger seat. § 87(2)(b) spoke to an unidentified uniformed officer by the front desk, PO3, and informed her that he had been arrested the day before and his laptop was missing. PO3, who may have been PO2, was described as a white female in her late 30s to early 40s with red or brown hair. § 87(2)(b) also requested to see the laptop that he previously saw at the stationhouse to verify if it belonged to him by entering his password into it, but PO3 replied that she would have to contact § 87(2)(b) arresting officer.

PO3 called PO Martins and shortly thereafter, PO Martins came downstairs. § 87(2)(b) tried to appear “jovial” by smiling and saying, “What’s up, bro? You have my laptop? Where’s my laptop?” PO Martins, who was in plainclothes, immediately said, “Let’s talk outside.” § 87(2)(b)

§ 87(2)(b) followed him outside of the stationhouse, and PO Martins immediately faced him, appearing “defensive and confrontational” and said, “I’m going to punch you in your fucking face right now.” § 87(2)(b) asked why and PO Martins said that he did not know where the laptop was and suggested, “Maybe you should ask your friend (referring to § 87(2)(b)) PO Martins then said to § 87(2)(b) “Do you know who the fuck you’re talking to? You’re talking to a fucking police officer.” As this verbal exchange occurred, § 87(2)(b) saw § 87(2)(b) who was sitting in § 87(2)(b) front passenger seat, watching through the opened window of the front passenger seat, approximately four to five feet away. § 87(2)(b) felt uncomfortable and unsafe because of PO Martins’ statements, and asked PO Martins if they could speak inside. When § 87(2)(b) explained that he felt did not feel safe speaking outside, PO Martins said, “I don’t give a fuck about your safety.” § 87(2)(b) said, “You’re a police officer and you don’t care about my safety?” to which PO Martins said, “No.” § 87(2)(b) asked PO Martins for his name and PO Martins provided it, spelled it out, and then walked inside the stationhouse. § 87(2)(b) denied ever using profanity towards PO Martins during this exchange.

As § 87(2)(b) stood outside, two men who had been sitting inside a marked police van parked in front of the stationhouse walked up to him and said that they saw everything and would be willing to testify on his behalf. They added that § 87(2)(b) should file a complaint and not let this incident pass, and escorted him into the stationhouse’s lobby to a poster with the CCRB’s telephone number; § 87(2)(b) did not indicate if § 87(2)(b) accompanied them. These two men, who wore civilian clothing and were identified via investigation as § 87(2)(b) and § 87(2)(b) said that they were brothers and were employed to § 87(2)(b). After § 87(2)(b) finished speaking with the pair, PO Cortright “came out of nowhere” and said, “Hi,” to § 87(2)(b) and § 87(2)(b). Prior to PO Cortright approaching them, § 87(2)(b) did not know where PO Cortright had walked from. § 87(2)(b) did not speak with PO Cortright, who briefly spoke with § 87(2)(b). § 87(2)(b) did not recall what they spoke about.

**Witness:** § 87(2)(b)

§ 87(2)(b)

### **CCRB Testimony**

§ 87(2)(b) was interviewed at the CCRB on July 19, 2011 (encl. F1-5). § 87(2)(g)

On April 29, 2011, at approximately 1:00 p.m., § 87(2)(b) and his brother and partner, § 87(2)(b) exited the front entrance of the 102<sup>nd</sup> Precinct stationhouse and went to their marked van, which was parked in front of the building. On the street, a plainclothes officer whom § 87(2)(b) has seen inside the stationhouse before and identified by investigation as PO Martins, was speaking to two civilians – § 87(2)(b) recognized one of the civilians as § 87(2)(b) after being shown a photograph of him; the other was identified by the investigation as § 87(2)(b). § 87(2)(b) had never met the two civilians before.

§ 87(2)(b) and § 87(2)(b) opened the front doors of the van to get cigarettes when PO Martins began raising his voice towards § 87(2)(b) and § 87(2)(b) became curious and he sat in the driver seat to watch and listen while § 87(2)(b) sat in the front passenger seat, with the door

windows open. § 87(2)(b) and § 87(2)(b) were approximately 20 to 25 feet away from § 87(2)(b) and PO Martins.

During the interview, § 87(2)(b) made a drawing that showed where everyone was situated: their van was marked “NYPD Van”, § 87(2)(b) was marked as a circle and labeled “AI”, § 87(2)(b) was marked as a circled and labeled “NI”, § 87(2)(b) was marked by an X and was labeled “civilian”, PO Martins was marked by an X and labeled “officer”, § 87(2)(b) was marked by a black dot above where PO Martins was situated, and the civilians’ vehicle (a two-door sedan) was labeled “C/V” (encl. F3).

§ 87(2)(b) questioned PO Martins about the whereabouts of his laptop, saying that his MacBook was in his car during his arrest and he saw it carried by an officer while he was held in the stationhouse. § 87(2)(b) questioned whether it was a coincidence that he saw the laptop in the stationhouse and that nothing else was missing except his laptop. PO Martins asked § 87(2)(b) if he was implying that he had stolen the laptop, and said § 87(2)(b) took it. § 87(2)(b) replied that § 87(2)(b) who was not heard speaking at all during this incident, would not have stolen his laptop. § 87(2)(b) noted that during their conversation, § 87(2)(b) spoke in a “respectful” manner while PO Martins’ voice was louder and sounded “arrogant”. PO Martins then threatened § 87(2)(b) by saying that if he did not shut up, he would punch him in the face and arrest him. § 87(2)(b) appeared shocked or perplexed, shook his head, and stopped speaking. § 87(2)(b) looked at § 87(2)(b) and said, “He’s not supposed to tell a guy that.”

PO Martins conversed with § 87(2)(b) for a “few” more minutes and entered the stationhouse. From the time § 87(2)(b) saw PO Martins speaking with the civilians until the officer entered the stationhouse, approximately 15 to 20 minutes had passed. After PO Martins went back inside, § 87(2)(b) and § 87(2)(b) approached § 87(2)(b) and § 87(2)(b) who were both still seated in their van, and § 87(2)(b) asked “what they should do.” § 87(2)(b) told them that he and § 87(2)(b) were § 87(2)(b) but did not mention that § 87(2)(b) was his brother. § 87(2)(b) and § 87(2)(b) said that if they wanted to file a complaint, the CCRB’s phone number should be displayed for public view inside the stationhouse; he added that if it was not there, they could go to the 106<sup>th</sup> Precinct stationhouse to find the number. He denied accompanying § 87(2)(b) or § 87(2)(b) into the stationhouse to show them the telephone number.

Afterwards, § 87(2)(b) and § 87(2)(b) exited the van and went to the rear of their van to obtain maintenance equipment to bring into the stationhouse. Meanwhile, a plainclothes officer, identified via investigation as PO Cortright, approached § 87(2)(b) and § 87(2)(b). PO Cortright spoke with § 87(2)(b) and § 87(2)(b) for approximately two to three minutes in front of § 87(2)(b)’s van, but § 87(2)(b) could not hear what they spoke about. § 87(2)(b) and § 87(2)(b) entered the stationhouse while § 87(2)(b) and § 87(2)(b) remained standing outside; he did not know if § 87(2)(b) or § 87(2)(b) ever entered the stationhouse.

**Witness:** § 87(2)(b)

§ 87(2)(b)

### **CCRB Testimony**

§ 87(2)(b) was interviewed at the CCRB on July 19, 2011 (encl. G1-4). § 87(2)(g)

§ 87(2)(b) and § 87(2)(b) went into their § 87(2)(b) van, which was parked immediately in front of the stationhouse's front doors, to get an air conditioner. Two individuals, identified via investigation as § 87(2)(b) and § 87(2)(b) parked a red sedan across the street from the stationhouse's front entrance, and both entered the building. § 87(2)(b) and § 87(2)(b) remained outside and § 87(2)(b) did not know what § 87(2)(b) or § 87(2)(b) did inside the building.

Approximately five minutes later, as § 87(2)(b) and § 87(2)(b) were taking a cigarette break, § 87(2)(b) and § 87(2)(b) left the stationhouse and spoke to each other while standing outside, stating that § 87(2)(b) laptop was missing. One minute later, a plainclothes officer, identified by the investigation as PO Martins, exited the stationhouse and approached § 87(2)(b) and § 87(2)(b) who were both standing on the street in front of the red sedan's passenger door. § 87(2)(b) sat in the front passenger seat of his van while § 87(2)(b) sat in the driver's seat; both windows were open. § 87(2)(b) and PO Martins were across the street from where § 87(2)(b) and § 87(2)(b) were seated in their van.

PO Martins asked what the problem was and § 87(2)(b) replied that his laptop was missing from his bag that was left inside his car trunk after his arrest. § 87(2)(b) never spoke to PO Martins. § 87(2)(b) noted that § 87(2)(b) and § 87(2)(b) looked scared and that § 87(2)(b) did not shout and never touched PO Martins throughout this incident. PO Martins said that he did not know the whereabouts of the laptop, and § 87(2)(b) told him that he saw another officer holding one inside the stationhouse. PO Martins stated that the laptop § 87(2)(b) saw previously did not belong to him, but § 87(2)(b) replied that he knew what his laptop looked like and that the laptop he saw looked exactly like his. PO Martins raised his voice and started cursing at § 87(2)(b) including, "I'm going to punch you in your fucking face. How dare you accuse me of stealing your computer?" Simultaneously, PO Martins walked almost "chest to chest" with § 87(2)(b) who was now leaning against the side of the car. § 87(2)(b) told PO Martins that he was not accusing him of stealing his laptop but simply informing PO Martins that he saw another officer bring his laptop into the stationhouse on the day he was arrested. § 87(2)(b) added that he assumed that the laptop was going to be held for safe keeping, but he discovered his laptop was not there when he returned to the stationhouse after his release. After speaking with § 87(2)(b) for approximately three minutes, PO Martins walked inside the stationhouse.

§ 87(2)(b) asked § 87(2)(b) what happened, and § 87(2)(b) replied that he thought that the officers had taken his computer. § 87(2)(b) or § 87(2)(b) informed him that if he felt that officers had taken his computer, he could try calling the CCRB, whose telephone number was posted by the stationhouse's entrance door. Afterwards, § 87(2)(b) and § 87(2)(b) retrieved the air conditioning equipment from the van and entered the stationhouse; § 87(2)(b) no longer saw or knew the whereabouts of § 87(2)(b) and § 87(2)(b) did not see another officer speak to § 87(2)(b) or § 87(2)(b) during this incident.

### **Attempts to Contact Civilians**

The undersigned placed five calls and sent two letters to § 87(2)(b) between June 10 and June 20, 2011 to an address and telephone number found via a Lexis Nexis search. All five calls were answered by § 87(2)(b)'s relatives and friends who confirmed his address and agreed to take a message for him. Additionally, § 87(2)(b) provided a cell phone number connected to § 87(2)(b) but a call to that number on June 13 was answered by an individual named "Sam," who did not know § 87(2)(b). A voicemail was left with § 87(2)(b) on December 13, 2011, to confirm whether the number he provided was correct; as of the date of this report, § 87(2)(b) has not responded. Neither letter sent to § 87(2)(b) has been returned by USPS, and a



Department of Correction Inmate Lookup Service confirmed that he is not incarcerated. As of the date of this report, § 87(2)(b) has not responded to contact attempts.

### **NYPD Statements:**

#### **Subject Officer: PO JOSEPH MARTINS**

- *PO Martins is a § 87(2)(b)-old white male who stands 5'10", weighs 190 pounds, and has short brown hair and brown eyes.*
- *On April 28, 2011, he was on-duty between 9:30 a.m. and 6:05 p.m., assigned to anti-crime in plainclothes and an unmarked vehicle with PO Fritz and PO Cortright.*
- *On April 29, 2011, he was on-duty at the same time and assigned to anti-crime.*

#### **Memo Book**

On April 28, 2011, at 1:35 p.m., PO Martins conducted a car stop at § 87(2)(b). At 1:40 p.m., § 87(2)(b) was under arrest. At 1:50 p.m., PO Martins was back at the 102<sup>nd</sup> Precinct stationhouse for arrest processing (encl. H1-3).

On April 29, 2011, at 1:20 p.m., § 87(2)(b) was at the 102<sup>nd</sup> Precinct stationhouse accusing PO Martins or another officer of taking his MacBook Pro computer from his vehicle at the time of his arrest. § 87(2)(b) stated that he saw a computer at the stationhouse while in a cell. An investigation finds a MacBook laptop, serial # § 87(2)(b) voucher # § 87(2)(b) vouchered by PO Hughes on April 28, 2011, not related or belonging to § 87(2)(b) was highly agitated and he was advised that if he had a problem or did not agree with PO Martins, he could make a complaint (encl. H3-4).

#### **Handwritten and Computerized Stop, Question, and Frisk Report**

PO Martins completed a Stop, Question, and Frisk Report for § 87(2)(b) on April 28, 2011, at 1:35 p.m., under suspicion of criminal possession of a weapon. The circumstances that led to the stop included furtive movements, a suspicious bulge in his pocket, which was a knife, and his proximity to crime location. No other person was stopped, questioned, or frisked. § 87(2)(b) was frisked because of inappropriate attire – possibly concealing weapon. He was searched because of a hard object and his subsequent arrest. A knife or cutting instrument was ultimately found. No other contraband was recovered (encl. H5-6).

#### **Arrest Report and Criminal Court Complaint**

Arrest number § 87(2)(b) indicates that § 87(2)(b) was arrested and charged with criminal possession of a weapon in the third degree and for disorderly conduct (obstructing traffic). PO Martins stated that on April 28, 2011, between 1:30 p.m. and 1:40 p.m., he observed § 87(2)(b) double parked, blocking the regular flow of traffic, forcing other vehicles to drive around his. PO Martins then stated that he recovered a gravity knife from § 87(2)(b) pants pocket (encl. H7-11).

#### **CCRB Testimony**

PO Martins was interviewed at the CCRB on August 24, 2011 (encl. H12-15).

On April 28, 2011, at approximately 1:35 p.m., PO Martins was the operator of an unmarked police vehicle while PO Fritz sat in the front passenger seat and PO Cortright sat in the rear passenger seat. PO Martins observed § 87(2)(b) car double parked in the vicinity of § 87(2)(b), the same intersection where the officers' vehicle was. He did not recall seeing § 87(2)(b) enter the vehicle. PO Martins intended to stop § 87(2)(b) at that location, driving

slowly towards them, but § 87(2)(b) began to drive southbound on § 87(2)(b) after approximately 20 to 30 seconds. PO Martins activated his turret lights and stopped § 87(2)(b) vehicle after it had passed approximately one avenue in a residential neighborhood.

All three officers exited the vehicle and approached § 87(2)(b) PO Martins, who approached the driver side, saw § 87(2)(b) fidgeting and “digging around” with both hands at his sides, reaching for what appeared to be the side of the door, the corners of his seat, and the center console. From PO Martins’ vantage point, which was a few feet away, he could only see § 87(2)(b)’s body from above mid-arm, and was unable to see where exactly § 87(2)(b) hands were or if he was holding anything. PO Fritz and PO Cortright approached § 87(2)(b) in the front passenger seat, but PO Martins did not see what § 87(2)(b) was doing or where his hands were. § 87(2)(b) continued to move his hands at his sides as PO Martins got closer, and PO Martins asked him for his identification and why he was double parked. § 87(2)(b) replied that § 87(2)(b) had run into the store. During this conversation, § 87(2)(b) was continuing to reach around his sides but PO Martins was unable to see where he was reaching. Because § 87(2)(b) continued to fidget and move his arms around, it made PO Martins nervous and he asked § 87(2)(b) and § 87(2)(b) to step outside of the car within 10 to 15 seconds of initially speaking to them. PO Martins affirmed that there were no other factors which led him to believe that § 87(2)(b) posed a safety risk or that he was armed. § 87(2)(b) and § 87(2)(b) complied, then walked towards the rear of § 87(2)(b) car. PO Martins affirmed that § 87(2)(b) had not stopped moving his arms at his sides until he was removed from the vehicle.

When § 87(2)(b) exited the car, PO Martins did not see any bulges on § 87(2)(b) person and he did not see § 87(2)(b) make any movements towards his pockets. As they walked to the back of the car, PO Martins did not recall if § 87(2)(b) made any suspicious movements. PO Martins asked § 87(2)(b) what he was doing, where he was coming from, and if he had anything in his car that he was not supposed to have. § 87(2)(b) said that he and § 87(2)(b) were “just hanging out” and he denied having anything that he was not supposed to have. PO Martins asked if he was sure and if he minded that PO Martins “checked.” § 87(2)(b) told PO Martins that he could search his car. With PO Fritz and PO Cortright standing with § 87(2)(b) and § 87(2)(b) PO Martins first entered through § 87(2)(b) driver side, looking underneath the seat, center console, visor, and dashboard; he did not recall opening the glove compartment and he did not see any other officer enter the vehicle. PO Martins then looked around and underneath the rear passenger seats, and found a black book bag on the car floor behind the front passenger seat. PO Martins opened the book bag and saw a MacBook Pro laptop, which he then returned to the bag. He did not recall any other items inside the car or inside the book bag, and he denied searching the front passenger seat area. During the interview, PO Martins was shown photographs of § 87(2)(b) back pack, leather bag, and earphones; he did not recognize those items.

Initially, PO Martins stated in his interview that he found a gravity knife during his search of the car, but he did not recall exactly where it was found, saying that “it had to be somewhere close to § 87(2)(b) or else I wouldn’t have arrested him. It had to be in a lungeable, grabbable area.” PO Martins, who did not recall what the knife looked like in his interview, asked § 87(2)(b) if the knife belonged to him, and § 87(2)(b) affirmed so. PO Martins then frisked § 87(2)(b) and no contraband was found on his person. During the interview, PO Martins was shown the handwritten Stop, Question, and Frisk Report, arrest report, and criminal court complaint he filled out documenting § 87(2)(b) stop and arrest, and he said that he did not recall recovering a knife from § 87(2)(b) pants pocket. He went on to say that while he searched the car, another officer may have frisked § 87(2)(b) and recovered the knife. Simultaneously, § 87(2)(b) was

frisked, but PO Martins did not know who conducted it or if anything was recovered. PO Martins did not recall frisking § 87(2)(b) to recover the knife, and he did not recall if any officer explained to him why they frisked § 87(2)(b) or § 87(2)(b) or how that information was relayed to him and subsequently appeared in those documents. He did not see another officer search § 87(2)(b) vehicle. In reference to the Stop, Question, and Frisk Report, PO Martins stated that the checkbox labeled “Proximity to Crime Location” was checked because the incident area had an increase in burglaries and robberies. When asked about the checkbox “Inappropriate Attire – Possibly Concealing Weapon,” PO Martins did not recall how § 87(2)(b) was dressed.

Thereafter, § 87(2)(b) was arrested for possession of a gravity knife but PO Martins did not recall who handcuffed him. PO Martins asked § 87(2)(b) if he wanted to have his car vouchered, and § 87(2)(b) asked to have his car released to § 87(2)(b). PO Martins checked if § 87(2)(b) had a valid driver’s license and allowed him to drive § 87(2)(b) car. He did not recall seeing § 87(2)(b) hand any of his belongings to § 87(2)(b). § 87(2)(b) was transported to the 102<sup>nd</sup> Precinct stationhouse, where he was charged with criminal possession of a weapon and double parking.

PO Martins noted that he knew § 87(2)(b) because one of PO Martins’ partners, who he did not recall, arrested him for a marijuana-related charge in the past.

On April 29, 2011, at approximately 1:20 p.m., PO Martins was inside the 102<sup>nd</sup> Precinct stationhouse walking by the front desk and overheard an individual yelling, “Where’s Officer Martins?” PO Martins walked towards the front desk where he saw § 87(2)(b) alone, yelling at the desk sergeant for PO Martins. The desk sergeant, who PO Martins did not recall, looked at PO Martins, and PO Martins said, “I’ll take care of it, boss.” PO Martins walked up to § 87(2)(b) who loudly asked where his laptop was. PO Martins said, “Hold on a second. Don’t come into my precinct yelling and screaming at me. Let’s go talk outside.” There were no other individuals by the front desk, other than the desk sergeant, a security desk officer whom PO Martins did not know, and five to six civilians. When asked during his interview why he chose to speak with § 87(2)(b) outside the stationhouse, PO Martins said, “The sergeant probably would’ve yelled at me if I hadn’t had him walk outside because there’s no reason to cause a ruckus inside the precinct stationhouse.” During the interview, PO Martins was shown a copy of that day’s roll call, and the document did not refresh his memory of who the desk sergeant was that he spoke to. § 87(2)(b) appeared agitated, saying that he felt uncomfortable speaking with him outside, and PO Martins replied, “Well, you came to the precinct to speak to me, so I’ll delegate where we speak. I’m not gonna go inside the precinct with you yelling around like this.”

PO Martins and § 87(2)(b) walked outside and spoke next to § 87(2)(b) car, which was parked in front of the stationhouse with § 87(2)(b) sitting in the front passenger seat. PO Martins did not recall seeing any other officers or civilians outside during this time. Standing between three to five feet away from PO Martins, § 87(2)(b) yelled statements that included, “My laptop is missing out of my car. I saw a laptop when I was in the precinct yesterday. Where’s my laptop?” PO Martins did not recall if § 87(2)(b) made any gestures and denied that § 87(2)(b) threatened him or came any closer to him. PO Martins denied having his laptop and said that he has his own MacBook laptop. PO Martins told § 87(2)(b) that he saw his laptop in the book bag behind the front passenger seat when § 87(2)(b) was arrested and § 87(2)(b) said, “No, it’s not in there. I saw a MacBook while I was in the cells last night. That was my computer.” PO Martins denied removing § 87(2)(b) laptop from his car and told him that when the car was released to § 87(2)(b) all of his belongings were left in his car. PO Martins then said, “Why don’t you ask

your boy where your computer is?” referring to § 87(2)(b) and § 87(2)(b) replied, “No, no, no.” PO Martins said, “I’m not going to do this with you. If you got a problem, or you got a complaint, the phone number is right inside our wall. Take the number, call it, and make your complaint. I don’t have your computer.” As § 87(2)(b) walked inside the stationhouse, PO Martins looked at § 87(2)(b) who was still seated in the front passenger seat, and said, “Really?” § 87(2)(b) asked, “What?” and PO Martins said, “You know where his laptop is.” § 87(2)(b) replied that he did not know, “with a smirk on his face the whole time.” PO Martins said, “Whatever,” and walked back inside the stationhouse. He was unsure if any other officers spoke with § 87(2)(b) or § 87(2)(b) during this time.

PO Martins denied any profanity, including the word “fuck,” was used during his conversation with § 87(2)(b) and he denied threatening to punch § 87(2)(b).

**Subject Officer: PO JOSEPH CORTRIGHT**

- *PO Cortright is a § 87(2)(b)-old white male who stands 6’0”, weighs 240 pounds, and has short brown hair and blue eyes.*
- *On April 28, 2011, he was on-duty from 9:30 a.m. until 6:05 p.m., assigned to anti-crime in plainclothes and in an unmarked car with PO Fritz and PO Martins.*
- *On April 29, 2011, he was on-duty from 9:30 a.m. until 6:05 p.m.*

**Memo Book**

On April 28, 2011, at 1:40 p.m., PO Martins arrested § 87(2)(b) at § 87(2)(b) for criminal possession of a weapon and disorderly conduct (car) (encl. I1-3).

**CCRB interview**

PO Cortright was interviewed at the CCRB on August 26, 2011 (encl. I4-6). § 87(2)(g)

As PO Cortright, PO Fritz, and PO Martins approached § 87(2)(b), they observed § 87(2)(b) and § 87(2)(b) double-parked in front of a bodega located on § 87(2)(b), a drug-prone location. PO Cortright noted that he had previously recovered a loaded firearm near the bodega. He did not see anyone enter or exit the car. PO Martins said that he was going to stop them, but § 87(2)(b) had already driven away as they approached without their turret light activated. PO Martins followed, turned on the car’s turret lights, and initiated a car stop at § 87(2)(b).

PO Martins approached the driver’s side, PO Fritz stood by the front passenger door, and PO Cortright stood towards the car’s rear bumper. When PO Martins asked § 87(2)(b) for his license, PO Cortright saw that § 87(2)(b) turned his shoulders towards his right and continually reached between the area between the driver’s seat and the center console. PO Cortright was unable to see what he was attempting to reach. § 87(2)(b) was “joking around” and speaking with PO Fritz in a non-confrontational manner, but PO Cortright did not recall what was said.

After approximately one minute, PO Martins asked § 87(2)(b) to exit the car, and he complied; § 87(2)(b) also exited the car but PO Cortright did not recall if PO Fritz instructed him to do so. Both § 87(2)(b) and § 87(2)(b) walked to the back of the car towards PO Cortright. It was at this point that PO Cortright recognized § 87(2)(b) because he had arrested him sometime last year for possession of marijuana, and has seen him walking in the neighborhood.

PO Martins then told PO Cortright that he asked them to exit the car because he saw § 87(2)(b) rustling around at his sides while inside the car. PO Cortright did not see any bulges or anything unusual in § 87(2)(b) or § 87(2)(b)'s appearance. When asked during his interview if there were any factors that led him to believe that the civilians may have been armed, PO Cortright reiterated that they were initially observed in a drug-prone location and he had recovered a firearm in that vicinity in the past.

He started having “small talk” with § 87(2)(b) such as asking him if he was clean now and with § 87(2)(b) replying, “Yeah.” PO Cortright then asked if they had anything that they should not have, such as “guns, bombs, drugs, knives,” with § 87(2)(b) saying no. § 87(2)(b) replied that he had a knife in his back pocket and proceeded to reach for it. PO Cortright said that he would get it himself, and subsequently removed the knife but he did not recall its appearance. As this occurred, PO Fritz stood next to PO Cortright while PO Martins stood by the driver’s seat door. PO Cortright then patted the front of § 87(2)(b) pants pockets and nowhere else because he felt that he did not have any other contraband on his person. He had not touched either civilian prior to this, and he did not see § 87(2)(b) frisked.

Afterwards, PO Cortright told PO Martins that § 87(2)(b) had a knife on his person and handed the knife to him. During the interview, PO Cortright said after he handed the knife to PO Martins, “I think [PO Martins] talked to § 87(2)(b). I don’t remember what he was saying – asking him why he was holding the knife and, you know, ‘It’s illegal to have a gravity knife in New York.’” § 87(2)(b) was then handcuffed by PO Martins or PO Cortright. § 87(2)(b) was not handcuffed and he was released with § 87(2)(b) car, but PO Cortright did not recall how that arrangement was made. PO Cortright denied that he or PO Fritz entered or searched § 87(2)(b) vehicle. He did not see PO Martins enter or search the vehicle, but he stated that PO Martins may have checked the space between the driver seat and the center console that § 87(2)(b) appeared to be reaching for; PO Cortright was occupied with speaking and frisking § 87(2)(b) during that time. He did not observe PO Martins remove any bags or packages from the vehicle.

During the interview, PO Cortright was shown a copy of PO Martins’ Stop, Question, and Frisk Report for § 87(2)(b). PO Cortright explained that the checkbox stating “bulge in pocket which was a knife” was when § 87(2)(b) had told him that he had a knife in his back pocket. PO Cortright also stated that upon initially stopping § 87(2)(b) PO Martins explained to him that he was stopped for double-parking.

On April 29, 2011, at approximately 1:00 p.m., PO Cortright was inside the 102<sup>nd</sup> Precinct stationhouse and walking down the stairs when he observed § 87(2)(b) yelling inside the building near the front desk. He did not recall what § 87(2)(b) was saying or who he was directing his statements towards. PO Martins, who was standing with § 87(2)(b) instructed him to exit the stationhouse, adding that he “can’t be yelling in here.” PO Cortright spoke to a PAA who he did not recall, by the front desk, asking what was § 87(2)(b) yelling about. The PAA replied that he did not know, only that § 87(2)(b) wanted to speak with PO Martins. Approximately ten seconds after PO Martins and § 87(2)(b) exited the stationhouse, PO Cortright went outside and asked PO Martins if he was alright, to which PO Martins replied, “Yeah, I’m good.” PO Cortright subsequently walked back inside the stationhouse, without hearing what § 87(2)(b) and PO Martins were speaking about. § 87(2)(b) had been seated in § 87(2)(b) car, which was parked in front, but PO Cortright did not recall speaking with him. He did not speak with PO Martins about what transpired with § 87(2)(b) outside the stationhouse.

**Subject Officer: PO JASON FRITZ**

- *PO Fritz is a § 87(2)(b)-old white male who stands 5'9", weighs 180 pounds, and has brown hair and blue eyes.*
- *On April 28, 2011, he was on-duty from 9:30 a.m. to 6:05 p.m., assigned to anti-crime in an unmarked vehicle in plainclothes with PO Martins and PO Cortright.*
- *On April, 29, 2011, he was off-duty.*

**Memo Book**

PO Fritz had no memo book entries regarding this incident (encl. J1-3).

**CCRB Testimony**

PO Fritz was interviewed at the CCRB on August 26, 2011 (encl. J4-6). § 87(2)(g)

On April 28, 2011, at approximately 1:35 p.m., PO Fritz sat in the front passenger seat of an unmarked vehicle while PO Martins sat in the driver's seat and PO Cortright in the rear when they made a left turn and observed § 87(2)(b) and § 87(2)(b) inside a vehicle, which was double-parked in front of a bodega, located on § 87(2)(b). Narcotics teams have made numerous arrests in front of the bodega, including the recovery of a firearm approximately one-and-a-half to two months prior to the incident date. § 87(2)(e)

PO Fritz did not observe anyone exit or enter the vehicle when he initially saw it double-parked. The officers' vehicle completed the turn and they were immediately behind the vehicle, which had already begun to leave. PO Martins said that he was going to stop § 87(2)(b) vehicle, and when asked in the interview if PO Martins gave a reason, PO Fritz said, "We all knew why – because the car was double parked. He didn't have to tell us." A car stop was initiated approximately one-and-a-half blocks away from the bodega.

PO Martins approached the driver door while PO Fritz approached the front passenger door, with PO Cortright behind him. He was unable to see what § 87(2)(b) and § 87(2)(b) were doing inside the car upon their approach, other than sitting. § 87(2)(b) did not make any movements or gestures when PO Fritz stood next to and slightly behind the front passenger door; he was unable to see § 87(2)(b) from this vantage point. PO Martins asked § 87(2)(b) to step out of the vehicle, and he complied. As a safety precaution, since the driver was removed from the vehicle, PO Fritz subsequently asked § 87(2)(b) to exit the car, and he did. All three officers brought § 87(2)(b) and § 87(2)(b) to the back of the vehicle, and while doing so, PO Fritz asked PO Martins why § 87(2)(b) was removed from the vehicle. PO Martins replied that upon their approach, § 87(2)(b) was moving around and he wanted to make sure nothing was being thrown or hidden, such as a weapon. PO Fritz did not recall any conversations between the officers and the civilians during this time.

While standing by the rear of the vehicle, § 87(2)(b) was frisked, but PO Fritz did not see who conducted it or where § 87(2)(b) was touched; he denied frisking § 87(2)(b). He did see any officer place his hands into § 87(2)(b) pockets. § 87(2)(b) was not frisked. PO Fritz later explained that § 87(2)(b) was frisked for the officers' safety because of his furtive movements reported by PO Martins and that he knew he was frisked because a gravity knife was recovered by PO Cortright. He later stated in his interview that he was unsure where PO Cortright was at this time, stating that PO Cortright was either standing behind him or behind PO Martins. He

later said that he did not recall who recovered the gravity knife or its appearance, and he was unaware of where it was found. PO Fritz had not seen any bulges or anything suspicious on § 87(2)(b) person.

After the knife was recovered, PO Martins walked back to the vehicle to see if any contraband was thrown or hidden inside, looking around § 87(2)(b) “immediate grabbable area” of the driver’s seat while PO Fritz and PO Cortright stayed toward the rear of the car with the two civilians. PO Fritz was unable to see if PO Martins searched the vehicle’s center console, and he did not recall if PO Martins entered the vehicle from another door or if he searched anywhere else inside. Neither § 87(2)(b) nor § 87(2)(b) spoke as this occurred, and PO Fritz did not recall if PO Martins asked for permission to search the car. PO Martins subsequently handcuffed and arrested § 87(2)(b). As § 87(2)(b) vehicle was legally parked, the officers left it at the location while § 87(2)(b) was transported to the stationhouse. § 87(2)(b) was not arrested, and PO Fritz did not know his whereabouts thereafter. Other than the recovered knife, PO Fritz was unaware of any other items vouchered. Prior to this incident, PO Fritz had never met § 87(2)(b) or § 87(2)(b).

On April 29, 2011, PO Fritz took the day off and was not on-duty.

During the interview, PO Fritz was shown a copy of § 87(2)(b) handwritten Stop, Question, and Frisk Report written by PO Martins. In reference to the section indicating that a suspicious bulge was observed, PO Fritz stated that he did not observe any bulges on § 87(2)(b) person as his attention was directed towards § 87(2)(b). He explained that the checkbox indicating § 87(2)(b) proximity to crime location was in regards to § 87(2)(b) parked in front of the bodega. He did not know the reason why the report indicated “inappropriate attire – possibly concealing a weapon.” The checkboxes affirming that § 87(2)(b) was searched indicated that he was searched incident to a lawful arrest.

### **NYPD Documents**

#### **SPRINT**

SPRINT job § 87(2)(b) shows that on April 28, 2011, at 1:39 p.m., at § 87(2)(b), the 102<sup>nd</sup> Precinct anti-crime unit, identified as PO Martins, PO Cortright, and PO Fritz, stopped one male. At 1:40 p.m., § 87(2)(b) was under arrest and a sergeant was notified (encl. K1).

#### **Property Voucher**

Voucher § 87(2)(b) in regards to § 87(2)(b) arrest shows that one gravity knife was vouchered as arrest evidence (encl. K4).

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

- On April 29, 2011, § 87(2)(b) pled guilty to disorderly conduct, sentenced to 15 days imprisonment, and fined \$150.00 (encl. L1-7).

### **Status of Civil Proceedings**

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of October 3, 2011, with regard to the incident (encl. N7).

### **Civilian Criminal History**

- As of November 3, 2011, Office of Court Administration records reveal no other criminal convictions for § 87(2)(b) (encl. L8-11).

### **Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. B1).

### **Subject Officers CCRB History**

- PO Martins has been a member of the service for 8 years and there are no substantiated CCRB allegations against him (encl. A1).
- PO Cortright has been a member of the service for 4 years and there are no substantiated CCRB allegations against him (encl. A2).
- PO Fritz has been a member of the service for 6 years and there is one substantiated CCRB allegations against him. In CCRB 200905319, he was given instructions in regards to a substantiated stop allegation against him (encl. A3).

## **Conclusion**

### **Identification of Subject Officers**

The frisk of § 87(2)(b) the vehicle search, the threat of force, and the discourteous language allegations are being pleaded against PO Martins as he admitted to speaking to § 87(2)(b) at the stationhouse, being the operator of the vehicle during the April 28<sup>th</sup> incident, and approaching § 87(2)(b) even though he did not recall frisking § 87(2)(b) or searching the vehicle.

The frisk and search of § 87(2)(b) are being pleaded against PO Cortright because § 87(2)(b) said that the officer who performed these actions was also the officer who conversed with § 87(2)(b) as if he knew him, which PO Cortright admitted to.

A vehicle search allegation is being pleaded against PO Fritz as he was the remaining officer who § 87(2)(b) alleged searched his vehicle.

### **Allegations Not Pled**

Allegations that § 87(2)(b) and § 87(2)(b) were stopped, and an allegation that § 87(2)(b) was searched are not being pleaded. § 87(2)(b) admitted to double-parking at § 87(2)(b), which was corroborated by officer testimony and by § 87(2)(b) receipt of a summons for obstructing vehicular traffic. Additionally, as § 87(2)(b) told the officers he had a knife in his pocket, PO Martin's removal of the knife does not constitute an allegation of misconduct.

An allegation that PO Martins threatened to arrest § 87(2)(b) is not being pleaded. Although § 87(2)(b) Alimud § 87(2)(b) stated that this occurred, § 87(2)(b) did not allege it.

## **Investigative Findings and Recommendations**

**Allegation A – Abuse of Authority: On April 28, 2011, in the vicinity of § 87(2)(b) § 87(2)(b) in Queens, PO Joseph Martins frisked § 87(2)(b)**



§ 87(2)(b) stated that upon exiting the car, PO Martins frisked him, patting his waistband and pants pockets, and then searched him, placing his hands into § 87(2)(b) hoodie and pants pockets and removing § 87(2)(b) keys, gum, Chapstick, and wallet. During this time, § 87(2)(b) remembered that he had his painter's knife in his back pocket and informed PO Martins, who removed the knife.

According to PO Martins, § 87(2)(b) fidgeted and moved both arms at his sides towards the corners of the driver's seat in areas PO Martins could not see, continuously doing so until he was instructed to exit the vehicle. Initially, PO Martins stated in his interview that he found a gravity knife during his search of the car, but he did not recall exactly where it was found, saying that "it had to be somewhere close to § 87(2)(b) or else I wouldn't have arrested him. It had to be in a lungeable, grabbable area." He then went on to say that he frisked him thereafter. However, after PO Martins was shown § 87(2)(b) handwritten Stop, Question, and Frisk Report, arrest report, and criminal court complaint, his testimony changed. He stated that he did not recall recovering a knife from § 87(2)(b) pants pocket and that while he searched the car, another officer may have frisked § 87(2)(b) and that officer may have subsequently recovered the knife. PO Martins did not recall frisking § 87(2)(b) to recover the knife, and he did not recall if any officer explained to him why they frisked § 87(2)(b) or how that information was relayed to those documents.

PO Cortright stated that he asked § 87(2)(b) and § 87(2)(b) if they had anything that they should not have, such as "guns, bombs, drugs, knives," with § 87(2)(b) saying no. § 87(2)(b) replied that he had a knife in his back pocket and proceeded to reach for it. PO Cortright said that he would get it himself, and subsequently removed the knife. He then patted the front of § 87(2)(b) pants pockets and nowhere else because he felt that § 87(2)(b) did not have any other contraband on his person. He did not touch either civilian prior to this, and he did not see an officer frisk § 87(2)(b).

Additionally, PO Fritz said that § 87(2)(b) was frisked, but he denied frisking § 87(2)(b) and did not know who did.

§ 87(2)(g)  
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§ 87(2)(g)  
§ 87(2)(g)

**Allegation B – Abuse of Authority:** On April 28, 2011, in the vicinity of § 87(2)(b) § 87(2)(b) in Queens, PO Joseph Cortright frisked § 87(2)(b).

**Allegation C – Abuse of Authority:** On April 28, 2011, in the vicinity of § 87(2)(b) § 87(2)(b) in Queens, PO Joseph Cortright searched § 87(2)(b).

§ 87(2)(b) stated that he observed PO Cortright patting and placing his hands into § 87(2)(b) front pockets. PO Martins testified that § 87(2)(b) was frisked, but he did not know who conducted it or why. PO Cortright denied observing an officer frisk § 87(2)(b) while PO Fritz stated that § 87(2)(b) was not frisked. § 87(2)(g)

§ 87(2)(g)  
§ 87(2)(g)



**Allegation E – Abuse of Authority:** On April 28, 2011, in the vicinity of § 87(2)(b) in Queens, PO Jason Fritz searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) stated that both PO Martins and PO Fritz entered and searched his vehicle. However, PO Fritz testified that he remained standing outside the rear of the vehicle as it was searched by PO Martins. § 87(2)(g)

**Allegation F – Abuse of Authority:** On April 29, 2011, in front of the 102<sup>nd</sup> Precinct stationhouse, PO Joseph Martins threatened § 87(2)(b) with the use of force.

**Allegation G – Discourtesy:** On April 29, 2011, in front of the 102<sup>nd</sup> Precinct stationhouse, PO Joseph Martins spoke rudely to § 87(2)(b)

§ 87(2)(b) stated that PO Martins said to him, “I’m going to punch you in your fucking face right now.” § 87(2)(b) heard PO Martins tell § 87(2)(b) that if he did not shut up, he would punch him in the face and arrest him. Additionally, § 87(2)(b) witnessed PO Martins say, “I’m going to punch you in your fucking face.” Both § 87(2)(b) and § 87(2)(b) by their own testimonies, were close enough to clearly hear those remarks. Their credibility is further bolstered by their assertions that they did not know § 87(2)(b) or § 87(2)(b) prior to this incident, and since they are civilian members of the NYPD.

Patrol Guide 203-11 states, “All uniformed members of the service are responsible and accountable for the proper use of force under appropriate circumstances” – more specifically, “minimum necessary force” must be used. Additionally, Patrol Guide 203-09 (2) requires that an officer be “courteous and respectful” (encl. i10). Courts have consistently affirmed that an officer may not use profanity gratuitously, or to intimidate, retaliate, or show a lack of respect for a citizen, unless such profanity is used to secure a civilian's cooperation or for other legitimate law enforcement ends. Police Department v. Dukes, OATH Index Nos. 1137-39/00 (Apr. 26, 2000) (encl. i11-17).

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g) [Redacted]  
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Team: \_\_\_\_\_

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

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

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