

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Watson	Team: Team # 6	CCRB Case #: 201113666	<input type="checkbox"/> Force	<input 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) Tuesday, 10/18/2011 9:40 PM	Location of Incident: Clinton Avenue at Crotona Park North	Precinct: 48	18 Mo. SOL 4/18/2013	EO SOL 4/18/2013	
Date/Time CV Reported Thu, 10/20/2011 10:55 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 10/20/2011 10:55 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Miguel Frias	02814	930184	048 PCT
2. POM Jose Ramos	12257	931007	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Miguel Frias	Abuse: PO Miguel Frias stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Miguel Frias	Abuse: PO Miguel Frias frisked § 87(2)(b)	
C.POM Miguel Frias	Abuse: PO Miguel Frias searched § 87(2)(b)	
D.POM Jose Ramos	Abuse: PO Jose Ramos searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 20, 2011, § 87(2)(b) filed the following complaint with the CCRB by phone. CCRB case # § 87(2)(b) was generated to refer an allegation of planted evidence to IAB on December 5, 2011. CCRB case # § 87(2)(b) was generated to refer an allegation of an impounded vehicle to OCD on August 16, 2012.

On October 18, 2011, at approximately 9:40 PM, PO Miguel Frias and PO Jose Ramos stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants in the vicinity of Clinton Avenue and Crotona Park North in the Bronx. The following allegations resulted:

- **Allegation A: Abuse of Authority: PO Miguel Frias stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(g)
[Redacted]

- **Allegation B: Abuse of Authority: PO Miguel Frias frisked § 87(2)(b)**

§ 87(2)(g)
[Redacted]

- **Allegation C: Abuse of Authority: PO Miguel Frias searched § 87(2)(b)**

§ 87(2)(g)
[Redacted]

- **Allegation D: Abuse of Authority: PO Jose Ramos searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(g)
[Redacted]

- § 87(4-b), § 87(2)(g)

[Redacted]

- § 87(4-b), § 87(2)(g)

[Redacted]

Results of Investigation

Civilian Statement(s)

Complainant: § 87(2)(b)

- § 87(2)(b)
[Redacted]

CCRB Testimony

On October 26, 2011, § 87(2)(b) was interviewed at the CCRB (encl. 4B-F) and provided a statement that was generally consistent with his telephone statement (encl. 4A) and initial complaint narrative (encl. 3B). The statements were combined with any discrepancies

noted.

On October 18, 2011, at approximately 9:40 PM, § 87(2)(b) exited § 87(2)(b) in the Bronx; he had been inside the apartment of his child's mother (whose name and apartment number he declined to provide to the CCRB) for approximately one hour before he received a phone call from his friend, § 87(2)(b) in which § 87(2)(b) indicated he was double parked outside and waiting for § 87(2)(b). § 87(2)(b) walked out of the building and observed that § 87(2)(b) was smoking a cigarette and standing next to § 87(2)(b)'s white Ford Expedition, which was parked in front of the building. § 87(2)(b)'s vehicle, a black Acura with license plate number § 87(2)(b) and no cosmetic modifications or tinted windows, was double parked next to § 87(2)(b)'s vehicle. As § 87(2)(b) walked out of the building, he noticed what appeared to be a black unmarked police vehicle with turret lights slowly drive past them—the vehicle did not stop.

§ 87(2)(b) approached § 87(2)(b) and they immediately entered the black Acura; they did not stop to speak or interact with any other individuals and no one else was present. § 87(2)(b) denied stopping to engage his white Ford Expedition, which remained parked in front of the building. § 87(2)(b) entered the driver's seat and § 87(2)(b) entered the passenger's seat of the black Acura; both windows had been rolled down. There was no delay before they drove away and § 87(2)(b) did not put down or pick up any objects inside of the vehicle. They decided to drive to a grocery store on East 175th Street and Crotona Avenue. Both § 87(2)(b) and § 87(2)(b) wore seatbelts and neither of them used their cell phones.

§ 87(2)(b) drove north on Prospect Avenue and made a westbound turn on East 175th Street when he noticed the same unmarked police vehicle following them. § 87(2)(b) then made a southbound turn onto Clinton Avenue when the unmarked vehicle activated its turret lights—§ 87(2)(b) immediately pulled over next to a fire hydrant at 1794 Clinton Avenue, which is an apartment building in a well-lit area. § 87(2)(b) estimated that they had driven for less than five minutes at 10-15 miles per hour before being pulled over. The officers did not make any statements over the loudspeaker. § 87(2)(b) retrieved his wallet from the side of the door and placed it on top of his lap; he did not reach anywhere else. § 87(2)(b)'s left arm was positioned on top of his leg and his right arm was resting against the door pane; he did not move his hands or reach for anything.

Two plainclothes officers, identified via investigation as PO Miguel Frias and PO Jose Ramos of 48th Precinct, exited the unmarked patrol vehicle and approached their vehicle. PO Frias approached the passenger's side and PO Ramos approached the driver's side. § 87(2)(b) asked why they had been stopped. PO Frias replied, "Because it's a red hot zone." § 87(2)(b) replied, "You're pulling over any car because we're in a hot zone?" § 87(2)(b) did not make any additional statements or seek further clarification about the meaning of "hot zone," as he understood this phrase to convey recent shootings in the nearby Murphy Housing Development. PO Frias requested § 87(2)(b)'s ID and § 87(2)(b) provided it. PO Ramos requested § 87(2)(b)'s driver's license and registration; § 87(2)(b) provided the documents and did not reach anywhere else. § 87(2)(b) then relaxed his hands on top of his lap and did not reach for anything. § 87(2)(b) did not pay attention to their conversation, but believed that PO Ramos stated there was a discrepancy between § 87(2)(b)'s name and the name on the vehicle registration. PO Ramos did not make any additional or repeated requests.

PO Frias and PO Ramos directed § 87(2)(b) and § 87(2)(b) to exit the vehicle. PO Frias opened § 87(2)(b)'s door; he did not know who opened § 87(2)(b)'s door. § 87(2)(b) exited the vehicle with his cell phone in his hand and placed it into the right front pocket of his hooded sweatshirt. He joined PO Frias at the rear bumper and complied with orders to spread his legs. PO Frias patted his body from his chest down to ankles; he removed keys from § 87(2)(b)'s front sweatshirt pocket, but did not reach into any other pocket. PO Frias placed his

index finger inside of § 87(2)(b)'s boots and pushed downward onto the sides of each foot. At this time, PO Ramos interacted with § 87(2)(b) at the driver's side, patting down his chest and waist; § 87(2)(b) could not see if PO Ramos did anything else.

§ 87(2)(b) then joined § 87(2)(b) and PO Frias at the rear bumper as PO Ramos searched around and beneath the driver's seat, passenger seat and back seat of § 87(2)(b)'s vehicle; § 87(2)(b) did not recall if the interior light of the car was on, but believed that he was able to see PO Ramos's bent torso and arms move around inside of the vehicle. PO Ramos searched the vehicle for five minutes and did not remove anything from the vehicle. § 87(2)(b) did not see PO Ramos open any of the compartments or search any other part of the car. PO Ramos approached them at the rear bumper and there was no discussion regarding the vehicle search. § 87(2)(b) did not ask why his vehicle had been searched; nor did PO Ramos provide an explanation. PO Frias and PO Ramos instructed § 87(2)(b) and § 87(2)(b) to return to their seats inside of the vehicle; § 87(2)(b) and § 87(2)(b) complied.

In his initial statements to CCRB, § 87(2)(b) alleged that additional plainclothes officers, identified via investigation as Sgt. Michael Connizzo, PO Brian Leo and PO Joseph Flores of the 48th Precinct Anti-Crime Squad, appeared after he was questioned and handcuffed. He later alleged in his sworn statement, that Sgt. Connizzo asked him if he owned the white Ford Expedition. § 87(2)(b) replied by denying ownership of the vehicle because he felt that the officers did not have sufficient reason to investigate the parked vehicle. One of the officers requested the keys to the vehicle and § 87(2)(b) denied having them even though they were in his pocket.

PO Frias commanded § 87(2)(b) and § 87(2)(b) to exit the car again, and remained with them at the rear bumper while PO Ramos conducted a second search on and beneath the passenger's seat. PO Ramos returned with a switch-blade knife in his hand, opened it as he approached them and said, "Arrest him." § 87(2)(b) observed that the knife had a silver-handle with two 4-inch blades that flipped outward; he had not seen the knife before and denied ownership. PO Frias handcuffed him and placed him into the patrol vehicle. § 87(2)(b) was permitted to drive away from the scene and did not receive a summons for any violation. § 87(2)(b) was transported to the 48th Precinct stationhouse, where he was charged with criminal possession of a weapon. Upon his release, he learned that his white Ford Expedition was impounded despite the fact that it was legally parked. § 87(2)(b)'s vehicle was still impounded at the time he was interviewed at CCRB.

Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

On October 25, 2011, § 87(2)(b) provided a brief telephone statement (encl. 5A).

On October 18, 2011, at approximately 9:40 PM, § 87(2)(b) drove in front of § 87(2)(b) in the Bronx, to pick up § 87(2)(b), § 87(2)(b) and § 87(2)(b) entered § 87(2)(b)'s vehicle and § 87(2)(b) asked him to drive to the store. They made two turns before they were pulled over at Clinton Avenue and Crotona Park North by officers, identified via investigation as PO Miguel Frias and PO Jose Ramos.

§ 87(2)(b) asked why he was pulled over and PO Frias said that § 87(2)(b) was double-parked around the block before he picked up § 87(2)(b); § 87(2)(b) admitted that he was double-parked for less than a minute. PO Frias and PO Ramos told them to step out of the car. PO Frias and PO Ramos searched the vehicle, and let them re-enter. PO Frias searched the passenger side of the vehicle and found a butterfly knife with two 3' blades. PO Frias asked § 87(2)(b)

§ 87(2)(b) if it was his knife, and § 87(2)(b) denied ownership or knowledge of where the knife originated. He had no knowledge whether the knife belonged to § 87(2)(b) PO Frias then asked § 87(2)(b) questions about an unidentified male he had spoken with while waiting for § 87(2)(b) PO Frias asked § 87(2)(b) who owned the parked white Ford Expedition, which had its headlights on. § 87(2)(b) confirmed with the CCRB that he observed the vehicle's headlights on. He could not hear the remainder of their conversation, which occurred several feet away. PO Frias then arrested § 87(2)(b) for possession of the knife.

§ 87(2)(b) failed to appear at the CCRB for two scheduled interviews on October 28, 2011 and November 4, 2011. On November 4, 2011, a query of Department of Corrections online inmate locator revealed that he was not incarcerated. As of the date of this report he has not contacted the investigator to reschedule his appointment.

NYPD Statement(s):

Subject Officer: PO MIGUEL FRIAS

- *PO Frias, § 87(2)(b) old at the time of the interview, is a Hispanic male who stands 6'1" tall, weighs 240 lbs. and has black hair and brown eyes.*
- *On October 18, 2011, PO Frias worked from 2:00 PM to 11:35 PM, assigned to Anti-Crime with PO Jose Ramos. He was dressed in plainclothes and assigned to an unmarked black Chevy Impala. PO Ramos operated the vehicle and PO Frias was the recorder.*

Memo book (encl. 6A-C)

PO Frias recorded the following memo book entries regarding the incident: At 21:45: car stop at Clinton and Crotona Park North. At 21:50: one under.

Arrest Report and Property Voucher (encl. 6D-H)

Arrest Report #§ 87(2)(b) reflects that § 87(2)(b) was charged with § 87(2)(b) for possession of a gravity knife. A knife was vouchered as evidence.

CCRB Testimony (encl. 6I-K)

On December 13, 2011, PO Frias was interviewed at the CCRB. On October 18, 2011, at approximately 9:40 PM, PO Frias and PO Ramos were driving their patrol vehicle on Prospect Avenue towards East 178th Street in the Bronx, when PO Frias observed a black vehicle double parked next to a Ford Explorer SUV. The black vehicle was unoccupied. The passenger window of the SUV was rolled down and a Hispanic male, identified via investigation as § 87(2)(b) stood on the sidewalk and stuck his head into the vehicle, through the window. PO Frias then observed § 87(2)(b) seated in the passenger seat of the SUV, bend his head and torso down and out of view as the patrol vehicle drove by. PO Frias believed that § 87(2)(b)'s behavior was indicative of "hiding something." When asked to elaborate on this suspicion, PO Frias explained that § 87(2)(b) hid at the sight of the patrol vehicle, which indicated that he was potentially inside a stolen vehicle. PO Frias could not tell if § 87(2)(b) did anything else. Although PO Frias and PO Ramos had not identified themselves as officers, PO Frias believed that many civilians recognize Chevy Impalas as unmarked police vehicles.

PO Frias informed PO Ramos of his observation and directed him to drive around the block to re-approach the vehicle for additional observations. When they drove down the street for a second time, they observed that § 87(2)(b) and § 87(2)(b) were inside the black vehicle and had begun to drive north towards Prospect Avenue and East 178th Street. The SUV was unoccupied and remained parked.

PO Frias decided that it was necessary to stop the black vehicle to investigate § 87(2)(b)

§ 87(2)(b)'s prior presence in the parked SUV. PO Frias and PO Ramos followed the black vehicle and stopped it approximately one block away at Clinton Avenue and Crotona Park North. PO Frias approached the passenger side and PO Ramos approached the driver's side. While approaching the black vehicle, PO Frias stood less than half the car's length away when he observed § 87(2)(b) fidget and move his body. When provided an additional opportunity to explain his observations, PO Frias explained that § 87(2)(b) leaned his body to the right side towards the passenger window, then reached his right arm down towards his back and leaned his body backwards towards the seat. PO Frias could not see § 87(2)(b)'s hand or if he held a particular object. This behavior made PO Frias nervous, and he suspected that § 87(2)(b) held an unknown weapon in his hand. PO Frias further explained that this suspicion was based on a prior car stop where a defendant exhibited similar behavior and had weapons. PO Frias also suspected that § 87(2)(b)'s movements indicated a potential attempt to "get rid of evidence."

PO Frias approached § 87(2)(b)'s window and requested ID, which § 87(2)(b) provided. Upon the initiation of their conversation, § 87(2)(b) ceased moving his body and made no additional movements. PO Frias asked § 87(2)(b) what he was doing in the SUV around the corner. § 87(2)(b) denied having been inside the SUV, but stated that he had stood outside of it. PO Frias repeated that he saw § 87(2)(b) in the SUV. PO Frias then ordered § 87(2)(b) out of the vehicle because of the furtive movements he described. When § 87(2)(b) exited the vehicle, PO Frias decided to frisk him for safety reasons, based on the following factors: § 87(2)(b) fidgeted as previously described, and lied about his presence in the SUV. PO Frias did not observe any bulge or additional indications of a weapon on § 87(2)(b)'s person before conducting the frisk. PO Frias frisked § 87(2)(b)'s waistband, torso and legs, but did not enter his pockets or shoes. During this time, § 87(2)(b) remained seated in the vehicle and spoke with PO Ramos. PO Frias was not able to overhear any conversation between PO Ramos and § 87(2)(b). He did not recall if § 87(2)(b) provided ID. He did not recall any conversation in which officers alleged that the black vehicle was stolen or had insufficient paperwork. He did not recall if § 87(2)(b) exited the vehicle or if he was frisked or searched.

While PO Frias frisked § 87(2)(b), PO Ramos walked around the front of the vehicle and observed a knife located on top of § 87(2)(b)'s seat in the vehicle. PO Ramos informed PO Frias of the knife and gave the knife to him. PO Frias observed that it was a gravity knife. PO Frias remained standing behind the black vehicle as PO Ramos conducted a search of vehicle. When asked why the vehicle was searched, PO Frias provided the following reasons: PO Frias feared for his safety and § 87(2)(b) had provided inconsistent statements and demonstrated the abovementioned furtive movements. PO Ramos then searched the lunge-able area of the armrest, driver's seat, and passenger seat. PO Frias did not recall if the rear seats were searched, but denied that the trunk was searched. PO Ramos did not locate any additional weapons. PO Frias did not recall if § 87(2)(b) consented to the search.

§ 87(2)(b) was arrested for possession of the gravity knife and was charged with § 87(2)(b). § 87(2)(b) was released without further questioning or a summons. PO Frias did not recall if a Stop, Question and Frisk report was prepared for § 87(2)(b). PO Frias then revisited the parked Ford SUV and ran a check of the license plate. The results showed that the vehicle belonged to § 87(2)(b) who continued to deny ownership of the vehicle. Sgt. Connizzo responded to the location to verify the arrest. He arrived after § 87(2)(b) was frisked and handcuffed. Sgt. Connizzo was not alerted about the stop and did not authorize it. Sgt. Connizzo did not witness the vehicle search or the frisk. PO Frias did not search the vehicle. PO Frias called the vehicle in to be towed to be vouchered pursuant to § 87(2)(b)'s arrest after PO Frias completed his tour. PO Frias was later informed that unspecified narcotics were recovered in the center console of the SUV and were vouchered with § 87(2)(b)'s arrest.

Subject Officer: PO JOSE RAMOS

- *PO Ramos, § 87(2)(b) old at the time of incident, is a Hispanic male who stands 5'7" tall, weighs 165 lbs. and has black hair and brown eyes.*
- *On October 18, 2011, PO Ramos worked from 2:00 PM to 11:35 PM, assigned to Anti-Crime with PO Miguel Frias. He was dressed in plain clothes and operated an unmarked vehicle.*

Memo book (encl. 7A-B)

PO Ramos did not record any memo book entries regarding the incident.

CCRB Testimony(encl. 7C-D)

On January 5, 2012, PO Ramos provided the following statement at the CCRB.

On October 18, 2011, at approximately 9:40 PM, PO Ramos and PO Frias were on patrol in their unmarked RMP at Clinton Avenue and Prospect Avenue in the Bronx, when PO Frias alerted PO Ramos that he observed a male—identified via investigation as § 87(2)(b)—suspiciously duck down several times inside of a parked SUV. PO Ramos did not see § 87(2)(b) because he had been looking straight ahead driving. PO Frias did not provide any additional information regarding his observations.

PO Ramos circled the block, per PO Frias's instructions. PO Frias alerted him that § 87(2)(b) was out of the SUV and had entered another vehicle which was double parked next to the SUV. PO Ramos did not observe who was seated in the second vehicle; his attention was called to it by PO Frias, who stated, "That's him." The vehicle drove approximately one block to Clinton Avenue and Crotona Park North before PO Frias directed him to stop the vehicle. PO Frias explained that he wished to stop the vehicle because § 87(2)(b) looked suspicious when he ducked down several times in the SUV at the sight of police officers; PO Frias did not state that he suspected § 87(2)(b) of a specific crime, only that he desired to investigate § 87(2)(b)'s behavior.

When PO Frias and PO Ramos stopped them, PO Ramos, still seated inside of the vehicle, observed § 87(2)(b) move around by shifting his shoulders left to right. § 87(2)(b)'s hands were out of sight and PO Ramos could not tell what § 87(2)(b) did; however, he believed that § 87(2)(b)'s arms moved along his sides. § 87(2)(b) did not do this before he was stopped. PO Ramos worried about § 87(2)(b)'s movement, but was unable to tell if § 87(2)(b) reached into a pocket or if he pushed any items into the vehicle. PO Frias and PO Ramos exited their RMP and approached the vehicle. At this time, § 87(2)(b) ceased moving. PO Ramos approached the driver's side and PO Frias approached the passenger side. PO Ramos concentrated more on the driver, § 87(2)(b) who was calm in demeanor.

PO Ramos spoke with the driver, § 87(2)(b) and asked for his license, registration, destination and origin. § 87(2)(b) provided his information and various unspecified inconsistent responses. Though PO Ramos did not focus on § 87(2)(b) he observed that he acted "nervously," before PO Frias commanded him to exit the vehicle. When given further opportunity to elaborate on his observation, PO Ramos stated that he did not interact with § 87(2)(b) and only saw that § 87(2)(b) looked around and was tense. PO Frias pulled § 87(2)(b) out of the vehicle—PO Frias did not state why he did this, but PO Ramos believed that this was due to § 87(2)(b)'s prior movement in the vehicle. At the same time, PO Ramos commanded § 87(2)(b) out of the vehicle, and § 87(2)(b) complied. PO Ramos then immediately observed the handle of a knife, wedged between the vertical and horizontal folds of the passenger seat. PO Ramos could not describe the knife, but recalled that "more than half" of it was visible and therefore recognizable as a knife.

PO Ramos alerted PO Frias to the knife, at which time, PO Frias took § 87(2)(b) to the

rear of the vehicle. He believed that PO Frias frisked § 87(2)(b) but did not observe their interaction, because he was engaging § 87(2)(b) PO Ramos did not hear PO Frias's conversation with § 87(2)(b) or have any knowledge that § 87(2)(b) was searched. PO Ramos frisked § 87(2)(b)'s waistband and legs; due to the presence of the knife, he desired to ensure that § 87(2)(b) did not have weapon. He denied reaching into § 87(2)(b)'s pockets. PO Ramos then conducted a vehicle search, searching on top and beneath the front and passenger seat and shining his flashlight on the backseats on the vehicle. He denied searching any other areas of the vehicle or searching it more than once. He did not observe any additional weapons in the vehicle. He did not ask for consent to search the vehicle. He noted that he would have been within patrol guidelines to search the whole vehicle for an inventory search, but did not believe that the vehicle needed to be transported to the stationhouse because the weapon located in § 87(2)(b)'s seat was not egregious such as a gun or narcotics.

§ 87(2)(b) denied possession of the knife, but PO Ramos believed that it belonged to him because it was beneath where he had been seated. PO Frias handcuffed § 87(2)(b) for § 87(2)(b). Sgt Connizzo was called to the scene to verify the arrest—he had not been present for the vehicle search. PO Ramos learned that the SUV—which belonged to § 87(2)(b)—was searched and seized after he ended his tour, but had no knowledge of who executed the vehicle search and vouchering. PO Ramos explained that he did not create a memo book entry because he did not execute the arrest. He was not certain if a UF-250 was prepared for § 87(2)(b).

Arrest for Incident and Disposition

- Case number § 87(2)(b) remains open. The next scheduled court date is for § 87(2)(b) in Bronx Criminal Court (encl. 8D-G).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of March 23, 2012 with regard to the incident (encl. 8O).

Civilian(s) Criminal History

- As of August 16, 2012, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b) (encl. 8A-N):
 - § 87(2)(b) [REDACTED]
 - [REDACTED]

Civilian(s) CCRB History

- § 87(2)(b) has filed the following CCRB complaints (encl. 2C):
 - § 87(2)(b) [REDACTED]

Subject Officer(s) CCRB History

- PO Miguel Frias has been a member of the service for 9 years and there are two substantiated CCRB allegations against him (encl. 2A):
 - In CCRB 200401687, PO Frias was substantiated for refusal to provide name and shield. He received instructions.
 - In CCRB 200703392, PO Frias was substantiated for improper strip search, retaliatory summons, § 87(4-b), § 87(2)(g) and an improper stop.

PO Frias pled guilty and received a penalty of 15 vacation days.

- PO Jose Ramos has been a member of the service for 9 years and there is one substantiated CCRB allegation against him (encl. 2B):
 - In CCRB 200701344, PO Ramos was substantiated for improper vehicle search. Charges were recommended; however, he was found not guilty.

Conclusion

Identification of Subject Officers

PO Frias admitted to initiating the vehicle stop and frisking § 87(2)(b). Therefore, Allegations A and B were pleaded against him. § 87(2)(b) alleged that he was searched by PO Frias. Therefore, Allegation C was pleaded against PO Frias. PO Ramos admitted to conducting the vehicle search. Therefore, Allegation D was pleaded against him. PO Ramos failed to prepare a memo book entry and stop and frisk report as required, and Allegations E and F regarding other misconduct were pleaded against him.

Allegations Not Pleaded

§ 87(2)(b) alleged that PO Ramos frisked § 87(2)(b). However, § 87(2)(b) did not allege this in his statement to the CCRB. § 87(2)(g)

Investigative Findings and Recommendations

Allegation A: Abuse of Authority: PO Miguel Frias stopped the car in which § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Frias stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants. PO Frias, who initiated the vehicle stop, explained that he observed that they were double parked, which is a violation of Vehicle and Traffic Law §1202 (encl. 1A). § 87(2)(b) and § 87(2)(b) admitted that they were double parked. PO Frias also explained that he observed § 87(2)(b) hide at the sight of officers while seated in a different parked vehicle, and desired to investigate this behavior.

In the case of People v. Robinson, 271 A.D.2d 17 (2000), the Court of Appeals held that when an officer has probable cause to believe a driver has committed a traffic infraction and stops the car, there is no violation of the State Constitution if the officer's primary motivation is to conduct an unrelated investigation (encl. 1B-F). § 87(2)(g)

§ 87(2)(g)

Allegation B: Abuse of Authority: PO Miguel Frias frisked § 87(2)(b)

Allegation C: Abuse of Authority: PO Miguel Frias searched § 87(2)(b)

§ 87(2)(b) alleged that PO Frias frisked and searched him prior to PO Ramos's alleged discovery of the gravity knife on the passenger seat. PO Frias admitted that he frisked § 87(2)(b) before the knife was discovered, but denied that § 87(2)(b) was searched during the incident. § 87(2)(b) provided minimal information, but did not allege that officers frisked or searched civilians during the incident.

PO Ramos testified that when he approached the vehicle, he observed § 87(2)(b) shift his shoulders and move his arms along his sides while in the vehicle; § 87(2)(b)'s hands were

out of view and he believed that he posed a threat. PO Frias testified that he observed § 87(2)(b) lean his body towards the passenger window, reach his right arm towards his back and lean back towards the seat. Prior vehicle stop experience led PO Frias to suspect that § 87(2)(b) held an unknown weapon in his hand or was attempting to get rid of evidence. In his CCRB testimony, § 87(2)(b) maintained that he did not move his hands or reach for any objects as the officers approached the vehicle.

According to People v. Allen, 42 A.D. 3d 311 (1st Dept. 2007), an officer may frisk an individual during a vehicle stop when the officer observes the individual engaged in furtive or suspicious movements or conduct inside the vehicle, in combination with other factors (encl. 1G).

§ 87(2)(g)
[Redacted]

Allegation D: Abuse of Authority: PO Jose Ramos searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that PO Ramos searched the vehicle. PO Ramos explained that he did so after observing a gravity knife in plain view, located on top of the passenger seat of the vehicle. Though PO Frias removed the passenger, he did not observe the knife and § 87(2)(b) and § 87(2)(b) denied knowledge of a gravity knife in the vehicle.

According to People v. Santana, 622 N.Y.S.2d (1st Dept. 1995), officers can search a car if they have probable cause that it contains evidence of contraband or a crime (encl. 1H).

§ 87(2)(g)
[Redacted]

§ 87(4-b), § 87(2)(g)
[Redacted]

Team: _____

:

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

