

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Janine Zajac	Team: Team # 1	CCRB Case #: 201201008	<input type="checkbox"/> Force	<input checked="" 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) Wed, 01/18/2012 10:30 AM	Location of Incident: [REDACTED]	Precinct: 43	18 Mo. SOL 07/18/2013	EO SOL 7/18/2013	
Date/Time CV Reported Mon, 01/23/2012 5:47 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 01/23/2012 5:47 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Abdiel Anderson	01429	§ 87(2)(b)	NARCB BX
2. SGT Richard Vetrano	03371	§ 87(2)(b)	NARCB BX
3. DT3 Edwin Gines	03600	§ 87(2)(b)	NARCB BX
4. DT3 David Roberts	02338	§ 87(2)(b)	NARCB BX
5. DT1 Ronald Pino	02918	§ 87(2)(b)	DBMN OP

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 Dexter Powers	06200	902222	NARCB BX
2. DT3 Pedro Lopez	06530	904387	NARCB BX

Officer(s)	Allegation	Investigator Recommendation
A . SGT Richard Vetrano	Abuse of Authority: At § 87(2)(b) [REDACTED] in the Bronx, Sgt. Richard Vetrano supervised the stop of § 87(2)(b) [REDACTED].	A . § 87(2)(g) [REDACTED]
B . DT3 Edwin Gines	Abuse of Authority: At § 87(2)(b) [REDACTED] in the Bronx, Det. Edwin Gines stopped § 87(2)(b) [REDACTED].	B . § 87(2)(g) [REDACTED]
C . DT3 Edwin Gines	Abuse of Authority: At § 87(2)(b) [REDACTED] in the Bronx, Det. Edwin Gines searched § 87(2)(b) [REDACTED].	C . § 87(2)(g) [REDACTED]
D . DT3 Edwin Gines	Discourtesy: At § 87(2)(b) [REDACTED] Det. Edwin Gines spoke discourteously to § 87(2)(b) [REDACTED].	D . § 87(2)(g) [REDACTED]
E . DT3 Edwin Gines	Abuse of Authority: At § 87(2)(b) [REDACTED] in the Bronx, Det. Edwin Gines arrested § 87(2)(b) [REDACTED].	E . § 87(2)(g) [REDACTED]
F . DT3 David Roberts	Off. Language: At § 87(2)(b) [REDACTED] in the Bronx, Det. David Roberts made remarks to § 87(2)(b) [REDACTED] based upon sex.	F . § 87(2)(g) [REDACTED]
G . DT3 David Roberts	Discourtesy: At the 43rd Precinct stationhouse, Det. David Roberts spoke discourteously to § 87(2)(b) [REDACTED].	G . § 87(2)(g) [REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	
I . DT3 Abdiel Anderson	Other: Det. Abdiel Anderson intentionally made false official I . statements in violation of Patrol Guide procedure 203-08.	§ 87(2)(g) [REDACTED]

Case Summary

On January 23, 2012, § 87(2)(b) filed the following complaint with the CCRB by leaving a message on the Call Processing System (encl. 5a-b).

On January 18, 2012, § 87(2)(b) entered a bodega located at § 87(2)(b) in the Bronx, where he encountered Det. Edwin Gines and Det. David Roberts, both of Bronx Narcotics. The following allegations resulted.

- **Allegation A – Abuse of Authority:** At § 87(2)(b) in the Bronx, Sgt. Richard Vetrano supervised the stop of § 87(2)(b)
- **Allegation B – Abuse of Authority:** At § 87(2)(b) in the Bronx, Det. Edwin Gines stopped § 87(2)(b) § 87(2)(g)
- **Allegation C – Abused of Authority:** At § 87(2)(b) in the Bronx, Det. Edwin Gines searched § 87(2)(b)
- **Allegation D – Discourtesy:** At § 87(2)(b) Det. Edwin Gines spoke discourteously to § 87(2)(b)
- **Allegation E – Abuse of Authority:** At § 87(2)(b) in the Bronx, Det. Edwin Gines arrested § 87(2)(b)
- **Allegation F – Offensive Language:** At § 87(2)(b) in the Bronx, Det. David Roberts made remarks to § 87(2)(b) based upon sex.
- **Allegation G – Discourtesy:** At the 43rd Precinct stationhouse, Det. David Roberts spoke discourteously to § 87(2)(b) § 87(2)(g)
- § 87(4-b), § 87(2)(g)
- **Allegation I – Other Misconduct:** Det. Abdiel Anderson intentionally made false official statements in violation of Patrol Guide procedure 203-08. § 87(2)(g), § 87(4-b)

Results of Investigation

Complainant/Victim: § 87(2)(b)

- § 87(2)(b)

CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on February 8, 2012 (encl. 6a-f), and his statement was consistent with his initial complaint. On January 18, 2012, at approximately 10:30 a.m., § 87(2)(b) and his girlfriend, § 87(2)(b) left his building, § 87(2)(b) in the Bronx, and went to a bodega across the street, identified via investigation as § 87(2)(b), located at § 87(2)(b) (encl. 4a). § 87(2)(b) was wearing a grey zip-up sweatshirt with a black leather puffy vest over it, olive-colored khaki cargo pants, and a black

baseball hat. § 87(2)(b) may have had tissues or paper in his vest pockets, but nothing else. His phone was in his hand and his wallet was in his back right pants pocket. The only thing § 87(2)(b) had in his pants pockets was a razor, which he uses for work.

§ 87(2)(b) and § 87(2)(b) entered the bodega and § 87(2)(b) prepared a cup of coffee for himself. He paid for it at the counter, and he used his cell phone to make a call. There was an older woman in the store who § 87(2)(b) does not know. § 87(2)(b) exited the bodega in front of § 87(2)(b) and as § 87(2)(b) tried to leave, a man, identified via investigation as Det. Edwin Gines, came inside and blocked the door so that § 87(2)(b) could not leave. § 87(2)(b) did not mention this in his initial complaint. § 87(2)(b) described Det. Gines as a 6'0" light-skinned Hispanic male in his late 30s to mid-40s with a heavy build, 200-220 lbs., with short hair, light eyes, and light facial hair that had some grey in it. This occurred less than five minutes after § 87(2)(b) entered the store. § 87(2)(b) was not paying close attention and was trying to leave, so he said, "Excuse me," to try to get past Det. Gines. Det. Gines said, "You know what this is," and told § 87(2)(b) to put his phone and coffee on the counter. § 87(2)(b) did not know he was a police officer and initially thought Det. Gines was going to rob the bodega, as he lives in a bad neighborhood.

§ 87(2)(b) put his phone and coffee on the counter, and when he turned back around, Det. Gines began to reach into § 87(2)(b)'s pockets. Det. Gines reached first into § 87(2)(b)'s vest pockets and took out the tissues or papers, felt them, and then put them back in his vest pockets. § 87(2)(b) told Det. Gines that he knows that he is supposed to empty his own pockets for everyone's safety. Det. Gines said, "Shut the fuck up," and reached into § 87(2)(b)'s front pants pockets one at a time, though § 87(2)(b) could not remember which of these pockets Det. Gines reached into first. Det. Gines reached into § 87(2)(b)'s back right pocket and pulled out his bi-fold wallet. Det. Gines opened the wallet and rifled through the papers inside of it. Det. Gines took § 87(2)(b)'s identification out of the wallet, looked at it briefly, put it back in the wallet, then gave the wallet back to § 87(2)(b). § 87(2)(b) was not sure if Det. Gines reached into his back left pants pocket. Det. Gines did not reach into § 87(2)(b)'s hoodie sweatshirt pockets.

When he finished searching him, Det. Gines pulled his badge out from beneath his shirt and told § 87(2)(b) he was an officer and said, "You know what you did." § 87(2)(b) said, "What do you mean?" and Det. Gines said, "You made a sale with this kid." Two officers, identified via investigation as Det. Abdiel Anderson and Sgt. Richard Vetrano, entered the bodega and brought a sixteen-year-old boy who was wearing a royal blue coat with them into the store. This boy has been identified via investigation as § 87(2)(b). § 87(2)(b) described Det. Anderson as a black male with dreadlocks. § 87(2)(b) described Sgt. Vetrano as a slim white male. § 87(2)(b) did not interact with Det. Anderson or Sgt. Vetrano and did not describe them further. Sgt. Vetrano was outside of the store for most of the incident. Officers searched § 87(2)(b). § 87(2)(b) told the officers that he recognized § 87(2)(b) from the neighborhood, but he did not know him. § 87(2)(b) had not noticed § 87(2)(b) before he entered the bodega. One of the officers asked § 87(2)(b) if he knew § 87(2)(b) and § 87(2)(b) said, "No, I don't know him, but we see each other around."

Det. Gines reached toward the front of § 87(2)(b)'s waistband and pulled the waistband of his pants out as though he was going to look down his pants, and § 87(2)(b) pushed Det. Gines' hand away and told him that he has officers in his family and "knows the procedures." Det. Gines said, "Shut the fuck up, let me do my job and you can go on your way." § 87(2)(b) said later in his interview that Det. Gines did not look into his pants until later after he was handcuffed. The cashier behind the counter said, "Officer, he just came in here to get his coffee, he didn't do anything." This man works there every morning, and he is approximately 28-32 years old.

While § 87(2)(b) was interacting with Det. Gines in the store, § 87(2)(b) tried to come

back into the store. An officer, identified via investigation as Det. David Roberts, stood outside of the store and blocked the doorway and would not allow her back inside. § 87(2)(b) described Det. Roberts as a 6'0" heavy-set white male in his late 30s to mid-40s with light brown hair and light eyes, wearing a black hoodie and blue jeans. § 87(2)(b) told Det. Roberts something like, "He's with me, he's on his way to work and he's late." Det. Roberts came into the store as § 87(2)(b) and Det. Gines were "looking at each other hard." The officers were finishing up their interaction with § 87(2)(b).

Det. Gines said to § 87(2)(b) "Grab your phone, get the fuck out of here." As § 87(2)(b) was leaving the store, Det. Roberts and § 87(2)(b) said one or two more things to each other and then § 87(2)(b) and § 87(2)(b) walked away together. As they walked, § 87(2)(b) said to § 87(2)(b) "The only way this shit is going to stop is if we go to the Civilian Complaint [Review] Board and put in a complaint." § 87(2)(b) was approximately ten feet from the bodega door when he said this. Det. Gines was still in the store, so § 87(2)(b) assumed that one of the officers outside told him what § 87(2)(b) had said, because 30 seconds to 1 minute after § 87(2)(b) left the store, Det. Gines leaned out of the doorway of the bodega and said, "Come here, asshole. Come here." § 87(2)(b) had walked approximately ten feet from the door. § 87(2)(b) thought he had left something in the store and that was why Det. Gines was calling him back. § 87(2)(b) went into the store and Det. Gines said, "Now I'm going to give you a reason to make a complaint. Turn around, put your hands behind your back." § 87(2)(b) backed up a couple of steps and asked why he was being arrested. Det. Gines said, "Don't fucking worry about it. You know what you did. You made a sale." § 87(2)(b) raised his voice and said, "I didn't make a fucking sale. This shit is crazy." § 87(2)(b) was again not allowed to come into the store, but she told § 87(2)(b) from outside to calm down.

After § 87(2)(b) was in handcuffs, Det. Gines tried to pull the back of § 87(2)(b)'s waistband out so he could look into his pants. § 87(2)(b) held the top of his pants with his hands as they were handcuffed behind his back so that Det. Gines could not look inside. This caused § 87(2)(b)'s pants to rip near the right belt loop to the center of the waistband. § 87(2)(b) was screaming loudly outside the store and arguing with officers, and § 87(2)(b) admitted to raising his voice, such that people who were walking by stopped to watch. § 87(2)(b) was angry and yelled things like, "What the fuck are you handcuffing him for? He didn't do anything wrong." Det. Roberts said, "Yo, bitch, shut the fuck up."

§ 87(2)(b) was put in a blue van and there were two prisoners inside already, who he recognized from his neighborhood. § 87(2)(b) did not know if the van was nearby when he was arrested or when § 87(2)(b) was arguing with Det. Roberts. There were two officers in the van, and § 87(2)(b) had not seen them during his interactions with the other officers. These officers have been identified via investigation as Det. Gregory Smith and Det. John Scollo. § 87(2)(b) was irate and said things to these officers like, "It's a small world," "Karma is a motherfucker," and "Shit comes back to you." § 87(2)(b) described Det. Scollo, the driver, as a 5'7"-5'8", white or Hispanic male, a light beard with grey in it, blue eyes, mid to late 40s. § 87(2)(b) did not provide a description of Det. Smith, but he is known by the investigation to be a black male. § 87(2)(b) asked Det. Scollo to loosen his handcuffs, but he would not.

§ 87(2)(b) was very upset when they arrived at the precinct stationhouse after being in the van for approximately two-and-a-half hours. § 87(2)(b) was irate, crying, and saying things like, "Fuck you," "Don't ask me for information." Det. Roberts said to § 87(2)(b) "You need a fucking tissue? Man up." Once § 87(2)(b) was in the holding cell, an officer, who he assumed was the desk sergeant because he had been seated behind the desk, came to the cell and said, "Yo asshole, what are you making so much noise for? You do the crime, you do the time." § 87(2)(b) later said that

this sergeant said something like, “What the fuck is your problem?” § 87(2)(b) said the sergeant was not trying to be vulgar, but was saying it in a casual way. § 87(2)(b) described this officer as a 5’9”-5’10” uniformed white male in his late 40s or early 50s, with grey hair, an unknown eye color and a medium build. This sergeant remains unidentified. § 87(2)(b) went to Bronx Central Booking, where he was informed that he was charged with disorderly conduct. § 87(2)(b)’s phone was cracked when he got it back when he was released. He did not believe officers broke it intentionally. After he was released, § 87(2)(b) talked to § 87(2)(b) who admitted to § 87(2)(b) he sold drugs to an undercover officer.

Attempts to Contact Civilians

§ 87(2)(b) provided § 87(2)(b)’s address as his own, but he did not provide her phone number because it was not working. He said she could be reached at his numbers. § 87(2)(b) was reached on his cell phone February 15, 2012. He was at work and was not with § 87(2)(b). He agreed to call at a later time to provide her email address. Someone answered § 87(2)(b)’s home number on March 1, 2012, but then hung up. § 87(2)(b)’s cell number was not in service on March 1, 2012. Letters were sent to § 87(2)(b) on March 1, 2012 and March 13, 2012, with § 87(2)(b)’s name included on them, and an email was sent to § 87(2)(b) with § 87(2)(b)’s name on it on March 13, 2012. Voice messages were left for § 87(2)(b) on § 87(2)(b)’s home number on March 15, 2012, and March 26, 2012. § 87(2)(b) wrote § 87(2)(b)’s last name unclearly, and the spelling of her last name was never confirmed as he did not respond to attempts to contact him. As of the date of this report the investigation has not made contact with § 87(2)(b).

The incident location was visited on February 14, 2012. The employee working at the time, which was similar to the arrest time, did not wish to provide his name and said he had only been working at the deli for a week. He said the video cameras in the store were controlled by the § 87(2)(b) whose name he did not know. An employee of the deli was reached on February 17, 2012, and they said the employee who was working on the date of the incident no longer worked there. They gave the name of the § 87(2)(b) as § 87(2)(b) and said he could be reached in the morning. This employee had no knowledge of a video surveillance system. During a call on the morning of February 24, 2012, the employee who answered said § 87(2)(b) could be reached after noon. The employee who answered on the afternoon of February 24, 2012 took a message for § 87(2)(b) but said that he had overheard § 87(2)(b) talking on the phone with someone on a different date and saying that the camera had not recorded the incident, though he did not know who § 87(2)(b) was saying this to. A letter was sent to § 87(2)(b) on February 28, 2012. This letter was not returned by the USPS. As of the date of this report the investigation has not made contact with § 87(2)(b).

Witness: § 87(2)(b)

- § 87(2)(b)

A Lexis Nexis search produced an address and one working phone number for § 87(2)(b). Letters were sent on March 15, 2012 and March 26, 2012. Voice messages were left on March 15, 2013 and March 26, 2013, and on April 3, 2012 the person who answered said it was the wrong number. The letters were not returned by the USPS. A phone number for § 87(2)(b) was found in an arrest report from May 1, 2013. § 87(2)(b)’s sister answered and took a message for him on May 14, 2013, and she provided his cell phone number. A voice message was left on § 87(2)(b)’s cell phone on May 14, 2013. § 87(2)(b) called back on May 14, 2013 and he

remembered that he was arrested at § 87(2)(b) sometime around January of 2012 after an undercover officer approached him, but he did not remember that anyone else was arrested with him. He did not recall seeing a man in his 30s being handcuffed or arrested on that day at § 87(2)(b). He had no recollection of another arrest on the date he was arrested.

NYPD Statements:

Subject Officer: DET. EDWIN GINES

- § 87(2)(b) -old Hispanic male, 5'11", 200 lbs., with a bald head and brown eyes.
- On the date of the incident, Det. Gines worked from 7:27 a.m. until 4:00 p.m. He worked with Det. Roberts in the chase car for a buy and bust operation with the field team. He was dressed in plainclothes and assigned to an unmarked car, #§ 87(2)(b) the description of which he could not recall. At the time of his CCRB interview, Det. Gines had his head shaved bald, and he confirmed that it was the same on the date of the incident. He had a goatee during his CCRB interview, but could not recall what his facial hair looked like on the date of the incident.

Memo Book

Det. Gines had the following memo book entries pertaining to this incident (encl. 13a-c). At 9:55 a.m. the undercover officer had a positive buy, and at 10:00 a.m. two people were under arrest.

CCRB Testimony

Det. Gines was interviewed at the CCRB on September 25, 2012 (encl. 14a-c). On January 18, 2012 at approximately 10:30 a.m., the officer designated as the ghost officer for the team put a detailed description over the radio of two males in a grocery store at § 87(2)(b). The ghost officers for the team were identified via investigation as Det. Pedro Lopez and Det. Dexter Powers. When a description is put over the radio, it goes out to the entire field team. Det. Gines could not recall the descriptions that were transmitted. No other information about the particulars of the buy were transmitted, such as who played which role in the sale. Det. Gines and Det. Roberts were in their car approximately one block away from § 87(2)(b) when they received this information. They responded as soon as the supervisor for the team, Sgt. Vetrano, told them to move in. Sgt. Vetrano was working with Det. Anderson, who was the arresting officer for the team that day. Sgt. Vetrano did not direct Det. Gines and Det. Roberts specifically to respond, but gave this direction generally over the radio. As soon as the order was given, Det. Gines and Det. Roberts responded to the store.

Sgt. Vetrano and Det. Anderson also came to the scene, and Det. Gines believed that they arrived simultaneously. The officers did not speak to one another before entering the store, because they have done operations like these many times, in which they enter a location and hold everyone there until they have confirmation from the undercover or ghost regarding who was involved. There were two males inside at the cash register who fit the descriptions, and Det. Gines believed they were the only two males in the store. Det. Gines believed that he entered the store first. The first thing that Det. Gines said to the males was that they fit a description and they have to get a positive identification.

One of the males, whose name Det. Gines did not know but who is known by the investigation to be § 87(2)(b) became loud and irate. He yelled things like, "This shit always

happens to me, I'm always getting stopped," and "I'm always getting harassed." Det. Gines focused his attention on § 87(2)(b) and he did not recall the other male in the store saying anything. § 87(2)(b) had a cup of coffee in his hand, so Det. Gines removed the coffee from his hand and placed it on the counter for safety reasons. The officers tried to explain to him that he fit the description but that if he was not involved he would be free to go. Det. Gines was interacting with § 87(2)(b) for approximately two minutes while the team called and waited for the undercover officer to come by and identify who was involved. Det. Gines could not recall who of the officers other than himself was interacting with § 87(2)(b). Det. Gines did not tell § 87(2)(b) to "shut the fuck up," and he did not hear any other officer say this.

Generally, they will pat down someone's waistband for weapons, and Det. Gines said § 87(2)(b) was patted down to make sure he did not have weapons, but Det. Gines could not recall if he did this or if it was another officer. Det. Gines could not recall which parts of § 87(2)(b)'s body were frisked. Det. Gines did not reach into § 87(2)(b)'s pockets and he did not see any other officer do so. Det. Gines could not recall if § 87(2)(b)'s identification was obtained. Sgt. Vetrano did not interact with § 87(2)(b) but stood nearby and supervised by watching.

After interacting with § 87(2)(b) for approximately two, the undercover officer arrived and there was a positive identification for the other male in the store, known by the investigation to be § 87(2)(b) and a negative identification for § 87(2)(b) so the officers explained this to § 87(2)(b) and told him to leave. Det. Gines did not say to § 87(2)(b) "Grab your phone and get the fuck out of here." He did not hear any other officer say this. § 87(2)(b) did not immediately leave and continued to "mouth off" in the same manner as before but then exited the store. The officers continued to investigate with § 87(2)(b) must have stayed near the store, because as the officers, Det. Gines could not recall which officers specifically, were walking § 87(2)(b) out to place him in the prisoner van, § 87(2)(b) came back and began to enter the store so that his next interactions with the officers occurred in the threshold of the door. Det. Gines denied that he or any of the officers had told § 87(2)(b) to come back to the store. Det. Gines did not recall hearing § 87(2)(b) say that he was going to make a complaint about the incident, and Det. Gines did not recall hearing any officers say that they would give him something to complain about. § 87(2)(b) began to yell again, not at any officer in particular but at all of the officers in general. A crowd of approximately ten to fifteen people formed outside. Individuals in the crowd chanted, but Det. Gines could not recall anything specific they said.

One or two minutes after § 87(2)(b) started yelling, Sgt. Vetrano ordered the officers to place him under arrest. Det. Gines handcuffed § 87(2)(b) but he could not recall if other officers assisted him. § 87(2)(b) continued to yell but did not physically resist. The prisoner van usually arrives once the rest of team enters a location, so Det. Gines guessed the prisoner was probably already there when § 87(2)(b) was handcuffed, but he did not recall specifically if it was. Det. Gines could not recall if the officers in the prisoner van got out to assist with handcuffing § 87(2)(b) or to assist with crowd control. Det. Gines recalled a female present with the crowd, who said that § 87(2)(b) was always getting arrested and other things to that effect, but Det. Gines did not remember if she used profanity.

Det. Gines could not recall what his role was after he handcuffed § 87(2)(b). Det. Gines did not transport § 87(2)(b). He continued working the buy and bust operation and there were more arrests at 10:55 a.m. Det. Gines went to the precinct at 12:50 p.m. and he saw § 87(2)(b) and § 87(2)(b) as they were walked into the stationhouse, but he did not interact with them. Det. Gines did not recall if § 87(2)(b) was still upset or loud at the stationhouse. Det. Gines did not hear any officer say, "You want a fucking tissue? Man up."

Witness Officer: DET. RONALD PINO

- § 87(2)(b) -old black male, 6'2", 290 lbs., with a bald head and brown eyes.
- On the date of the incident he worked from 10:00 a.m. to 6:00 p.m. as an undercover officer for a buy and bust operation for Bronx Narcotics. He was dressed in plainclothes and was assigned to an unmarked rental vehicle, the description of which he does not know.

Memo Book

Det. Pino did not bring his memo book to his CCRB interview and faxed a copy on May 3, 2013. Det. Pino does not have memo book entries pertaining to this incident (encl. 19a-c).

Undercover Buy Report

The undercover buy report (encl. 20a), completed by Det. Pino, notes that he met with § 87(2)(b) and had a drug-related conversation on the corner of § 87(2)(b) during which he gave § 87(2)(b) \$20.00 and § 87(2)(b) entered § 87(2)(b). § 87(2)(b) returned a few minutes later and gave Det. Pino a bag of marijuana. Det. Pino left the scene and contacted the field team. The report notes a description of a black male named as § 87(2)(b). No other individuals were noted as being involved in the sale. § 87(2)(b) was arrested inside of § 87(2)(b).

CCRB Testimony

Det. Pino was interviewed at the CCRB on April 25, 2013 (encl. 21a-c). On January 18, 2012, Det. Pino was working as an undercover officer, and Det. Powers and Det. Lopez were the ghost officers. After viewing the undercover buy report, Det. Pino recalled that he interacted personally with one person, identified in the buy report as "JD blue," whose name is listed as § 87(2)(b).

The report notes that the interaction with § 87(2)(b) occurred on the corner of § 87(2)(b) § 87(2)(b), and that he was arrested inside of § 87(2)(b) (see encl. 1o). § 87(2)(b) is one building from the corner. § 87(2)(b) went into the store. Det. Pino tried to watch what happened and where § 87(2)(b) got the drugs from, but also tried to allow the ghost officers to keep a visual on what was happening. Det. Pino was not able to see what § 87(2)(b) did once he was in the store. § 87(2)(b) came back out and handed Det. Pino one bag of marijuana, and Det. Pino gave him the buy money. Det. Pino then gave the positive buy sign to the ghost officers.

After viewing § 87(2)(b)'s arrest photo, Det. Pino remembered that he saw § 87(2)(b) walking with two young guys. These two young men could have been described over the radio as people to be wary of, as they were with § 87(2)(b) but the only person Det. Pino interacted with was § 87(2)(b) so the team would only be directed to stop him. It is possible that descriptions of these two individuals were put over the radio but not noted in the buy report. These two people would not be noted because they did not commit a crime. Descriptions of cohorts are given so officers can know who to look for if an area is crowded. The buy report is the record of who Det. Pino bought from, not a record of all of the descriptions that were put over the radio for who § 87(2)(b) was with. Because there are no other descriptions in the buy report, Det. Pino said it can be assumed that he did not deal with anyone else. If Det. Pino went in the store with § 87(2)(b) and saw where he obtained the drugs from, this information would be included.

After Det. Pino gives a positive buy signal, he leaves the set. After Det. Pino finished the buy for this incident, people were going in and out of the store. When this happens, the sergeant of the team will bring everyone back into the store so the sergeant can identify who was involved. Det.

Pino described this kind of situation as, "You're just being stopped, if you don't have anything to do with it, we'll let you go." The team brought other people in addition to § 87(2)(b) out of the store, and Det. Pino identified § 87(2)(b). Det. Pino did not know why people other than § 87(2)(b) were brought out. Though Det. Pino did not recognize the arrest photo of § 87(2)(b) he said § 87(2)(b) was involved in the show up but did not have anything to do with his interactions with § 87(2)(b).

Subject Officer: SGT. RICHARD VETRANO

- § 87(2)(b)-old white male, 6', 215 lbs., with black hair and brown eyes.
- On the date of the incident, Sgt. Vetrano worked from 7:27 a.m. until 4:02 p.m. He worked with Det. Anderson as the supervisor for a buy and bust operation with the field team. He was dressed in plainclothes and assigned to an unmarked car, #§ 87(2)(b) the description of which he could not recall. Sgt. Vetrano was assigned to Bronx Narcotics. He has since been promoted to the rank of lieutenant and has been transferred to the 41st Precinct.

Memo Book

Sgt. Vetrano had the following memo book entry pertaining to this incident (encl. 17a-c). At 10:55 a.m. there were two people under arrest, one at § 87(2)(b) and one at § 87(2)(b) § 87(2)(b).

CCRB Testimony

Sgt. Vetrano was interviewed at the CCRB on January 31, 2013 (encl. 18a-c). § 87(2)(g) Sgt. Vetrano explained that if there is an undercover officer working on the street, they have a "ghost" follow him. This is done so that if an undercover officer makes a positive buy but cannot relay the descriptions of the sellers to the team, the ghost officer will have seen the transaction and will then be able to relay the descriptions to the team. Once the team has someone stopped, the undercover officer will then verify to the team that they have the right person.

In this incident, the undercover officer went into the store at § 87(2)(b) to make the purchase, so the ghost was unable to see what happened inside with the undercover officer or who actually gave him the drugs from where he was positioned outside the store. The undercover officer came outside and gave the signal for a positive buy, and it was at that point that the team moved in. Sgt. Vetrano and the team moved in and they encountered two men in the store, and they did not know who the subject was. They stopped both of the men with the intention of waiting for the undercover officer to come by to identify who was involved in the sale. Generally in a situation like this, the team will move in and hold everyone in the store until the undercover officer can come by and verify who was involved in the sale. He did not recall anyone else being in the store other than the store employee who was behind the counter at the cash register.

Sgt. Vetrano could not recall if he was one of the first officers to enter the store, but said that generally the team moves into a location all at the same time. Sgt. Vetrano could not recall any details about how or when the undercover officer identified the seller. Sgt. Vetrano could not recall anything else that happened in the store or that any searches occurred inside the store. Sgt. Vetrano could not recall § 87(2)(b)'s demeanor. Sgt. Vetrano did not recall an officer instructing § 87(2)(b) to return to the store once he was released, and he did not recall an officer calling him an "asshole." He did not recall § 87(2)(b) saying he was going to file a complaint with the CCRB. Sgt. Vetrano did not hear any officer say to § 87(2)(b) "Shut the fuck up and let me do my job," or "Grab your phone and get the fuck out of here," and he specified he could not recall anything

that anyone said. Sgt. Vetrano had no recollection of § 87(2)(b)'s girlfriend being present or any female in particular arguing with officers on the scene. Sgt. Vetrano did not hear any officer say to a female on the scene, "Bitch, shut the fuck up."

Sgt. Vetrano did not recall requesting the prisoner van to the scene, but sometimes the van comes when the team moves in. At 12:50 p.m. Sgt. Vetrano arrived at the 43rd Precinct stationhouse for arrest processing. Sgt. Vetrano could not recall if he interacted with § 87(2)(b) at the stationhouse. Sgt. Vetrano did not hear any officers say, "Do you need a fucking tissue?"

Subject Officer: DET. DAVID ROBERTS

- § 87(2)(b)-old white male, 5'11", 240lbs., with brown hair and brown eyes.
- On the date of the incident he worked from 7:27 a.m. to 4:00 p.m. and was assigned to the chase car for his narcotics team with Det. Gines. He was dressed in plainclothes and was assigned to an unmarked vehicle, #§ 87(2)(b)

Memo Book

Det. Roberts had the following entries in his memo book pertaining to this incident (encl. 15a-b). At 10:55 a.m. § 87(2)(b) and § 87(2)(b) were arrested at § 87(2)(b) § 87(2)(b), § 87(2)(a) CPL 160.50

CCRB Interview

Det. Roberts was interviewed at the CCRB on February 13, 2013 (encl. 16a-c). § 87(2)(g) Det. Roberts did not remember where he was positioned when he received the call for the positive buy. Sgt. Vetrano instructed Det. Roberts to move into the deli and to stop both black males that fit the description. Det. Roberts could not recall the other details of the descriptions.

Det. Anderson, Det. Gines, Sgt. Vetrano, and Det. Roberts entered the deli together. Det. Roberts saw two black males, known to be § 87(2)(b) and § 87(2)(b) inside right next to the front door. Det. Roberts was positioned at the front door of the deli to ensure that no one exited or entered the deli. Det. Gines and Det. Anderson directly interacted with the individuals while Sgt. Vetrano watched. Det. Roberts did not recall if Sgt. Vetrano gave directions to Det. Gines and Det. Anderson. Det. Roberts did not recall seeing any officer reach into § 87(2)(b)'s pockets in the store, nor did he remember seeing any officer going into § 87(2)(b)'s wallet in the store. Det. Roberts did not recall § 87(2)(b)'s identification being obtained in the store. Det. Roberts did not recall hearing any officer state to § 87(2)(b) "Shut the fuck up, let me do my job." Det. Roberts did not recall hearing any officer say to § 87(2)(b) "Don't fucking worry about it. Grab your phone and get the fuck out of here."

Det. Roberts did not recall the specifics of the interaction between the officers and the individuals or which officer was paired with which individual. Det. Roberts believed § 87(2)(b) was released based on the communications between Sgt. Vetrano and the undercover officer, the details of which Det. Roberts did not know. When § 87(2)(b) attempted to re-enter the deli, Det. Roberts told § 87(2)(b) that he was not allowed to come back into the store because they were still conducting their investigation. None of the officers on the scene instructed § 87(2)(b) to come back into the store or said, "Asshole, get back in here." Det. Roberts did not recall if he addressed a female who yelled at officers, known by the investigation to be § 87(2)(b). Det. Roberts never said, nor did he hear any other officer say, "Bitch, shut the fuck up." Det. Roberts did not hear any profanity used by officers during the incident.

Det. Roberts went to the stationhouse at approximately 12:55 p.m. to assist with the arrest processing. He saw § 87(2)(b) and § 87(2)(b) there but did not recall interacting with them. Det. Roberts did not remember anything regarding § 87(2)(b)'s demeanor at the stationhouse. Det. Roberts did not say to § 87(2)(b) "Do you need a fucking tissue? Man up."

Witness Officer: DET. ABDIEL ANDERSON

- § 87(2)(b)-old, black male, 6'4", 260lbs., with black hair and brown eyes.
- On the date of the incident he was the arresting officer for his narcotics team as they were doing buy and bust operations. He worked from 7:27 a.m. until 4:00 p.m. with Sgt. Vetrano and was dressed in plainclothes. He was assigned to an unmarked silver minivan, #§ 87(2)(b).

Memo Book

Det. Anderson had the following entry in his memo book pertaining to this incident (encl. 7a-d). At 10:55 a.m. he had two people, § 87(2)(b) and § 87(2)(b) under arrest in front of § 87(2)(b). § 87(2)(b).

OLBS Arrest Reports

The OLBS arrest report for § 87(2)(b) (encl. 8a-b) notes that § 87(2)(b) became loud and boisterous and caused a crowd to gather while officers were conducting an investigation. § 87(2)(b)

§ 87(2)(b), § 87(2)(a) CPL 160.50

Criminal Court Complaint

§ 87(2)(b), § 87(2)(a) CPL 160.50

CCRB Testimony

Det. Anderson was interviewed at the CCRB on July 31, 2012 (encl. 12a-c). § 87(2)(g) Det. Anderson could not recall the descriptions of the subjects that were provided over the radio. Det. Anderson entered § 87(2)(b) with Det. Roberts and Det. Gines. Though Det. Anderson could not recall the descriptions, he recalled that § 87(2)(b) fit the description exactly, but § 87(2)(b) possibly fit the description but the officers were not sure. There were no other customers in the store.

Det. Anderson stopped § 87(2)(b) and focused on him. § 87(2)(b) was considered under arrest as soon as Det. Anderson entered the store and saw that § 87(2)(b) fit the description exactly. Det. Anderson patted down § 87(2)(b) pursuant to the arrest. While he was with § 87(2)(b) Det. Anderson heard § 87(2)(b) yelling, screaming, cursing, and making a scene. § 87(2)(b)

yelled that he had not done anything. Det. Anderson heard § 87(2)(b) say, "Fuck you." Det. Anderson could not recall which officer was speaking to § 87(2)(b). Det. Anderson did not know if Det. Roberts or Det. Gines patted down § 87(2)(b) at this point. Det. Anderson did not frisk or search § 87(2)(b). Det. Anderson did not hear § 87(2)(b) say anything like, "Don't touch me," or hear any other indication that officers were making contact with him. Det. Anderson did not hear any officer say, "Shut the fuck up," to § 87(2)(b) or use other profanity during the incident.

Thirty seconds passed between when § 87(2)(b) left the store and when he re-entered. After viewing the Criminal Court Complaint he completed for this incident, Det. Anderson said a few customers entered the store in this interval. Det. Anderson could not recall if he saw when § 87(2)(b) was handcuffed. Det. Anderson did not know who took the lead in arresting § 87(2)(b) or whose decision it was initially. Det. Anderson did not know when the prisoner van arrived, but he believed there were prisoners in the van already and so the officers from the prisoner van did not enter the store. Det. Anderson did not recall if § 87(2)(b) said anything about filing a CCRB complaint. Det. Anderson did not transport § 87(2)(b). The second subject of the sale was never found.

Witness Officer: DET. PEDRO LOPEZ

- § 87(2)(b)-old Hispanic male, 5'8", 180 lbs., with brown hair and green eyes.
- On the date of the incident he worked from 9:22 a.m. to 6:00 p.m. and was assigned to the ghost car for his narcotics team with Det. Powers. He was dressed in plainclothes and was assigned to an unmarked vehicle, the number and description of which he could not recall.

Memo Book

Det. Lopez had the following entries pertaining to this incident. At 10:50 a.m. he wrote that UC #4 had a positive buy, the charge was § 87(2)(b).

CCRB Testimony

Det. Lopez was interviewed at the CCRB on May 7, 2013. Det. Lopez viewed the undercover buy report for this incident, which was written by Det. Pino. Det. Lopez did not recall this incident in which Det. Pino was the purchaser. The report did not refresh his memory but based on the report he said that it looked as though Det. Pino interacted with § 87(2)(b) who then went into a bodega, then came back out and gave product to Det. Pino. Det. Lopez could not recall details of the buy, such as where he was positioned when the buy occurred, if anyone else was with § 87(2)(b) around the time of the buy, or if anyone was entering the bodega or near the bodega. Det. Lopez did not recognize the arrest photos of § 87(2)(b) or § 87(2)(b). Det. Lopez did not remember seeing § 87(2)(b) or anyone else near the bodega with a woman.

Generally, Det. Lopez's role when acting as a ghost officer is to follow the subject involved in the buy and then contact the field team to direct them to the location where the subject is. When he calls to the field team over the point-to-point radio about a subject, he will include a description of the subject, his clothing, the direction he is walking, or if he goes into a location he will give an address. If the dealer is with another subject or multiple subjects, Det. Lopez will put over the descriptions of those individuals to the field team as well. The undercover officer also gives a second description once they return to their undercover car.

Once descriptions are given, there is no decision to be made about whether the team will move in; the team moves in because of the description of the individual involved in a sale. The field team looks for the subject, the undercover officer makes the positive identification, and then that subject is placed under arrest. The ultimate decision regarding who gets arrested comes from

when the undercover officer makes the identification. Any individuals who are positively identified are then listed on the undercover buy report.

From the undercover buy report for this incident, there is no indication of where § 87(2)(b) went after he gave the product to Det. Pino and Det. Lopez did not recall this detail. After the field team arrives and apprehends the subject, the ghost officer leaves the vicinity. Det. Lopez did not recall anything about the apprehension of § 87(2)(b). The description of the clothing as listed on the undercover buy report would have been the description Det. Lopez gave to the field team, but he could not recall independently that this was the description given to them. Det. Lopez could not recall if he or Det. Powers called the description over the radio. Because § 87(2)(b) is the only person noted on the undercover buy report, this means that he was the only person that Det. Pino dealt with directly. Det. Lopez was not present for the identification of § 87(2)(b). Det. Lopez did not learn from the team that anyone else was involved in the show-up, nor did he learn any details about the apprehension of § 87(2)(b).

Officer Not Interviewed

Det. Dexter Powers was also assigned as a ghost officer for the narcotics team on the date of the incident. As of April 5, 2013, Det. Powers was retired from the NYPD and therefore he was not interviewed.

NYPD Documents

Arrest Photos

§ 87(2)(b)

Arrest for Incident and Disposition

- All of § 87(2)(b)'s and § 87(2)(b)'s criminal charges in connection with this incident have been dismissed pursuant to adjournment in contemplation of dismissal. (encl. 29a-f).

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of February 20, 2013 with regard to this incident (encl. 32a).

Civilian Criminal History

- As of March 19, 2013, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b) (encl. 30a-aa)

§ 87(2)(b) § 87(2)(b)
§ 87(2)(b) 2)
(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Civilian CCRB History

- § 87(2)(b) has been involved with the following CCRB complaints (encl. 6a-f):

- § 87(2)(b) [REDACTED]
- § 87(2)(b) [REDACTED]

Subject Officers CCRB History

- Det. Gines, Det. Roberts, and Det. Pino have been members of the service for 19, 10, and 20 years respectively and there are no substantiated CCRB allegations against them (encl. 2c-f).
- Sgt. Vetrano has been a member of the service for 14 years and there is one substantiated CCRB allegation against him (encl. 2a-b).
 - In case #201114829, a command discipline was recommended for an allegation regarding a premises entered and/or searched. As of May 7, 2013, there is no NYPD disposition or penalty listed for this allegation.

- § 87(4-b), § 87(2)(g) [REDACTED]

Conclusion

Identification of Subject Officers

Sgt. Vetrano, Det. Gines and Det. Roberts admitted to interacting with § 87(2)(b) on the date of the incident. As Sgt. Vetrano was the supervisor who authorized the team to move in to § 87(2)(b) and he was by all accounts was present as § 87(2)(b) was stopped, the stop is pleaded against him as well as Det. Gines, who took the lead in the interaction with § 87(2)(b).

Allegations Not Pleaded

Det. Gines said that he believed § 87(2)(b) was frisked, though he did not recall who frisked him or what part of his body was frisked. Additionally, § 87(2)(b) did not allege that he was frisked. Therefore, a frisk allegation is not pleaded.

§ 87(2)(b) said that while he was at the stationhouse he was yelling in the holding cell and an officer, who he assumed was a sergeant because he was seated behind the desk, came over and said, “Yo asshole, what are you making so much noise for? You do the crime, you do the time.” § 87(2)(b) later said that this sergeant said something like, “What the fuck is your problem?” § 87(2)(b) however, did not feel this officer was trying to be vulgar but was just speaking to him in a casual manner. As § 87(2)(b) did not have a complaint against this officer, an allegation regarding this is not pleaded. Additionally, § 87(2)(b) said his phone was cracked when he received his property upon his release. He did not believe that his phone was intentionally broken, but noted that it was damaged. As he had no specific complaint and did not see when the damage occurred, no allegation regarding this is pleaded.

Investigative Findings and Recommendations

Allegation A – Abuse of Authority: At § 87(2)(b) in the Bronx, Sgt. Richard Vetrano supervised the stop of § 87(2)(b)

Allegation B – Abuse of Authority: At § 87(2)(b) in the Bronx, Det. Edwin Gines stopped § 87(2)(b)

§ 87(2)(b) said that less than five minutes after he entered the store, he tried to exit the store and Det. Gines did not permit him to do so and said, “You know what this is,” and told § 87(2)(b) to put his phone and coffee on the counter. § 87(2)(b) said § 87(2)(b) was not in the store at this point but was brought in by Det. Anderson and Sgt. Vetrano a few minutes later. Det. Gines corroborated that he approached § 87(2)(b) and instructed him put his coffee down.

Sgt. Vetrano said that the undercover officer went into the store at § 87(2)(b) to purchase marijuana, and the ghost officer was unable to see from where he was positioned what happened inside. The field team officers, except for Sgt. Vetrano, all said that there were descriptions of two males put over the radio after the undercover officer finished the drug transaction, and when they entered the store, § 87(2)(b) and § 87(2)(b) were both in the store. Sgt. Vetrano recalled only that there was a signal for a positive buy, and when they moved into the store they did not know which of the two men inside was involved. Sgt. Vetrano, along with other officers on the field team, stated that it is standard procedure in a situation similar to this to hold everyone inside of the store until the undercover officer can make a positive identification.

Det. Pino who was working as the undercover officer on the date of the incident noted the possibility that descriptions other than the description of § 87(2)(b) were put over the radio. He said these descriptions, however, would have been for individuals for the field team to merely look out for, and the team would have been directed to stop only the individual with whom he interacted directly, which was § 87(2)(b). Det. Lopez did not recall this incident, but he and Det. Pino were consistent that § 87(2)(b) was the only person involved in the drug sale, which is indicated by the fact that only § 87(2)(b) was listed on the undercover buy report. The undercover buy report does not note where § 87(2)(b) went after he sold marijuana to Det. Pino.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Det. Roberts acknowledged that his role was to block the door to prevent anyone from entering or exiting the store, which inherently was a restriction on § 87(2)(b)'s freedom to leave the store. Even crediting that two descriptions were put over the radio, one for § 87(2)(b) and one for a cohort of his for officers to look out for, there is no documentation to support that Det. Pino interacted with anyone other than § 87(2)(b) or that Det. Pino or the ghost officers had any reason to suspect § 87(2)(b) of being involved in the transaction with § 87(2)(b).

As stated in CPL 140.50 (encl. 1a) and People v. Debour, an officer may stop someone when the officer reasonably suspects that the person is committing, has committed, or is about to commit a crime. People v. Debour, 40 N.Y.2d 210 (1976)(encl. 1b-l). There is no justification for stopping an individual when such individual has committed no act that connects him to a drug transaction that his companion may have committed. Absent other factors, proximity to suspects of criminal activity does not give rise to probable cause to search such an individual. Matter of

Nelson S. v. Presentment Agency, 196 A.D.2d 424, 425 (App. Div. 1st Dep't 1993)(encl. 1m-n).

§ 87(2)(g)

Allegation C – Abused of Authority: At § 87(2)(b) in the Bronx, Det. Edwin

Gines searched § 87(2)(b)

Allegation D – Discourtesy: At § 87(2)(b) Det. Edwin Gines spoke

discourteously to § 87(2)(b)

Allegation E – Abuse of Authority: At § 87(2)(b) in the Bronx, Det. Edwin

Gines arrested § 87(2)(b)

§ 87(2)(b) alleged that after he put his phone and coffee on the counter, Det. Gines reached first into his vest pockets and took out the tissues and papers, felt them, and then put them back in his vest pockets. § 87(2)(b) told Det. Gines that he knows that he is supposed to empty his own pockets for everyone's safety. Det. Gines said, "Shut the fuck up," and then reached into § 87(2)(b)'s front pants pockets one at a time. Det. Gines reached into § 87(2)(b)'s back right pocket and removed his wallet, opened it, and rifled through the papers inside of it. Det. Gines took § 87(2)(b)'s identification out of the wallet, looked at it briefly, put it back in the wallet, then gave the wallet back to § 87(2)(b).

Det. Gines denied that he reached in to § 87(2)(b)'s pockets and he did not see any other officer do so. § 87(2)(b) said when he protested being searched, Det. Gines said, "Shut the fuck up, let me do my job and you can go on your way." § 87(2)(b) was released from the store and Det. Gines said, "Grab your phone, get the fuck out of here." Det. Gines denied making either of these discourteous statements and he did not hear other officers make these comments. § 87(2)(b) said that as he and § 87(2)(b) walked away he said to § 87(2)(b) "The only way this shit is going to stop is if we go to the Civilian Complaint [Review] Board and put in a complaint." Det. Gines then leaned out of the doorway of the bodega and said, "Come here, asshole. Come here." § 87(2)(b) went into the store and Det. Gines said, "Now I'm going to give you a reason to make a complaint. Turn around, put your hands behind your back." § 87(2)(b) backed up a couple of steps and asked why he was being arrested. Det. Gines said, "Don't fucking worry about it."

Det. Gines did not hear § 87(2)(b) say anything about filing a complaint with the CCRB. Det. Gines denied that § 87(2)(b) was asked to return to the store and said he returned on his accord and began to be disorderly by yelling and screaming, at which point he was arrested. Det. Gines did not recall that he or any officer told § 87(2)(b) they would give him something to complain about. None of the officers interviewed heard profanities used with § 87(2)(b) or that § 87(2)(b) mentioned he was going to file a CCRB complaint. § 87(2)(g)

§ 87(2)(g)

Allegation F – Offensive Language: At § 87(2)(b) in the Bronx, Det. David Roberts made remarks to § 87(2)(b) based upon sex.

Allegation G – Discourtesy: At the 43rd Precinct stationhouse, Det. David Roberts spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that when he was being arrested, § 87(2)(b) was getting angry and yelled things like, “What the fuck are you handcuffing him for? He didn’t do anything wrong.” Det. Roberts said to her, “Yo, bitch, shut the fuck up.” § 87(2)(b) alleged that at the 43rd Precinct while being logged in, Det. Roberts said to him, “You need a fucking tissue? Man up.” Det. Roberts denied saying these things, and the other officers interviewed did not hear him say these things. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation I – Other Misconduct: Det. Abdiel Anderson intentionally made false official statements in violation of Patrol Guide procedure 203-08.

In his CCRB statement, Det. Anderson denied that § 87(2)(b) said, “Don’t touch me!” However, the criminal court complaint states that § 87(2)(b) yelled, “What are you doing? You can’t touch me!” This comment is noted in all capital letters in one of two brief paragraphs pertaining to Det. Anderson’s testimony. Det. Anderson viewed the criminal court complaint during his CCRB interview just seconds after denying that he heard this statement. After viewing the complaint, he did not refute what he had said just seconds earlier about not hearing § 87(2)(b) make that comment.

§ 87(2)(g)

Det. Anderson initially stated to the CCRB that § 87(2)(b) and § 87(2)(b) were the only people in the store when the officers entered, and when § 87(2)(b) left the store and then re-entered thirty seconds later, his yelling caused a few bystanders to gather outside of the store. After viewing the criminal court complaint (encl. 9a), Det. Anderson adopted the version of events described within it and stated that in the interval between § 87(2)(b) exiting the store and returning, a few customers entered and exited the store. The report says, § 87(2)(b) began flailing his arms and continued screaming, causing several other customers in the store to move

out of [his] way to avoid being struck by [him]. [Det. Anderson] observed one customer within the store move behind a display rack in response to § 87(2)(b)'s actions."

However, Det. Roberts stated that his job was to block the door to the store to ensure that no one entered or exited, and that when § 87(2)(b) attempted to re-enter, Det. Roberts did not permit him to do so. Det. Gines said that the interaction with § 87(2)(b) when he returned to the store occurred at the threshold of the door. Det. Gines and Det. Roberts were consistent in that people gathered outside of the store when § 87(2)(b) returned, but none of the officers said any customers were present in the store or entered the store, or that any customers gathered or remained close enough to the interaction to require them to move out of the way to avoid being hit by § 87(2)(b).

Officers are prohibited from intentionally making any false official statements to official CCRB investigations absent exceptional circumstances. NYPD v. Ortiz OATH Index No. 1626/97 (enc. 1s-cc).

§ 87(2)(g)
Either § 87(2)(b) made the statement "Don't touch me!" as recorded in the criminal court complaint, or he did not make the statement, as Det. Anderson stated in his CCRB interview. § 87(2)(g) either several customers entered the store as Det. Anderson stated after viewing the criminal court complaint in his CCRB interview, or this did not occur, as stated by other officers and by Det. Anderson prior to reviewing his previous documentary testimony in the criminal court complaint. § 87(2)(g)

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date