

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Kastner	Team: Team # 2	CCRB Case #: 201212831	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wed, 09/26/2012 7:40 PM	Location of Incident: [REDACTED]	Precinct: 75	18 Mo. SOL 03/26/2014	EO SOL 3/26/2014	
Date/Time CV Reported Wed, 09/26/2012 11:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 10/03/2012 4:32 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 Dennis Friendly	00233	§ 87(2)(b)	NARCBBN
2. DT3 Gabriel Nacelewicz	06511	§ 87(2)(b)	NARCBBN
3. LCD Patrick Ryan	00000	§ 87(2)(b)	NARCBBN
4. DT3 Jennifer Lavelle	00235	§ 87(2)(b)	NARCBBN
5. An officer			NARCBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Steve Lafortune	02570	§ 87(2)(b)	NARCBBN
2. DT3 Juan Leonbravo	02076	§ 87(2)(b)	NARCBBN
3. DT3 Jelson Goyco	02019	§ 87(2)(b)	NARCBBN
4. DT3 David Solmonsohn	03336	§ 87(2)(b)	NARCBBN
5. DT3 Joseph Fernandez	01815	§ 87(2)(b)	NARCBBN
6. DT3 Javier Aponte	01102	§ 87(2)(b)	NARCBBN

Officer(s)	Allegation	Investigator Recommendation
A . DT3 Gabriel Nacelewicz	Abuse of Authority: Det. Gabriel Nacelewicz entered § 87(2)(b) in Brooklyn.	A . § 87(2)(g)
B . DT3 Dennis Friendly	Abuse of Authority: Det. Dennis Friendly entered § 87(2)(b) in Brooklyn.	B . § 87(2)(g)
C . DT3 Dennis Friendly	Force: Det. Dennis Friendly used physical force against § 87(2)(b).	C . § 87(2)(g)
D . DT3 Jennifer Lavelle	Abuse of Authority: Det. Jennifer Lavelle entered § 87(2)(b) in Brooklyn.	D . § 87(2)(g)
E . LCD Patrick Ryan	Abuse of Authority: Lt. Patrick Ryan entered § 87(2)(b) in Brooklyn.	E . § 87(2)(g)
F . An officer	Force: An officer used physical force against § 87(2)(b).	F . § 87(2)(g)
G . DT3 Dennis Friendly	Force: Det. Dennis Friendly pointed his gun at § 87(2)(b).	G . § 87(2)(g)
H . DT3 Jennifer Lavelle	Abuse of Authority: Det. Jennifer Lavelle searched § 87(2)(b) in Brooklyn.	H . § 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
I . DT3 Dennis Friendly	Abuse of Authority: Det. Dennis Friendly searched § 87(2)(b) in Brooklyn.	I . § 87(2)(g)
J . DT3 Dennis Friendly	Other: Det. Dennis Friendly intentionally provided a false official statement to the CCRB.	J . § 87(2)(g)
K . DT3 Jennifer Lavelle	Other: Det. Jennifer Lavelle intentionally provided a false official statement to the CCRB.	K . § 87(2)(g)
§ 87(4-b), § 87(2)(g)		

### Case Summary

On September 28, 2012, Lt. Patrick Ryan called the IAB command center to report the complaint of § 87(2)(b) (log # 12-51228) (encl. E1-E3), which was investigated by IAB. The complaint was received at the CCRB on October 3, 2012 (encl. E4-E6). At approximately 7:40 p.m. on September 26, 2012, § 87(2)(b) opened the front door of his house at § 87(2)(b) in Brooklyn and interacted with Det. Gabriel Nacelewicz and Det. Dennis Friendly. They were soon joined by Det. Jennifer Lavelle and Lt. Ryan. The following allegations resulted:

**Allegation A – Abuse of Authority: Det. Gabriel Nacelewicz entered § 87(2)(b) in Brooklyn.**

**Allegation B – Abuse of Authority: Det. Dennis Friendly entered § 87(2)(b) in Brooklyn.**

**Allegation H– Abuse of Authority: Det. Jennifer Lavelle searched § 87(2)(b) in Brooklyn.**

**Allegation I – Abuse of Authority: Det. Dennis Friendly searched § 87(2)(b) in Brooklyn.**

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation C – Force: Det. Dennis Friendly used physical force against § 87(2)(b)**

**Allegation G – Force: Det. Dennis Friendly pointed his gun at § 87(2)(b)**

§ 87(2)(g)  
§ 87(2)(g)  
§ 87(2)(g)

**Allegation D – Abuse of Authority: Det. Jennifer Lavelle entered § 87(2)(b) in Brooklyn.**

§ 87(2)(g)  
§ 87(2)(g)

**Allegation E – Abuse of Authority: Lt. Patrick Ryan entered § 87(2)(b) in Brooklyn.**

§ 87(2)(g)  
§ 87(2)(g)

**Allegation F – Force: An officer used physical force against § 87(2)(b)**

§ 87(2)(g)  
§ 87(2)(g)

**Allegation J – Other: Det. Dennis Friendly intentionally provided a false official statement to the CCRB.**

**Allegation K – Other: Det. Jennifer Lavelle intentionally provided a false official statement to the CCRB.**

§ 87(4-b), § 87(2)(g)

§ 87(2)(g)

This case was initially assigned to Inv. Rosemary Espinal. Upon her promotion, it was reassigned to Inv. Laura Kastner on May 13, 2013.

### **Results of Investigation**

#### **Civilian Statements**

**Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

#### **Statements Made to Medical Personnel**

- § 87(2)(b) told EMTs at the 75th Precinct stationhouse at 8:51 p.m. on September 26, 2012 that he was punched in the face an hour prior and he complained of minor pain (encl. G1). Upon being transported to § 87(2)(b), § 87(2)(b) told medical personnel that he was punched in the face by a police officer (encl. G1).

#### **Arrest Photo**

- White medical tape is slight visible protruding from the left side of § 87(2)(b)'s mouth in his arrest photo (encl. E25).

#### **CCRB and IAB Interviews**

§ 87(2)(b) was interviewed by IAB on September 27, 2012 (encl. E7-E14) and at the CCRB on January 14, 2013 (encl. E16-E22). § 87(2)(g)

At approximately 7:40 p.m. on September 26, 2012, § 87(2)(b) was watching television with two friends, § 87(2)(b) and § 87(2)(b) inside of § 87(2)(b) in Brooklyn, a two story house that has been converted into four apartments, two on each floor. Part of the building had been damaged in a fire. § 87(2)(b) lives in the rear apartment on the second floor and § 87(2)(b) lives in the front apartment on the first floor. As § 87(2)(b) exited his apartment to go to the supermarket, and while carrying a black plastic bag in his hand, which contained his identification, keys, food stamp card, debit card, and \$50, he heard knocking on the building's front door. As he walked downstairs, he saw a flashlight shining through the door and assumed the police were outside. § 87(2)(b) opened the door and saw four or five officers dressed in casual clothes standing there.

PO1, described as a white man in his 50s, approximately 5'6" tall, 180 to 190 pounds, with dirty blond hair, and identified via investigation as Det. Gabriel Nacelewicz, placed two hands on § 87(2)(b)'s chest to prevent him from leaving and said no one was supposed to be in the house. § 87(2)(b) asked what he was talking about. (Although not mentioned in his CCRB statement, § 87(2)(b) told IAB that at this point, he was ordered to step back inside, he asked what the officers were doing there, the order was repeated, and he was pushed back into his hallway. He did not specify which officers did any of these actions.)

PO2, described by § 87(2)(b) as a black man in his late 30s or early 40s, approximately 5'9" to 5'10" tall, 200 pounds, clean shaven with short, salt and pepper hair, (further described at the time of his IAB interview as thin, with a short caesar haircut, and dressed in plainclothes and a vest) was identified via investigation as Det. Dennis Friendly. Det. Friendly struck § 87(2)(b) with his right fist once on the left side of his mouth, causing a laceration to the inside of his mouth. § 87(2)(b) told Det. Friendly that he hit like a "bitch" because he could not knock him out. § 87(2)(b) said the house belonged to his mother. Det. Nacelewicz asked where § 87(2)(b)'s mother was and § 87(2)(b) said she was dead. § 87(2)(b) said he was ordered to place his hands behind his back, immediately complied, and was handcuffed by another officer, not Det. Nacelewicz or Det. Friendly, who was standing behind him, and then complied when ordered to get on the ground. (In his statement to IAB, § 87(2)(b) said he was handcuffed while on the ground.)

§ 87(2)(b) told the officers to take him to the "fucking" hospital because he was bleeding from his mouth and planned to "sue the shit" out of them. PO3, described as a white woman, approximately 5'5" tall, with an average build and long blond hair, and identified via investigation as Det. Jennifer Lavelle, PO4, described as a white or Hispanic man, approximately 5'11" tall, 290 to 300 pounds, and Det. Friendly, went upstairs and searched the premises for 10 to 15 minutes while § 87(2)(b) was on the floor. PO5, described as a white man approximately 6'0" tall, 170 to 180 pounds, with short hair, identified via investigation as Lt. Patrick Ryan, was also inside of the building, but § 87(2)(b) did not specify what he did while there.

§ 87(2)(b) kept turning his head to see what was happening. After § 87(2)(b) was on the ground for approximately five minutes, an officer placed his foot on the left side of § 87(2)(b)'s face to prevent him from moving, causing minor scrapes there. § 87(2)(b) could not see who did this, but knew the officer was wearing boots. Moments later, § 87(2)(b) and § 87(2)(b) were escorted downstairs in handcuffs and brought to an unmarked van. At that point, the unidentified officer lifted his foot from § 87(2)(b)'s face. After § 87(2)(b) was on the ground for approximately 30 minutes, Det. Friendly lifted him up and escorted him to a van. § 87(2)(b) said he should spit on the officers because they did not know if he had AIDS, but that he would wait until he was in front of their captain to do so.

At no point did § 87(2)(b) resist arrest or attempt to flee. PO6, described as a white man in his late 30s, approximately 5'8" tall, with curly brown hair, and the driver of the transport van, and PO7, a Hispanic man, sitting in the front passenger's seat, transported § 87(2)(b) and § 87(2)(b) to the 75<sup>th</sup> Precinct stationhouse. The investigation identified one of these officers as Det. Joseph Fernandez and the other as Det. Javier Aponte. § 87(2)(b) believed Det. Fernandez or Det. Aponte had been waiting down the block in the transport van. En route to the stationhouse, the officers stopped at a store and wiped the blood from § 87(2)(b)'s face

with a paper towel. § 87(2)(b) was transported from the precinct to § 87(2)(b) where he received stitches inside of his mouth. Officers from IAB visited § 87(2)(b) there and took photos of his injury (encl. E8-E9).

§ 87(2)(b) was arrested for possession of narcotics, but had nothing illegal on him and denied throwing narcotics. No one in his house possessed any narcotics. § 87(2)(b) was unsure of what happened to the black plastic bag he had been holding, but said it must have been retrieved by the officers, because that is how they obtained § 87(2)(b)'s identification. He never threw the bag.

§ 87(2)(b) § 87(2)(b) son, § 87(2)(b) was in the rear first floor apartment during this incident. The officers knocked on that door, but he was quiet and turned the lights off. He could not see what was going on outside of that door because it was dark. § 87(2)(b) eventually climbed out a window and left the scene. He later told § 87(2)(b) that several officers remained at the house for approximately one hour after § 87(2)(b) left. § 87(2)(b) believed they must have been searching the premises and cleaning his blood off of the floor.

**Victim:** § 87(2)(b)

- § 87(2)(b)

**CCRB Interview**

§ 87(2)(b) was interviewed at the CCRB (encl. E27-E33). § 87(2)(g)

§ 87(2)(b)'s apartment was not significantly affected by the fire, but was empty, aside from a television, refrigerator, phone, and clothing. Most of the walls had been torn down. When § 87(2)(b) left the apartment, § 87(2)(b) did not see him holding a bag. § 87(2)(b) and § 87(2)(b) were still watching television when § 87(2)(b) heard something being knocked around downstairs and heard § 87(2)(b) say, "You punk bitch" and that the officers had "snuffed" him in his own house and entered without a warrant.

§ 87(2)(b) stepped into the hallway and stood by the top stairs. Since there was no electricity downstairs, it was dark and he could not see, although he saw flashlights. § 87(2)(b) returned to § 87(2)(b)'s apartment and told § 87(2)(b) that he thought the police were downstairs. § 87(2)(b) continued watching television. Approximately seven or eight minutes later, § 87(2)(b) exited the apartment again to see what was going on. Det. Friendly, who § 87(2)(b) described as a black man, approximately 45 years old, 6'1" tall, 160 to 170 pounds, with a slim build, bald, and dressed in a sweat suit or gym pants, walked up the stairs with his gun pointed toward § 87(2)(b)'s forehead. § 87(2)(b) stepped back and Det. Friendly ordered him to freeze and put his hands up. § 87(2)(b) said he had nothing on him and complied. Det. Friendly briefly frisked § 87(2)(b) and ordered him to turn around. No narcotics were found on § 87(2)(b)'s person.

§ 87(2)(b) described PO1 as a white man in his late 30s, approximately 5'10" tall and 200 pounds, with a stocky build, a goatee, short brown hair, and dressed in jeans and a t-shirt, and PO2 as a Hispanic man. The investigation determined that one of these officers was Det. Fernandez and the other was Det. Aponte. PO1 walked upstairs and handcuffed § 87(2)(b). Det. Friendly then put his gun away. § 87(2)(b) asked the officers why they were there. Det. Friendly said the men were "squatting" in an abandoned house and § 87(2)(b) said it was not abandoned.

Det. Lavelle, described as a white woman in her 30s, approximately 5'11" tall, with a slim build, and hair styled in a bun, walked upstairs and entered § 87(2)(b)'s apartment. § 87(2)(b) did not know whether she saw Det. Friendly point his gun at him. Det. Friendly and PO1 escorted § 87(2)(b) back into the apartment and once there, PO1 handcuffed § 87(2)(b).

§ 87(2)(b) saw Det. Lavelle search several plastic bags, which contained clothes that were recovered from the fire. The bags were in one bedroom. She then entered and searched another room. § 87(2)(b) saw Det. Friendly enter the second bedroom and believed he searched it, although he could not see what Det. Friendly did. PO1 also began looking around. PO2 came upstairs as § 87(2)(b) and § 87(2)(b) were being brought downstairs, so § 87(2)(b) did not know what he did there. At some point, § 87(2)(b)'s overnight bag, which he had brought to § 87(2)(b)'s house with him, was searched. The officers found a marijuana cigarette, described as a "blunt," on top of the television, which § 87(2)(b) and § 87(2)(b) planned to smoke after dinner. § 87(2)(b) and § 87(2)(b) were escorted downstairs by PO1.

Once downstairs, § 87(2)(b) heard § 87(2)(b) who was lying on the floor, tell the officers that they should remove his handcuffs so they could go outside and handle the situation like real men. § 87(2)(b) told § 87(2)(b) that "these punk motherfuckers" had kicked him. There was nothing on the floor other than § 87(2)(b)'s blood. § 87(2)(b) and § 87(2)(b) asked why they were being arrested as they were escorted outside. Moments later, § 87(2)(b) was brought out yelling. He told unidentified officers to get off of him, and asked an officer if he was going to hit him again, but § 87(2)(b) did not know who § 87(2)(b) was speaking to. § 87(2)(b) noticed an unidentified male officer who had never entered the apartment standing outside, as well as three or four additional officers standing outside, but § 87(2)(b) could not describe them.

The transport van arrived approximately 20 minutes later. Det. Friendly and Det. Lavelle had remained upstairs. Det. Fernandez and Det. Aponte transported the civilians to the precinct. There, Det. Friendly showed § 87(2)(b) and § 87(2)(b) a small green plastic bag of marijuana and a few pieces of crack that were allegedly recovered from § 87(2)(b)'s apartment. § 87(2)(b) did not know where they came from. § 87(2)(b) was charged with criminal use of drug paraphernalia, criminal possession of a controlled substance, and criminal possession of marijuana.

#### Attempts to Contact Civilians

- Between February 21, 2013 and August 5, 2013, § 87(2)(b) was called three times at the number provided by § 87(2)(b). The first call yielded a continuous ring, the second time yielded an automated message that said the number was not accepting calls at this time, and the third time yielded an automated message that said the number was no longer in service. A NYC Department of Motor Vehicles search produced one mailing address (encl. I1). Two letters were sent on July 17, 2013 and July 26, 2013, but both were returned to the CCRB as undeliverable. A Lexis Nexis search revealed three potential phone numbers (encl. I2-I11), two of which were called five times between July 22, 2013 and August 5, 2013. There was no answer and no voicemail prompt at either number. The third number was called twice, but proved to be incorrect. Lexis Nexis also revealed a second mailing address, where two unreturned letters were sent on July 17, 2013 and July 26, 2013, and three potential email addresses, where two unreturned emails were sent on July 17, 2013 and July 26, 2013. A search of the NYC Department of Correction Inmate Tracking system revealed that as of December 13, 2013, § 87(2)(b) is not incarcerated (encl. I12).
- Although § 87(2)(b) noted that § 87(2)(b) was present during this incident, given



that he did not witness any of the allegations from his location, he was not interviewed.

### **NYPD Statements:**

#### **Subject Officer: Det. GABRIEL NACELEWICZ**

- *Det. Nacelewicz, a white man who is 5'10" tall, weighs 200 pounds, with blond hair and blue eyes, was § 87(2)(b) old at the time of this incident.*
- *Det. Nacelewicz worked from 2:27 p.m. to 11 p.m. He could not recall his assignment or his partner. Det. Nacelewicz was dressed in plainclothes and assigned to an unknown vehicle.*

#### **Memo Book**

During his CCRB interview, Det. Nacelewicz read the following memo book entries into the record when asked to read those entries regarding this incident word for word: 4:30 p.m., Tactical meeting. 5 p.m., En route to the vicinity of § 87(2)(b). 5:50 p.m. or 7:50 p.m. (Det. Nacelewicz could not read his own handwriting), Three under. 9 p.m., En route to 75<sup>th</sup> Precinct. 9:10 p.m., Arrive at stationhouse. 10:30 p.m., En route to Brooklyn North Narcotics. 11 p.m., End of tour (encl. F18-F19).

Upon receipt of Det. Nacelewicz's memo book at the conclusion of his interview, it was determined that the entry at 5:50 p.m. or 7:50 p.m. actually notes, "Three under at § 87(2)(b)" (encl. F18-F19), which is not where this incident occurred. Therefore, it is apparent that aside from an entry that places him en route to the general vicinity of this incident, Det. Nacelewicz has no memo book entries in regard to this incident.

#### **CCRB and IAB Interviews**

Det. Gabriel Nacelewicz was interviewed by IAB on January 9, 2013 (encl. F20) and at the CCRB on November 22, 2013 after reviewing his IAB statement (encl. F21-F25) § 87(2)(g)

Det. Gabriel Nacelewicz was informed that a confidential informant had reported to either Lt. Patrick Ryan or Det. Dennis Friendly that narcotics were being sold out of § 87(2)(b) in Brooklyn. Det. Nacelewicz was provided with no additional information in regard to the individual who was selling the narcotics or the location. He had no previous knowledge of the location. (Det. Nacelewicz told IAB that a confidential informant told the officers that the location was abandoned.) Det. Nacelewicz, Lt. Ryan, Det. Friendly, and Det. Jennifer Lavelle arrived at § 87(2)(b) to conduct an observation of the building. No search warrant was secured because the officers did not initially intend to enter the building. They intended to determine whether anyone lived there and, if so, to find out that person's name. This was to be done by questioning whoever answered the door.

The building appeared abandoned. The windows were boarded up and had seemingly been damaged in a fire. Det. Nacelewicz did not know whether the building was condemned. He saw no notices posted in regard. At approximately 7:30 p.m., Det. Nacelewicz approached and knocked on the front door with Det. Friendly for approximately one minute, but there was no answer. Believing no one was home, Det. Nacelewicz walked downstairs toward the street, where he spoke with an unidentified officer while Lt. Ryan spoke with a next door neighbor, Individual 1. Det. Nacelewicz could not hear that conversation and was not told what was said. He could not recall what Det. Lavelle was doing. After approximately one minute, Det. Nacelewicz returned to the front door, stood directly in front of it, and knocked again three or four times. Seconds later,



§ 87(2)(b) who stood immediately inside of the building in a vestibule, opened the door.

The location was lit only by street lights, but they were powerful enough that from the same positions, Det. Nacelewicz clearly saw a clear sandwich bag that contained what he believed to be, and was later determined to be, two or three twists of crack cocaine, described as a white rocky substance wrapped in plastic twists, in § 87(2)(b)'s hand. Det. Nacelewicz speculated that § 87(2)(b) must have come to the door with the bag believing he was a customer.

Det. Nacelewicz said, "Police! Don't Move." and grabbed § 87(2)(b)'s left wrist with his right hand. § 87(2)(b) broke free of Det. Nacelewicz's grip, immediately reached back, threw the bag, which landed approximately two or three feet behind him, and ran back into the building. (Det. Nacelewicz told IAB that the bag was thrown into the lobby of the building.) § 87(2)(b) ran past the vestibule and into the connecting hallway, which was very dark. Det. Nacelewicz could not recall if there was any light, but had there been, it was very minimal. He did not believe there was electricity downstairs. He was unsure whether there was electricity upstairs because he was never upstairs. Det. Nacelewicz explained that sometimes, people run extension cords from other homes to get electricity, but he did not know if that was the case here. Det. Nacelewicz did not use his flashlight at any point and he did not recall whether any other officers did so.

Det. Friendly ran past Det. Nacelewicz into the building. Det. Nacelewicz followed right behind. As § 87(2)(b) reached the staircase in the hallway and was attempting to climb up, Det. Friendly wrapped his arms around § 87(2)(b)'s torso and tackled him to the ground in an attempt to stop him. From his position behind Det. Friendly, Det. Nacelewicz could not see what part of § 87(2)(b)'s body made contact with the stairs or whether he fell or was intentionally pushed. (Det. Nacelewicz told IAB that he did not fall to the ground during this struggle.) He approached while § 87(2)(b) was still resisting arrest and lying on the stairs, although, Det. Nacelewicz could not recall where on the staircase the struggle took place.

Both officers ordered § 87(2)(b) to place his hands behind his back and not move. § 87(2)(b) moved his arms around. Det. Nacelewicz handcuffed his right arm, but as Det. Nacelewicz tried to bring it behind § 87(2)(b)'s back in order to handcuff his left arm, § 87(2)(b) placed it underneath his body. After a brief struggle to pull § 87(2)(b)'s arms behind his back, Det. Nacelewicz was able to handcuff § 87(2)(b) approximately 10 to 20 seconds after he had initially grabbed his arm in the doorway. (He told IAB that he handcuffed § 87(2)(b) with the assistance of an unidentified officer.) Det. Nacelewicz saw no additional civilians in the vestibule or hallway areas and he did not know where Lt. Ryan and Det. Lavelle were during the struggle. He saw Det. Friendly use no additional force against § 87(2)(b) and did not see Det. Friendly or any other officer strike § 87(2)(b) in the mouth. Aside from grabbing § 87(2)(b)'s arm in the doorway and pulling his arms behind his back, Det. Nacelewicz used no additional force against him. He did not place his foot or shoe on § 87(2)(b)'s face, nor did any other officer.

Det. Nacelewicz escorted § 87(2)(b) down the stairs and waited approximately one to three minutes for the prisoner van to arrive. Aside from Det. Nacelewicz and § 87(2)(b) standing around waiting for the van, nothing else happened during this time. Det. Nacelewicz said he believed they waited outside, but was unsure of this. (He told IAB that § 87(2)(b) was seated in the vestibule for one to two minutes prior to being brought to the prisoner van.) Although he initially said § 87(2)(b) made numerous comments, including "Fuck you" as well as additional profane statements that Det. Nacelewicz could not recall, during the struggle, he then

clarified that the statements were made after the struggle. At some point, § 87(2)(b) also said something to the effect of threatening to spit blood in someone's face.

(Det. Nacelewicz told IAB that eventually, someone, he did not know who, went upstairs, and at some point, two individuals were brought downstairs, but Det. Nacelewicz could not recall whether § 87(2)(b) was still in the building at that point.) Det. Nacelewicz said that a couple of minutes after § 87(2)(b) was placed in the prisoner van, he saw two individuals, identified via investigation as § 87(2)(b) and § 87(2)(b) being brought downstairs, but could not recall who or how many officers escorted them down. This was Det. Nacelewicz's first indication that additional civilians were in the building. He could not recall whether he saw officers go upstairs prior to this and did not know what he was doing when they were coming downstairs. Det. Nacelewicz could not recall if § 87(2)(b) and § 87(2)(b) were already handcuffed. When he saw them, they were doing nothing to resist and did not speak much. Det. Nacelewicz did not know if any other officer drew their firearm at the location, but he did not. He did not see Det. Friendly point his firearm at § 87(2)(b).

The three prisoners were transported to the 75<sup>th</sup> Precinct stationhouse. Eventually, an ambulance was called and § 87(2)(b) was taken to the hospital for a cut to his lip, which Det. Nacelewicz first observed at the precinct. He had not seen the injury previously due to the lighting at the location and did not know how it occurred. Det. Nacelewicz did not know who fingerprinted or took the arrest photos of the prisoners.

The four officers mentioned above were the only ones initially present. Upon reviewing the Tactical Plan, Det. Nacelewicz recalled Det. Steve Lafourtune and possibly Det. David Solmonsohn arriving at some point after the struggle concluded. § 87(2)(b)s and § 87(2)(b)s arrest reports note that Det. Fernandez entered the information into them. Det. Nacelewicz did not recall him being present at the scene. He did not know who provided Det. Fernandez with the information to enter into § 87(2)(b)s arrest report. It is possible that Det. Nacelewicz did so, but he did not provide the information for § 87(2)(b)s arrest report and did not know who did.

Det. Nacelewicz could not recall who retrieved the crack cocaine that § 87(2)(b) threw and he initially said he did not know whether any additional narcotics were found inside of § 87(2)(b). When informed that § 87(2)(b) was arrested for criminal possession of a controlled substance and marijuana, Det. Nacelewicz clarified that the only drugs he saw at the scene were the twists of crack cocaine that § 87(2)(b) threw. He was not informed of where the additional narcotics were retrieved from and did not know if any narcotics were found on § 87(2)(b) or § 87(2)(b). The crack cocaine twists were the only items recovered from the bag that § 87(2)(b) threw. No marijuana was recovered from that bag.

Aside from the vestibule and hallway, Det. Nacelewicz entered no other part of § 87(2)(b). He did not search any part of the location and did not believe any other officers did so. From the stairwell area, Det. Nacelewicz could see everything on the first floor because it was completely open. Based on the state of the first floor, including visible 2 x 4s, it looked to Det. Nacelewicz as if someone had been reconstructing it after a fire. He saw no property on the first floor, including any bags of clothing.

**Subject Officer: DET. DENNIS FRIENDLY**

- *Det. Friendly, a black man who is 6'0" tall, weighs 205 pounds, with salt and pepper hair*

- and brown eyes, was § 87(2)(b) at the time of the incident.
- Det. Friendly worked from 2:27 p.m. to 11 p.m., assigned to the chase auto with Lt. Patrick Ryan and Det. Jennifer Lavelle. He was dressed in plainclothes and assigned to unmarked rental auto § 87(2)(b) a black Nissan Altima.

### **Memo Book**

7:30 p.m., Observation at § 87(2)(b) 7:50 p.m., Three under arrest inside of § 87(2)(b) resisted by trying to run back inside of location and throwing crack cocaine that was in a plastic bag, trying to destroy evidence. Started to swing his hand trying to assault me and Det. Nacelewicz. I restrained him by using minimal force by taking defendant to the ground. Defendant refused to be handcuffed by pushing his legs and feet against the walls and falling to the floor. Causing injury to his mouth and face. Defendant was offered medical attention and was taken to hospital (encl. F1-F3).

### **Supporting Deposition**

Det. Friendly's supporting deposition for § 87(2)(b)'s arrest notes that he observed § 87(2)(b) in possession of three plastic bags containing crack cocaine, which were recovered from the ground where Det. Friendly observed § 87(2)(b) throw them. Det. Friendly identified the substance as crack cocaine based on his professional training and experience as an officer with the same controlled substance. A field test of the substance recovered tested positive for cocaine and based on Det. Friendly's opinion, the substance was crack cocaine. Det. Friendly noted that § 87(2)(b) resisted arrest by flailing his arms, holding his arms against his body, punching at, struggling with, and kicking at Det. Friendly, and refusing to be handcuffed (encl. H41-H43).

### **CCRB and IAB Interviews**

Det. Dennis Friendly was interviewed by IAB on June 26, 2013 (encl. F4) and at the CCRB on November 1, 2013 after reviewing his IAB statement (encl. F5-F8). § 87(2)(g)

§ 87(2)(g)

While conducting confidential informant buys, Lt. Ryan and Det. Lavelle were told by a confidential informant that he had purchased narcotics from § 87(2)(b). Those officers returned to the command and a tactical meeting was held, which Det. Friendly attended. Det. Friendly said he was not provided with any information in regard to who the officers were looking for. (He told IAB that the confidential informant reported that a man was selling narcotics out of the location.) No warrant was procured, but Det. Friendly did not know why. They went to the location to conduct an observation and investigation. The observation involved watching the location for any foot traffic. While there, Det. Friendly saw "a couple of people," not § 87(2)(b) or § 87(2)(b) coming in and out of the building, but could not estimate a more specific number. He observed no hand-to-hand transactions during this time.

While Det. Friendly and Det. Nacelewicz knocked on the front door of § 87(2)(b), Lt. Ryan and Det. Lavelle approached Individual 1, who was sitting on the stairs next door. From his location, Det. Friendly heard the conversation. The officers asked if Individual 1 had noticed foot traffic at the location. Individual 1 said he had, but noted that the building should be vacant. He gave Lt. Ryan and Det. Lavelle permission to enter his building to find a vantage point for them to look inside of § 87(2)(b) but they could not find one. The officers saw extension cords running from the rooftop and the rear of the building, which led them to believe that the occupants of § 87(2)(b) were stealing electricity and that there was none in

the building. (Det. Friendly told IAB that Individual 1 was the one who saw the extension cords.) The boarded up windows and the extension cords led Det. Friendly to believe that § 87(2)(b) was condemned.

As the officers walked toward their cars, § 87(2)(b) opened the front door, exited, but left the front door open, and was walking down the front steps when he identified the officers, due to their visible shields and holstered guns. He appeared startled and froze for a moment. The officers verbally identified themselves and ordered § 87(2)(b) not to move. However, § 87(2)(b) turned around and threw the item that had been in his hand into the vestibule area. Det. Friendly described the item as a white rocky substance packaged in plastic and tied into a knot, approximately one inch in size. Based upon Det. Friendly's 8 ½ years of experience in narcotics, he identified the substance as crack cocaine. § 87(2)(b) then attempted to evade arrest by fleeing back inside of the building. (Det. Friendly made no mention to IAB of giving § 87(2)(b) any lawful orders prior to him attempting to flee and Det. Friendly told IAB that § 87(2)(b) threw the bag into the foyer.)

Det. Friendly and Det. Nacelewicz ran after § 87(2)(b) as he told IAB, in an attempt to apprehend him. He also told IAB that he believed, but was not sure, that he entered before Det. Nacelewicz did. During his CCRB interview, Det. Friendly said the officers caught up to § 87(2)(b) in the vestibule of the building. However, he told IAB that after running up the exterior steps of the building, they caught up to § 87(2)(b) as he was running up the stairs in the foyer.

The officers ordered § 87(2)(b) who fought them by punching, swinging his arms and kicking his legs, to stop resisting, but he refused to comply. (Det. Friendly told IAB that § 87(2)(b) also tried to knock Det. Friendly's phone out of his hands in an attempt to evade arrest.) Det. Friendly, Det. Nacelewicz, and § 87(2)(b) fell as a result of § 87(2)(b) dropping his weight to the ground. Although one line in Det. Friendly's memo book notes that § 87(2)(b) was brought to the ground and another notes that he fell to the ground, Det. Friendly explained that both entries referred to the same instance, and that being brought down and falling happened in conjunction with each other, although he then said the officers had been attempting to handcuff § 87(2)(b) while standing up, and had not intended to bring him to the ground. When he fell, § 87(2)(b)'s face hit the floor, causing his mouth injury. Neither he nor Det. Nacelewicz struck § 87(2)(b) in the mouth.

Once on the ground, § 87(2)(b) continued resisting by using his feet to push off the wall of the vestibule, in an attempt to get away. After being on the ground for 30 to 60 seconds, Det. Friendly and Det. Nacelewicz were able to handcuff § 87(2)(b). Aside from pulling § 87(2)(b)'s arms behind his back, no additional force was used. Det. Friendly did not place his foot on § 87(2)(b)'s face and saw no officer do so. During the struggle, § 87(2)(b) made no statements that Det. Friendly could understand. § 87(2)(b) did not appear to be under the influence of narcotics or alcohol.

Moments after the struggle, § 87(2)(b) and § 87(2)(b) walked downstairs on their own and were placed in handcuffs. Det. Friendly could not recall anything about their demeanor or who placed them in handcuffs. He never drew his firearm. Det. Friendly entered no other part of § 87(2)(b) aside from the vestibule and saw no officer do so. Although it was dark inside because there was no electricity to that area of the building, Det. Friendly observed that the vestibule was empty and that there were holes in the walls and exposed 2 x 4s. He never went upstairs and saw no officer do so. No officer searched the premises. Det. Friendly saw no bags at the scene and neither he nor any other officer looked inside of any bags in his presence. To Det.



Friendly's knowledge, the narcotics that § 87(2)(b) had thrown were recovered from the vestibule area, although he did not recover them and was unsure who did.

Twenty minutes after the officers arrived to the scene, all three prisoners had been handcuffed. The prisoner van, which contained Det. Fernandez and Det. Aponte, was called and arrived approximately 10 minutes later. While waiting for the van, Det. Friendly noticed § 87(2)(b)'s injury. During that time, additional officers from the tactical plan approached the scene, but they did not enter the building, nor did Det. Fernandez and Det. Aponte. Det. Friendly and Det. Nacelewicz brought § 87(2)(b) to the prisoner van.

**Subject Officer: DET. JENNIFER LAVELLE**

- *Det. Lavelle, a white woman who is 5'8" tall, weighs 150 pounds, with brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Det. Lavelle's tour was from 2:27 p.m. to 11 p.m., but she worked overtime until 2 a.m. She was dressed in plainclothes and assigned to confidential informant buys and chase auto, a black Altima with rental auto number § 87(2)(b) with Lt. Patrick Ryan.*

**Memo Book**

When asked whether Det. Lavelle had any entries in her memo book regarding this incident, she read into the record the following: "7:40 p.m., Arrive at § 87(2)(b) 7:45 p.m., Three under and the names of the individuals." She was asked to read them into the record word for word and said, § 87(2)(b). Det. Lavelle was asked if she had any more entries about this incident, and she said, "No." (During her IAB statement, Sgt. Lavelle was asked to read the contents of her memo book into the record and read the following: "7:40 p.m., Arrive at § 87(2)(b) 7:45 p.m. Three under inside of with the names." Sgt. Lavelle did not read the names into the record (encl. F13).)

Upon receipt of Det. Lavelle's memo book at the conclusion of her CCRB interview, it was determined that the following related entries were noted: 5:15 p.m., Rental auto # § 87(2)(b) with Lt. Ryan. En route to § 87(2)(b). 5:25 p.m., Pick up CI # § 87(2)(b). En route to § 87(2)(b) [sic]. 5:35 p.m., Arrive at regarding CI Buys. 5:45 p.m., Negative results. En route to § 87(2)(b). 5:55 p.m., Arrive at regarding CI buy § 87(2)(b). 6 p.m., Positive buy (1 twist crack). En route to § 87(2)(b). 6:25 p.m., Arrive at § 87(2)(b) regarding CI payment. CI out of auto. En route to Brooklyn North Narcotics. 6:45 p.m., Tactical meeting. Arresting officer: Det. Lafortune. Assign: Chase auto # § 87(2)(b) with Lt. Ryan and Det. Friendly. 7:20 p.m., En route to 75<sup>th</sup> precinct (vicinity of). 7:40 p.m., Arrive at § 87(2)(b) 7:45 p.m., Three under arrest i/s/o [inside of] § 87(2)(b). [Additional entries regarding unrelated arrests noted.] 8:50 p.m., Arrive at § 87(2)(b) regarding CI payment for information- three positive arrests at § 87(2)(b) (encl. F9-F12).

**CCRB and IAB Interviews**

Det. Jennifer Lavelle was interviewed by IAB on April 2, 2013 (encl. F13) and at the CCRB on November 20, 2013 after reviewing her IAB statement (encl. F14-F17). § 87(2)(g)

At approximately 5:30 p.m., Det. Lavelle and Lt. Ryan had picked up a confidential informant and began conducting confidential informant buys. No additional officers were present. The

confidential informant was dropped off and the officers parked their car at least one block away. From their location, they could not see the confidential informant or any transactions that took place. The confidential informant later told the officers that she had purchased crack cocaine from a black man at the doorway of “a spot,” which the confidential informant believed was § 87(2)(b) and that the location appeared abandoned and was very dark. (Det. Lavelle only told IAB that the confidential informant said she had purchased narcotics from the location and that the confidential informant believed it to be abandoned.) The officers drove past to see what the location looked like with the confidential informant, who pointed it out, dropped the confidential informant off at 6:30 p.m., and returned to the narcotics base, where a tactical meeting was held for a Buy and Bust operation at 6:45 p.m.

The four officers arrived to the location at 7:40 p.m. and approached the front door. Although other officers were listed on the tactical plan, Det. Lavelle first said they were not at the scene, and then said she did not recall whether they were. A search warrant was not procured for § 87(2)(b) because the officers only intended to return to the location to determine whether it was abandoned and see if anyone answered the door. Det. Lavelle did not intend to enter the location.

The building, which Det. Lavelle described as a private house, appeared abandoned, was run down with overgrown trees, had no lighting, and had a couple of broken windows on the second floor. No one answered the door and there was no indication that anyone was inside. Det. Lavelle and Lt. Ryan went next door to see if there was a way to get “up and over” to see if anyone was inside of § 87(2)(b). Det. Lavelle explained that some buildings in Brooklyn are connected to each other, so the officers intended to see if these buildings were, in which case, they would have been able to cross over onto the roof of § 87(2)(b). As they entered the building next door, Individual 1 was exiting and let them in. Individual 1 did not know if there was a way to get up and over to the next building, but gave the officers permission to check for themselves, which they did. (Det. Lavelle told IAB that Individual 1 then left the scene.) The buildings were not connected and there was no way to gain entry.

As Det. Lavelle and Lt. Ryan walked toward the street from the next door building, Det. Lavelle heard a commotion, (described to IAB as a “tussling,”) turned around, and saw Det. Friendly and Det. Nacelewicz fighting with someone in the doorway, near the front door of the location. The scene was very dark and the officers were “going by street lights,” so Det. Lavelle could not make out who was who and could not see specific actions. (She told IAB that there was no light and all she could see were silhouettes.) Det. Lavelle did not see Det. Friendly punch § 87(2)(b) who was the only perpetrator in the area where the struggle occurred, in the mouth. She and Lt. Ryan immediately ran over to assist, but by the time they arrived, the other officers either already had § 87(2)(b) handcuffed or were in the process of handcuffing him. (She told IAB that § 87(2)(b) was handcuffed upon her arrival.) He was lying on the floor of the vestibule, located immediately behind the front door, although Det. Lavelle did not see how he ended up there. Det. Lavelle entered the vestibule and she and an unidentified officer immediately stood § 87(2)(b) up and brought him outside. She could not recall if Lt. Ryan entered. Det. Lavelle saw no officer place their foot on § 87(2)(b)'s face.

The prisoner van was called to the scene. Det. Lavelle did nothing else at the location. When asked about the additional two perpetrators who were listed in her memo book as being arrested from the location, Det. Lavelle said, “I don’t recall the other two, so we may have left and went to another spot and they [inaudible] an arrest and pick up some more. I don’t know.” (During her IAB statement, when asked whether anyone else was brought outside, Det. Lavelle initially said,

"No, he was the only person." When the interviewer asked, "He was the only person they brought out?," Det. Lavelle then responded, "That I remember, yeah.") Det. Lavelle did not recognize § 87(2)(b) upon reviewing his arrest photo and did not know what the three perpetrators were arrested for. Crack cocaine was recovered from the location, but Det. Lavelle did not see this. She believed they may have been recovered from the vestibule, but was unsure of this. Det. Lavelle said § 87(2)(b) had thrown the narcotics to the floor, although she did not see this. When asked where she obtained that information, Det. Lavelle said it would have been from the arresting officer when the narcotics were being vouchered. When informed that the arresting officer was Det. Lafortune, Det. Lavelle confirmed he was not at the incident location. She did not recall § 87(2)(b) having a bag in his possession.

When asked how long the officers were at the scene, Det. Lavelle initially said approximately 15 minutes, but upon her representative, Det. Small, reminding her that her memo book placed their arrival time and the time when the individuals were under arrest as five minutes, Det. Lavelle then said they were there for five minutes. Det. Lavelle entered no part of § 87(2)(b) aside from the vestibule and she did not search the location. There was a doorway that led from the vestibule into a hallway. Given that it was dark, Det. Lavelle said she could make things out in the hallway, but first said she could not see inside well and then said she did not recall seeing inside well. Det. Lavelle could not see into any other part of the building. She never went to the second floor of the building, searched through no bags or compartments on the second floor and saw no officer do so.

(Det. Lavelle told IAB that she observed no injuries on § 87(2)(b) at the time because there was "zero visibility," and he complained of none to her, but once he was brought outside, she saw blood near his mouth. Det. Lavelle did not know how § 87(2)(b) sustained that injury.)

**Subject Officer: LT. PATRICK RYAN**

- *Lt. Ryan, a white man who is 5'9" tall, weighs 160 pounds, with brown hair and brown eyes, was § 87(2)(b) old at the time of the incident.*
- *Lt. Ryan worked from 3 p.m. to 11 p.m. with Det. Jennifer Lavelle. He was assigned to an unmarked Nissan Altima.*

**Memo Book**

Following his IAB statement, Lt. Ryan was asked to provide memo book entries related to this incident. Lt. Ryan read the following: "At 7:40 p.m., I arrived at the location. At approximately 7:45 p.m., we had three arrests from the location. § 87(2)(b) § 87(2)(b) and I can't read my handwriting. One other individual. By 8:15 p.m., we wrapped up over there and we went over to § 87(2)(b)" (encl. F26-F27).

**IAB Statement**

Lt. Patrick Ryan was interviewed by IAB on February 27, 2013 (encl. F26-F27). § 87(2)(g)

The confidential informant said she had purchased narcotics from a location on § 87(2)(b), but did not know the address. The officers drove by the location, which appeared abandoned. Lt. Ryan held a tactical meeting with his field team for an observation at the location. Almost the entire field team likely arrived to the scene, but not all of the officers exited their vehicles.

After speaking with Individual 1, Lt. Ryan approached § 87(2)(b) and was walking up the walkway when the door opened and Det. Nacelewicz and Det. Friendly tried to grab § 87(2)(b).



§ 87(2)(b) Lt. Ryan later learned those officers did so because they had seen § 87(2)(b) throw narcotics, although he did not see this. A fight ensued and those officers took § 87(2)(b) to the ground. When asked whether Lt. Ryan saw anyone strike, punch, or kick § 87(2)(b) Lt. Ryan said the struggle occurred within a tight lobby area, and that if § 87(2)(b) was hit, it could have been an "errant hit," but that no punching was involved. Lt. Ryan did not elaborate on what he meant by an errant hit. The struggle consisted of grabbing § 87(2)(b) and trying to prevent him from resisting arrest. The officers and § 87(2)(b) were brought to the ground in the vestibule during the struggle. § 87(2)(b) fell face-first. Lt. Ryan arrived to the vestibule as they reached the ground and assisted in placing § 87(2)(b) in handcuffs. Crack was recovered from the lobby.

After § 87(2)(b) was brought to the prisoner van, Lt. Ryan and the field team went to a couple more locations prior to returning to the precinct at approximately 8:50 p.m. There, Lt. Ryan observed blood on § 87(2)(b)'s face, which he attributed to the fall. When asked whether Lt. Ryan was aware of anyone returning to § 87(2)(b) to clean up blood from the scene, he said the following, "I mean, there were other people, I think. [It] looked like there [were] rooms in there that were sealed off. There [were] clothes in the front room, so I don't know if maybe that guy came home, but none of my guys."

#### **Officers Not Interviewed**

- § 87(2)(b) said the two officers who transported the prisoners to the precinct also searched § 87(2)(b). The Tactical Plan notes Det. Fernandez and Det. Aponte, both light-skinned Hispanic men, as assigned to the prisoner van. However, given that all civilians and officers interviewed acknowledged that the prisoner van was initially elsewhere and had to be called to the scene once the civilians were under arrest, it would have been impossible for these officers to search the location when § 87(2)(b) said they did.

#### **Medical Records**

- § 87(2)(b)'s FDNY Prehospital Care Report notes that EMTs arrived at the 75th Precinct stationhouse at 8:51 p.m. on September 26, 2012 (encl. G1). § 87(2)(b) was alert and oriented and ambulatory upon arrival, with lacerations inside of his mouth and no other injuries. § 87(2)(b) was transported without incident. The presumptive diagnosis was a soft tissue injury to the mouth.
- § 87(2)(b) was transported to § 87(2)(b) and examined in the Emergency Department at § 87(2)(b) (encl. G1). History of present illness notes a laceration to lip B for two hours with mild § 87(2)(b). Upper and lower lip lacerations were noted and the flap from § 87(2)(b)'s upper lip was hanging. Bleeding was controlled. § 87(2)(b) was given Tylenol and prescribed Amoxicillin and Anaprox DS. A secondary diagnosis of substance abuse is noted. Ten sutures to the maxilla and four sutures to the mandible were recommended for lacerations.
- § 87(2)(b)'s Pre-Arrest Screening Form notes that on September 27, 2012, § 87(2)(b) had a facial injury (encl. G1). The visual assessment portion of the form is illegible.

#### **NYPD Documents**

##### **Tactical Plan**

- The Tactical Plan notes that a tactical meeting was held at 7 p.m. for a Buy and Bust operation. Lt. Ryan, Det. Lavelle, and Det. Friendly were assigned to a black Altima, Det.

Steve Lafortune and Det. Juan Leonbravo were assigned to a gray Honda, Det. Nacelewicz, Det. Jelson Goyco, and Det. David Solmonsohn were assigned to a gray Dodge, and Det. Aponte and Det. Fernandez were assigned to the prisoner van, a white Ford. Eight locations are listed, including § 87(2)(b). The Post-Enforcement Tactical Meeting was held at 10 p.m. at the 75<sup>th</sup> Precinct stationhouse (encl. H1-H2).

#### **Det. Lafortune's Memo Book**

- Det. Lafortune's memo book notes that at 7:50 p.m., he was not present inside of § 87(2)(b) for the arrests of § 87(2)(b) and § 87(2)(b) for criminal possession of a controlled substance. Det. Lafortune has additional memo book entries for unrelated arrests made during his tour that day. At 9:05 p.m., he was assigned to be the arresting officer by Lt. Ryan at the 75<sup>th</sup> Precinct stationhouse (encl. F25-F27).

#### **Arrest Reports**

- § 87(2)(b) and § 87(2)(b)'s arrest reports note that their arresting officer was Det. Lafortune, that Lt. Ryan supervised the arrests, and that the arrest reports were entered into the online booking system by Det. Fernandez. Both men were arrested inside of § 87(2)(b) in Brooklyn.
  - § 87(2)(b)'s arrest report notes that he was arrested for § 87(2)(b). The narrative notes that § 87(2)(b) was observed in possession of a quantity of a controlled substance in plain view and that he flailed his arms and attempted to prevent an officer from conducting an arrest (encl. H3-H4).
  - § 87(2)(b)'s arrest report notes that he was arrested for § 87(2)(b). The narrative notes that § 87(2)(b) was observed in possession of a quantity of a controlled substance and a quantity of marijuana in plain view (encl. H5-H7).
- § 87(2)(b)'s arrest report is sealed and its contents are unavailable.

#### **Command Log**

- § 87(2)(b)'s command log entry notes his physical/mental condition as laceration to lip/appears normal (encl. H12-H13).

#### **Property Voucher**

- One plastic twist of a substance identified via field test as crack cocaine, as well as two additional twists of alleged crack cocaine were vouchered at the 75<sup>th</sup> Precinct stationhouse in relation to § 87(2)(b)'s arrest (encl. H14-H20).

#### **NYPD Officer Photographs and Pedigree Information**

- Det. Friendly's pedigree information notes that he is a black man who is 6'0" tall, weighs 200 pounds, with short black hair and brown eyes (encl. H21).
- Lt. Ryan's pedigree information notes that he is a white man who is 5'9" tall, weighs 160 pounds, with brown hair and brown eyes (encl. H24).
- Det. Fernandez's NYPD photo and pedigree information note that he is a light-skinned Hispanic man who is 5'10" tall, weighs 210 pounds, with brown hair, although his head is shaved in his photo, and brown eyes (encl. H25).
- Det. Aponte's NYPD photo and pedigree information note that he is a light-skinned Hispanic man who is 5'8" tall, weighs 180 pounds, with short black hair and brown eyes (encl. H26).

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

- § 87(2)(b) s arrest for this incident has been sealed and the disposition is unknown (encl. J5-J6).
- On § 87(2)(b), § 87(2)(b) pled guilty to disorderly conduct and was fined \$95 (encl. J16).
- On § 87(2)(b), § 87(2)(b) pled guilty to disorderly conduct and was fined \$95 (encl. J24).

### **Status of Civil Proceedings**

- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming that he was falsely arrested, assaulted and battered and subjected to malicious prosecution when officers unlawfully trespassed and entered his home in violation of his rights. § 87(2)(b) seeks a reasonable amount of money for his injuries. A 50H hearing that was initially scheduled for § 87(2)(b) was adjourned to § 87(2)(b), but the current status of the case is unavailable (encl. J2-J4).
- § 87(2)(b) has not filed a Notice of Claim with the City of New York as of August 15, 2013, nearly eight months past the filing deadline, with regard to this incident (encl. J1).

### **Civilians' Criminal History**

- As of December 15, 2013, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b) (encl. J7-J15).
  - § 87(2)(b)
- As of December 15, 2013, Office of Court Administration records reveal the following criminal convictions for § 87(2)(b) (encl. J17-J23).
  - § 87(2)(b)

### **Civilians' CCRB History**

- § 87(2)(b) has filed the following CCRB complaints (encl. C1):
  - § 87(2)(b)
- This is the first CCRB complaint to which § 87(2)(b) has been a party (encl. C2).

### **Subject Officers' CCRB History**

- Det. Nacelewicz has been a member of the service for seven years and there are no substantiated CCRB allegations against him (encl. B1).
- Det. Dennis Friendly has been a member of the service for 11 years and there are four substantiated CCRB allegations against him (encl. B2-B4).
  - In CCRB case number 201001417, Det. Friendly received command discipline B for an improper entry and a search of a location, for refusing to provide his name and shield number to an individual, and for using excessive physical force against an individual. The CCRB recommended that Det. Friendly receive charges for threatening to arrest an individual, but the NYPD issued no disciplinary action in regard to that allegation.
- Det. Jennifer Lavelle has been a member of the service for nine years and there is one substantiated CCRB allegation against her (encl. B5-B6).

- In CCRB case number 201001416, Det. Lavelle received instructions for refusing to provide her name and shield number to an individual.
- Lt. Patrick Ryan was a member of the service for 20 years and there are no substantiated CCRB allegations against him (encl. B7-B8).

### **Conclusion**

#### **Identification of Subject Officers**

- Det. Friendly and Det. Nacelewicz acknowledged entering § 87(2)(b) and struggling with § 87(2)(b). Therefore, Allegations A, B, and C have been pled to them.
- Det. Lavelle and Lt. Ryan acknowledged entering § 87(2)(b). Therefore, Allegations D and E have been pled to them.
- § 87(2)(b) alleged that an officer placed their foot on his face while he was on the ground, but could not see the officer who did this. Given that no officer who was interviewed acknowledged doing this action or witnessing it, Allegation F has been pled to “An officer” from Brooklyn North Narcotics.
- § 87(2)(b) alleged that an officer described as a black man, approximately 45 years old, 6’1” tall, 160 to 170 pounds, with a slim build, bald, and dressed in a sweat suit or gym pants, pointed a gun at him and then searched § 87(2)(b)’s upstairs apartment. Given that Det. Friendly was the only identified officer who fit this general description at the scene, and that § 87(2)(b) identified the black male officer who went upstairs as the one who he struggled with, Allegations G and I have been pled to him.
- § 87(2)(b) and § 87(2)(b) alleged that a white female officer walked upstairs and entered § 87(2)(b)’s apartment. Although the additional descriptive factors of that officer provided by § 87(2)(b) and § 87(2)(b) differ, given that Det. Lavelle was the only female officer listed on the Tactical Plan, Allegation H has been pled to her.

#### **Investigative Findings and Recommendations**

**Allegation A – Abuse of Authority: Det. Gabriel Nacelewicz entered § 87(2)(b) in Brooklyn.**

**Allegation B – Abuse of Authority: Det. Dennis Friendly entered § 87(2)(b) in Brooklyn.**

It is undisputed that no warrant was obtained for § 87(2)(b) and that Det. Nacelewicz and Det. Friendly entered the location. Det. Lavelle said no warrant was obtained because the officers intended to conduct an observation at the location, not enter the premises. According to Det. Nacelewicz, the officers intended to determine whether anyone lived in the building and if so, to obtain that person’s name by questioning whoever answered the door. It is also undisputed that § 87(2)(b) answered the front door carrying a bag. § 87(2)(b) said the bag was black in color and contained no narcotics, although Det. Nacelewicz and Det. Friendly said § 87(2)(b) was carrying a clear plastic bag that contained twists of crack cocaine, which they said was in plain view. Although § 87(2)(b) denied being in possession of narcotics, the property voucher associated with his arrest confirms that narcotics were recovered from inside of the location.

A warrantless entry into one’s home to affect an arrest requires the presence of exigent circumstances. Factors to be considered include: (1) the gravity or violent nature of the alleged offense; (2) whether the suspect is reasonably believed to be armed; (3) a clear showing of probable cause to believe that the suspect committed the crime; (4) a strong reason to believe that



the suspect is in the premises being entered; (5) the likelihood that the suspect will escape if not swiftly apprehended; and (6) the peaceful circumstances of the entry. People v. McBride, 14 N.Y.3d 440 (2010) (encl. A1-A5).

The officers were brought to the location as a result of information provided to Lt. Ryan and Det. Lavelle by a confidential informant. An unidentified man was suspected of participating in a non-violent drug sale and one in which there was no indication that the seller was armed.

§ 87(2)(g)

Based on every officers' statement, the lighting at the scene ranged from poor to nonexistent, except when it came to identifying the narcotics. Although § 87(2)(b) recalled seeing a flashlight shining through the front door prior to opening it, § 87(2)(g) Det. Nacelewicz, who was undisputedly the officer closest to the door, said he never used his flashlight, and that the only light at the scene came from street lights. Det. Friendly confirmed a lack of electricity to the front of the building. Det. Lavelle described the front of the building as so dark that from her initial position near the street, she could only see silhouettes of individuals standing in the entryway, and once inside of the vestibule (her entry is analyzed below), she said she could barely see any deeper into the building. § 87(2)(g)

Det. Lavelle's memo book notes that the confidential informant confirmed a narcotics purchase of one twist of crack at 6 p.m., that the officers returned to the command for a tactical meeting at 6:45 p.m., and that they did not return to § 87(2)(b) until 7:40 p.m. Therefore, a timespan of one hour and 40 minutes elapsed since the drug sale. Neither Det. Lavelle nor Lt. Ryan stayed at the location to confirm no one left during that time. Further, Det. Friendly said that during the course of the observation of the location, he saw multiple people entering and exiting the building. § 87(2)(g)

The description of the suspect provided by the confidential informant was only his gender and the officers did not know where in the building the suspect was located (if in fact he was still there when they returned). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C – Force: Det. Dennis Friendly used physical force against** § 87(2)(b) § 87(2)(b) alleged that Det. Friendly struck him with his right fist once on the left side of his mouth without reason, causing the injury to § 87(2)(b) § 87(2)(b)'s mouth that required 14 sutures. The only physical engagement with § 87(2)(b) § 87(2)(b) that Det. Friendly acknowledged was pulling his arms behind his back in order to rear handcuff him. Although Det. Nacelewicz was in the vicinity of the initial struggle, he said that from his position, he could not tell whether § 87(2)(b) § 87(2)(b) fell to the ground or was intentionally brought down by Det. Friendly. Det. Friendly attributed § 87(2)(b) § 87(2)(b)'s injury to him falling to the ground and landing on his mouth as a result of resisting arrest. § 87(2)(g)

**Allegation D – Abuse of Authority: Det. Jennifer Lavelle entered** § 87(2)(b) § 87(2)(b) **in Brooklyn.**

**Allegation E – Abuse of Authority: Lt. Patrick Ryan entered** § 87(2)(b) § 87(2)(b) **in Brooklyn.**

It is undisputed that Det. Lavelle and Lt. Ryan entered § 87(2)(b) § 87(2)(b) and the investigation determined that they did so to aid Det. Nacelewicz and Det. Friendly. Det. Lavelle said from her position, she saw silhouettes inside of the location and heard what she described as a “tussle.” Lt. Ryan told IAB that Det. Nacelewicz and Det. Friendly were involved in a struggle that brought § 87(2)(b) § 87(2)(b) and at least one officer to the ground prior to his arrival.

In the event of an emergency, officers may enter a premise without a warrant if there are reasonable grounds to believe that their assistance is needed to protect life or property. The search must not be primarily motivated by intent to arrest and seize evidence. People v. Greenleaf, 222 A.D.2d 838 (1995) (encl. A6-A7).

§ 87(2)(g)

**Allegation F – Force: An officer used physical force against** § 87(2)(b) § 87(2)(b) § 87(2)(b) alleged that in response to him moving his head back and forth to see what was going on while he was on the ground, an officer placed their foot on his face, causing minor scraping to his face, which is not documented in his medical records. § 87(2)(b) § 87(2)(b) acknowledged that from his position, he could not see which officer did this. § 87(2)(g)

**Allegation G – Force: Det. Dennis Friendly pointed his gun at** § 87(2)(b) § 87(2)(b) § 87(2)(b) alleged that as he exited § 87(2)(b) § 87(2)(b)'s apartment and stood near the top steps of the staircase, Det. Friendly pointed his gun at § 87(2)(b) § 87(2)(b)'s forehead prior to placing him under arrest. Det. Friendly denied pointing his gun at § 87(2)(b) § 87(2)(b) and no officer who was interviewed

acknowledged seeing Det. Friendly, or any officer at the scene, draw his firearm. § 87(2)(g)

**Allegation H– Abuse of Authority: Det. Jennifer Lavelle searched § 87(2)(b) in Brooklyn.**

**Allegation I – Abuse of Authority: Det. Dennis Friendly searched § 87(2)(b) in Brooklyn.**

§ 87(2)(b) alleged that Det. Lavelle and Det. Friendly went upstairs and entered his second floor apartment, but given that he was kept downstairs, § 87(2)(b) did not know what those officers did while inside. § 87(2)(b) who was present in the apartment at the time, alleged that Det. Lavelle first searched several plastic bags, which contained clothing, inside of one bedroom, and then entered and searched another room. § 87(2)(b) further alleged that Det. Friendly entered and searched a second bedroom, although from his location, § 87(2)(b) could not see what Det. Friendly did while inside. § 87(2)(b) said that at some point, his overnight bag was also searched. § 87(2)(b) who was arrested for criminal possession of a controlled substance and criminal possession of marijuana, acknowledged that the officers found a marijuana cigarette on top of the television, which § 87(2)(b) said he, § 87(2)(b) and § 87(2)(b) had planned to smoke after dinner.

Each officer interviewed denied going upstairs and searching any part of the location. Det. Lavelle and Det. Friendly both said they never entered any part of the location aside from the vestibule at the time of their CCRB interviews. However, Det. Friendly told IAB that the struggle with § 87(2)(b) occurred on the interior staircase of the building, which is located in the first floor hallway, past the vestibule. It is undisputed that § 87(2)(b) was arrested in the general vicinity of the front entrance to the building. It is also undisputed that § 87(2)(b) and § 87(2)(b) were arrested inside of § 87(2)(b) as well. Every officer interviewed confirmed that § 87(2)(b) was the only civilian present in the vicinity of the struggle, which indicates that the other two individuals must have been arrested somewhere else inside of the building.

According to Det. Friendly, after the struggle, § 87(2)(b) and § 87(2)(b) walked downstairs on their own, approached the vestibule, and were placed in handcuffs, although he could not recall anything else about their demeanor or who placed them in handcuffs. Det. Lavelle claimed to not recall anything about these arrests and went so far as to suggest that they occurred after she had left the scene, despite having a memo book entry in regard to them. § 87(2)(g)

(see Allegation K). § 87(2)(g)

§ 87(2)(g) When asked a question on an unrelated topic during his IAB statement, Lt. Ryan noted the presence of clothes in a front room. Det. Nacelewicz, Det. Friendly, and Det. Lavelle consistently denied the presence of any property being present in the vicinity of the vestibule/hallway areas, aside from the plastic bag that, according to Det. Nacelewicz, contained only crack cocaine and no marijuana. § 87(2)(g)



§ 87(2)(g)

It is unreasonable to make a warrantless entry into subsequent rooms of a perpetrator's home once the police have complete control over the house and its occupants, when there is ample time to obtain a search warrant and there is no emergency which would permit a search under the exigent circumstances doctrine. People v. Knapp 52 N.Y.2d 689 (1981) (encl. A8-A12).

§ 87(2)(g)

**Allegation J – Other: Det. Dennis Friendly intentionally provided a false official statement to the CCRB.**

During his CCRB statement, Det. Friendly said moments after the struggle with § 87(2)(b) had concluded, § 87(2)(b) and § 87(2)(b) walked downstairs on their own and were placed in handcuffs, but that he could not recall anything about their demeanor or who handcuffed them. Det. Friendly further said that no officers went upstairs to the second floor of

§ 87(2)(b)

The intentional making of a false official statement is prohibited and will be subject to disciplinary action. NYPD Patrol Guide Section 203-08 (encl. A13).

Det. Friendly denied any officers going upstairs to the second floor of the building. However, as stated above, the investigation determined that the marijuana § 87(2)(b) was charged with being in possession of was recovered from inside of § 87(2)(b)'s apartment on the second floor. § 87(2)(b)'s arrest report notes that marijuana was found in plain view inside of § 87(2)(b) (encl. H5-H7) and § 87(2)(b) acknowledged that a marijuana cigarette was sitting on top of the television in § 87(2)(b)'s apartment, an admission which goes against § 87(2)(b)'s interest. § 87(2)(g)

§ 87(2)(g)

Det. Nacelewicz, who stated that the civilians were escorted downstairs by unidentified officers. In addition, Lt. Ryan told IAB that clothing was found in a front room of the location. Although Lt. Ryan did not note which floor this room was located, § 87(2)(g)

§ 87(2)(g) noted that these bags were located inside of § 87(2)(b)'s apartment, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation K – Other: Det. Jennifer Lavelle intentionally provided a false official statement to the CCRB.**

When asked whether Det. Lavelle had any entries in her memo book regarding this incident, she read into the record, “7:40 p.m., Arrive at § 87(2)(b) 7:45 p.m., Three under and the names of the individuals.” When directly asked whether she had any additional entries about this incident, Det. Lavelle said she did not. Upon receipt of Det. Lavelle’s memo book at the conclusion of her CCRB interview, it was determined that the entries actually note, “7:40 p.m., Arrive at § 87(2)(b) 7:45 p.m., Three under arrest i/s/o [inside of] § 87(2)(b) Det. Lavelle’s memo book also contained additional related entries that she did not read into the record. During her IAB statement, Sgt. Lavelle was asked to read the contents of her memo book into the record and read the following: “7:40 p.m., Arrive at § 87(2)(b) 7:45 p.m. Three under inside of with the names.”

The intentional making of a false official statement is prohibited and will be subject to disciplinary action. NYPD Patrol Guide Section 203-08 (encl. A13).

§ 87(2)(g)

Further, during her CCRB statement, Det. Lavelle claimed to not recall anything about the presence of the two additional perpetrators, who the investigation determined were arrested on the second floor of the location. Det. Lavelle went so far as to suggest that these arrests occurred after she had left the scene, despite having a memo book entry that clearly states three individuals were placed under arrest inside of the location.

During her IAB statement, § 87(2)(g)

Det. Lavelle included the words, § 87(2)(g)

§ 87(4-b), § 87(2)(g)

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

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

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

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

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