

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Black	Team: Team # 1	CCRB Case #: 201302279	<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) Thu, 03/07/2013 7:09 PM	Location of Incident: [REDACTED]	Precinct: 120	18 Mo. SOL 09/07/2014	EO SOL 9/7/2014	
Date/Time CV Reported Thu, 03/07/2013 8:25 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 03/27/2013 2:08 PM		

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

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

Subject Officer(s)	Shield	TaxID	Command
1. POF Megan Carroll	25061	§ 87(2)(b)	120 PCT
2. POM Earl Javellana	20769	§ 87(2)(b)	120 PCT
3. POM Todd Craven	27626	§ 87(2)(b)	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Michelle Ortiz	06354	§ 87(2)(b)	120 PCT
2. POM Adeniyi Sapara	09651	§ 87(2)(b)	120 PCT
3. SGT Bruce Ceparano	00000	§ 87(2)(b)	120 PCT
4. SGT Patrick Oneill	05581	§ 87(2)(b)	120 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POF Megan Carroll	Abuse of Authority: PO Megan Carroll did not obtain medical treatment for § 87(2)(b).	A . § 87(2)(g)
B . POM Earl Javellana	Abuse of Authority: PO Earl Javellana did not obtain medical treatment for § 87(2)(b).	B . § 87(2)(g)
C . POM Todd Craven	Force: PO Todd Craven used physical force against § 87(2)(b).	C . § 87(2)(g)
D . POM Todd Craven	Other: PO Todd Craven intentionally made a false official statement in violation of Patrol Guide Procedure 203-08.	D . § 87(2)(g)

### Case Summary

On March 7, 2013, Capt. Joseph Memoly of the 120<sup>th</sup> Precinct contacted IAB to report the following incident in which § 87(2)(b) died while in police custody. The complaint was referred to the CCRB under IAB log #13-11795 and was received on March 27, 2013. On October 10, 2013, § 87(2)(b)'s brother, who was not present for the incident, appeared at the CCRB, provided a formal statement, and provided a civilian complaint regarding the incident on behalf of § 87(2)(b).

On March 7, 2013, at 7:09 PM, § 87(2)(b) was arrested by PO Megan Carroll and PO Earl Javellana of the 120<sup>th</sup> Precinct for violating an order of protection at § 87(2)(b) in Staten Island. Several additional officers, including PO Todd Craven, PO Megan Ortiz, and PO Adeniyi Sapara, also of the 120<sup>th</sup> Precinct, responded to the location to assist in removing § 87(2)(b) from the address. The following allegations resulted in § 87(2)(b)'s interaction with the officers.

**Allegation A – Abuse of Authority: PO Megan Carroll did not obtain medical treatment for § 87(2)(b)**

**Allegation A – Abuse of Authority: PO Earl Javellana did not obtain medical treatment for § 87(2)(b)**

§ 87(2)(g)

**Allegation C – Force: PO Todd Craven used physical force against § 87(2)(b)**

§ 87(2)(g)

**Allegation D – Other Misconduct: PO Todd Craven intentionally made a false official statement in violation of Patrol Guide Procedure 203-08.**

§ 87(2)(g)

Given § 87(2)(b)'s death while in custody and § 87(2)(b) (encl. B 3-7), this case was added to the CCRB's sensitive case list. On April 15, 2013, this case was placed on DA Hold at the request of the Staten Island District Attorney's Office pending their investigation into the matter. The Staten Island District Attorney's Office subsequently declined to pursue any criminal charges against PO Craven and the case was removed from DA Hold on October 11, 2013.

This case was reassigned to Assistant Supervising Investigator Eric Black on September 23, 2013 due to Investigator Gregory Joss' departure from the agency.

### Results of Investigation

#### Civilian Statements

**Complainant:** § 87(2)(b)

- § 87(2)(b)

### CCRB Statement

§ 87(2)(b) was interviewed at the CCRB on October 10, 2013 (encl. C 5-9). § 87(2)(b) who died while in police custody, was § 87(2)(b)'s brother. § 87(2)(b) did not witness the incident. § 87(2)(b) learned the following details pertaining to the incident from § 87(2)(b) § 87(2)(b)'s girlfriend at the time of the incident, and from reviewing police reports and autopsy reports that his lawyer obtained.

On March 7, 2013 at about 6:30 PM, police officers were called to § 87(2)(b) in Staten Island because § 87(2)(b) violated an order of protection that § 87(2)(b) had against him. The residence belonged to § 87(2)(b) but § 87(2)(b) was living there at the time, regardless of the order of protection. § 87(2)(b) and § 87(2)(b) got into an argument, which prompted § 87(2)(b) to notify the police. The argument never became physical.

Two police officers, who were identified by the investigation as PO Megan Carroll and PO Earl Javellana, responded to the location and arrested § 87(2)(b) without incident. Instead of bringing § 87(2)(b) down in the elevator, the officers took him down the staircase, which took between 10-15 minutes before they reached the ground floor. § 87(2)(b) saw them go into the staircase, and heard yelling, but was unable to see what happened inside. § 87(2)(b) was able to see § 87(2)(b) and the officers exit the staircase and that is how she knew it took 10-15 minutes to get to the ground floor. § 87(2)(b) was then taken and placed in a police vehicle.

There was a neighbor who resided on the § 87(2)(b), who § 87(2)(b) knew only as '§ 87(2)(b)' who witnessed officers beating § 87(2)(b) in a police vehicle. § 87(2)(b) had no further information about '§ 87(2)(b)' but she was identified by the investigation as § 87(2)(b).

§ 87(2)(b) was taken to the 120<sup>th</sup> Precinct stationhouse. § 87(2)(b) believed that the officers struck him with a walkie talkie at some point, because the autopsy report stated that some of the injuries he sustained were consistent with injuries caused by impact with a walkie talkie or a baton. § 87(2)(b) also had contusions and lacerations all over his face and his body. § 87(2)(b) believes that the officers did not promptly obtain medical treatment for § 87(2)(b) and that the beating the officers gave him precipitated a heart attack.

§ 87(2)(b) noted that § 87(2)(b) was an alcoholic. Because of this, § 87(2)(b) was weak and his muscles had deteriorated which caused him to fall and obtain medical treatment days prior to the incident.

### Witness: § 87(2)(b)

- § 87(2)(b)

### Domestic Incident Report

§ 87(2)(b) stated that § 87(2)(b) violated her order of protection and refused to leave her apartment. She added that § 87(2)(b) came to her home and job and was sleeping in front of her door (encl. F 21-22).

### Phone Statement

§ 87(2)(b) was interviewed by IAB on March 7, 2013 (encl. C 11-12) and was interviewed over the phone by the CCRB on October 29, 2013 (encl. C 10). The details that she provided are summarized below.

On the incident date, § 87(2)(b) got into an argument with § 87(2)(b) her boyfriend, which resulted in her telling him to leave the apartment. The argument never got physical. § 87(2)(b) did not know how much alcohol § 87(2)(b) drank that day, but stated that she observed two cans of beer in the hallway of her building which were likely from § 87(2)(b) called the police because § 87(2)(b) kept knocking on her door asking to use the bathroom. § 87(2)(b) did not want to let him in because she had to work the next day.

The police arrived and knocked on her door. When she opened the door, § 87(2)(b) was in handcuffs and the officers had him facing a wall. There were two officers present, a male officer and a female officer, who were identified by the investigation as PO Carroll and PO Javellana.

PO Javellana asked § 87(2)(b) some questions and the officers left with § 87(2)(b) went back inside of her apartment and looked outside of her window to see when the officers took § 87(2)(b) of the building. § 87(2)(b) waited for a long time, but never saw § 87(2)(b) or the officers exit the building. § 87(2)(b) then went back to her apartment door and opened it to see if § 87(2)(b) and the officers were still outside her apartment. They were not, so § 87(2)(b) went back to her window. When she looked outside, she saw § 87(2)(b) in the back of the police vehicle as the police vehicle was leaving the location. § 87(2)(b) did not see how § 87(2)(b) was placed inside of the police vehicle. From the time § 87(2)(b) and the officers first left her door to the time she saw them in the police vehicle was about 10 minutes.

§ 87(2)(b) went to work the following day and did not learn of § 87(2)(b)'s death until the day after that. § 87(2)(b) knew someone named "§ 87(2)(b)" who resided on the § 87(2)(b) of her building. She did not have any further contact information for her and noted that "§ 87(2)(b)" never told her she witnessed the incident.

#### **Attempts to Contact Witnesses**

On November 15, 2013, the CCRB canvassed § 87(2)(b) for witnesses. "§ 87(2)(b)" was located. "§ 87(2)(b)" confirmed her nickname and provided her real name, § 87(2)(b). § 87(2)(b) resides in § 87(2)(b) of § 87(2)(b). § 87(2)(b) stated that she heard about the incident, but did not witness any interaction between § 87(2)(b) and police officers. No other witnesses were located.

#### **Video Footage**

On March 5, 2014, the CCRB obtained video footage of the incident from the Richmond County District Attorney's Office (encl. I 1-2).

#### **Video 201302279 20140305 1646 DM.VOB (Video #1)**

The video begins with a view of the interior of the elevator. The camera is situated on the ceiling of the elevator and is pointed in a downward direction, focused on the door of the elevator. At 00:04, two officers, who have been identified by the investigation as PO Carroll and PO Javellana, are seen entering the elevator with § 87(2)(b). PO Javellana enters the elevator first, walking backwards, while PO Carroll stands in the hallway. § 87(2)(b) starts to enter the elevator, walking backwards, while standing in between PO Javellana and PO Carroll. § 87(2)(b) is in handcuffs. As § 87(2)(b) enters the elevator, he appears to go limp and lies on the floor. PO Carroll steps around § 87(2)(b) and into the elevator while § 87(2)(b) remains on the ground with part of his legs out of the elevator and in the hallway. At 00:42, PO Javellana and PO Carroll attempt to lift § 87(2)(b) off the ground, but are unable to, so they pull him inside of the elevator, leaving him on the floor, while the elevator door closes. § 87(2)(b) makes no movement while he lays on the floor of the elevator.

At 01:50, the elevator door opens and PO Carroll and PO Javellana lift § 87(2)(b) off of the ground, with one officer holding each of his arms. Both officers pull him off of the elevator. § 87(2)(b) appears limp and his two feet are dragging on the ground as the officers move him. At 02:14, the officers place § 87(2)(b) face down on the ground outside of the elevator in the hallway.

At 02:23, the view of the camera changes. The camera appears situated on the ceiling and has a downward perspective of the hallway and the elevator doors. PO Javellana and PO Carroll removed § 87(2)(b) from the elevator and place him on the ground in the hallway. At 02:58, the officers lift § 87(2)(b) to his feet and walk him down the hallway, away from the camera, toward the building lobby. § 87(2)(b) appears to use some of his own power to walk down the hallway as his feet are not dragging. At 03:19, § 87(2)(b) goes down on his knees. Both officers attempt to lift him again, but appear unable to, so they lay him on the ground. Both officers stand nearby and appear to speak with each other.

At 05:00, PO Carroll pulls § 87(2)(b) by one of his arms, but is only able to drag him a short distance, so she lets go and continues to converse with PO Javellana. At 05:30, PO Carroll rolls § 87(2)(b) onto his side and bends over next to him. At 05:10, PO Javellana and PO Carroll lift § 87(2)(b) into a seated position and move him next to the wall on the right side of the hallway, so he is seated against the wall. § 87(2)(b) does not move, but it appears as though PO Carroll is speaking to him. At 6:37, PO Javellana approaches § 87(2)(b) and appears to move the hood of his jacket. § 87(2)(b) remains in the same position without making any movement until the video ends at 14:12.

#### **Video 201302279 20140402 0955 DM.VOB (Video #2)**

This video begins with § 87(2)(b) sitting in the first floor hallway with his back up against the wall. At 00:15, PO Craven lifts § 87(2)(b) by his right arm, PO Javellana lifts § 87(2)(b) by his left arm, and PO Carroll stands in front of § 87(2)(b) as the officers remove him from the hallway, into the lobby, and out of view of the camera.

At 00:25 the view of the camera changes to show the length of the lobby with the focus on the interior lobby door that leads to the exterior of the building. At 00:45, § 87(2)(b) comes into view of the camera, with PO Craven on his right side, PO Carroll on his left side, and PO Javellana on his left side behind PO Carroll. All three move toward the lobby door while holding § 87(2)(b) who still appears limp and is not doing anything with his body. PO Craven has his left arm on § 87(2)(b)'s back and at 00:49, while holding § 87(2)(b) with his left arm, PO Craven pulls his right arm back and makes one punching motion in the direction of § 87(2)(b)'s torso. At 00:53, as § 87(2)(b) and the group of officers are at the doorway, PO Craven makes two additional punching motions in the direction of § 87(2)(b)'s right torso. All three punches appear to make contact with § 87(2)(b) however, § 87(2)(b) does not appear to react to these punches. Every time PO Craven punches § 87(2)(b) he brings his arm back, and away from § 87(2)(b)'s body, before forcibly swinging his arm at § 87(2)(b) and striking him. By 01:08, § 87(2)(b) and all of the officers exit the lobby door and are no longer in view of the camera.

#### **NYPD Statements:**

##### **Subject Officer: PO MEGAN CARROLL**

- PO Carroll is a § 87(2)(b)-year-old, 5'7", white female with brown hair and green eyes.
- PO Carroll worked from 5:30 p.m. on March 7, 2013 until 2:05 a.m. on March 8, 2013. PO Carroll was dressed in uniform and assigned to a marked police vehicle. PO Carroll was assigned to Housing 131 and was working with PO Javellana.



### **Memobook**

PO Carroll's memobook states that at 6:53 p.m., she responded to a family dispute at § 87(2)(b). At 7:09 p.m., she had one under for violating an order of protection. § 87(2)(b) was the complainant. § 87(2)(b) was the defendant. There are additional entries on the fly sheet which note that at 7:15 p.m., complainant information was obtained. At 7:20 p.m., the officers entered the elevator. At 7:21 p.m., PO Carroll called Housing Unit 134 to assist. At 7:40 p.m., PO Carroll was at the 120<sup>th</sup> Precinct stationhouse, and at 7:55 p.m., PO Carroll was in the cells and an ambulance was called (encl. D 31-32).

### **Complaint and Arrest Reports**

On August 1, 2012, PO Carroll, who at that time went by the name PO Megan Hadden, arrested § 87(2)(b) at § 87(2)(b) on the § 87(2)(b) for criminal mischief in the first degree, criminal trespass in the third degree, and criminal possession of marijuana in the 5<sup>th</sup> degree. The narrative states that § 87(2)(b) was asked to leave by the victim, but § 87(2)(b) refused, banged on her door causing damage, and then fled the location. Later, officers responded back to the location and found § 87(2)(b) on the § 87(2)(b) of the building, intoxicated, with an open can of Colt 45. When § 87(2)(b) rolled over, a small zip of marijuana fell from his front right pocket. § 87(2)(b) was asked to leave and stated, "I'm sleeping in my bed, leave me the fuck alone." The building is a NYCHA location and § 87(2)(b) did not have permission or authority to be in the building. No force was used. § 87(2)(b) was not charged with resisting arrest and it does not document whether § 87(2)(b) went limp (encl. D 32 a-c).

On March 7, 2013, § 87(2)(b) was arrested for criminal contempt in the first degree, criminal trespass in the third degree, and harassment in the second degree. The narrative notes that § 87(2)(b) repeatedly went to § 87(2)(b) residence, which is in a NYCHA building, and her place of employment. § 87(2)(b) made verbal threats to § 87(2)(b) (encl. D 33-37).

### **Medical Treatment of Prisoner Report**

The Medical Treatment of Prisoner form was completed by PO Carroll and stated that § 87(2)(b) was escorted into the cell area and suddenly collapsed from apparent cardiac arrest. The prisoner was transported to § 87(2)(b) and was pronounced dead at § 87(2)(b). § 87(2)(b) was the medical provider that signed the form (encl. F 24).

### **CCRB Statement**

PO Carroll was interviewed by IAB on August 30, 2013 (encl. D 49-50) and the CCRB on February 19, 2014 (encl. D 51-53). Both statements § 87(2)(g) are summarized below.

On March 7, 2013 at approximately 6:53 p.m., PO Carroll and PO Javellana received a call for a family dispute involving a violation of an order of protection at § 87(2)(b). PO Carroll and PO Javellana arrived at the address and took the elevator the § 87(2)(b). When the elevator opened up, § 87(2)(b) was standing in front of the elevator in the hallway and appeared as though he was about to enter the elevator. PO Carroll recognized § 87(2)(b) immediately because she arrested him in August of 2012 and knew that as a result of that arrest, § 87(2)(b) the resident of § 87(2)(b) had an order or protection against him. PO Carroll did not see any visible physical injuries to § 87(2)(b).

PO Carroll and PO Javellana exited the elevator. PO Carroll stayed with § 87(2)(b) while PO Javellana went to § 87(2)(b) and knocked on the door. § 87(2)(b) came to the door and verified that

she called the police. § 87(2)(b) stated that § 87(2)(b) was bothering her and knocking on her door. § 87(2)(b) and § 87(2)(b) started shouting back and forth to each other in the hallway. § 87(2)(b) was saying, “you weren’t complaining when I was fucking you earlier.” PO Carroll placed § 87(2)(b) in handcuffs without any resistance. PO Carroll turned § 87(2)(b) away from § 87(2)(b) so they would stop arguing and PO Javellana stayed with § 87(2)(b) as he obtained her statement and the Domestic Violence Incident Report was completed. § 87(2)(b) nor § 87(2)(b) said that there was any physical altercation between the two of them.

Once the report was completed, PO Carroll, PO Javellana, and § 87(2)(b) were waiting for the elevator to arrive and § 87(2)(b) said, “If you’ll gonna take me to the precinct, this is bullshit, she wanted me here.” He said that § 87(2)(b) invited him there and if the officers were going to bring him to the precinct, they would have to carry him there. As soon as the elevator door opened up, § 87(2)(b) went limp and slid to the floor. PO Carroll and PO Javellana lifted him up by his arms and carried him into the elevator. Once in the elevator, § 87(2)(b) was placed face down on the floor. The last time that PO Carroll arrested § 87(2)(b) he did the same thing. He went limp, requiring the officers to carry him. PO Carroll was talking to § 87(2)(b) while he was in the lobby to convince him to walk on his own but he would not.

When the elevator reached the ground floor, PO Carroll told § 87(2)(b) to stand up and walk to the police vehicle. § 87(2)(b) stood up and said to loosen the handcuffs and he would walk. PO Carroll told him that she would loosen the handcuffs once they got to the vehicle. When the officers attempted to walk § 87(2)(b) out of the elevator, he went limp and slid down to the ground again, laying right in the middle of the lobby. PO Carroll and PO Javellana lifted § 87(2)(b) and propped him up against the wall of the lobby. § 87(2)(b) again told the officers if they wanted to take him, they would have to carry him.

PO Carroll and PO Javellana called another unit for assistance and PO Craven, PO Ortiz, and PO Sapara arrived at the location. PO Carroll walked to the door of the lobby, which is a magnetic door, and propped it open. § 87(2)(b) was lifted off of the ground, but PO Carroll did not know which officers specifically lifted him. After the door was propped open, PO Carroll carried § 87(2)(b) by his left arm, PO Craven grabbed him by his right arm, and PO Carroll believed that PO Javellana was walking behind them. Initially, the officers were not lifting § 87(2)(b) completely off of the ground, but once they got him to the doorway, he went completely limp so another officer lifted him up by his legs. PO Carroll never saw PO Craven punch § 87(2)(b). PO Carroll never saw PO Craven tap or hit § 87(2)(b). PO Carroll did not see any other officer punch § 87(2)(b). No force, other than carrying § 87(2)(b) was used against § 87(2)(b).

§ 87(2)(b) was placed in the back of the police vehicle, laying on his left side, and was transported to the stationhouse in PO Carroll’s and PO Javellana’s vehicle. Upon arrival, PO Carroll exited her vehicle and went to the stationhouse door. PO Carroll put the code in the door and entered the stationhouse. PO Carroll informed the desk officer, Sgt. O’Neil, that § 87(2)(b) was being brought into the stationhouse. PO Carroll was not present when § 87(2)(b) was carried inside of the stationhouse. The next time PO Carroll saw § 87(2)(b) was when he was inside of the cells. There were numerous officers standing around § 87(2)(b) at the time, so she could not see what was happening with him, but noted that he was sitting up and she heard him cough. An ambulance was called to the location and EMS arrived to transport § 87(2)(b). PO Carroll remained at the stationhouse to complete paperwork and did not accompany § 87(2)(b) to the hospital.

**Subject Officer: PO EARL JAVELLANA**

- *PO Javellana is a § 87(2)(b)-old, 5'4", 210 lbs., Asian-Pacific male with black hair and brown eyes.*
- *PO Javellana worked from 5:30 p.m. on March 7, 2013 until 2:05 a.m. on March 8, 2013. PO Javellana was dressed in uniform and assigned to a marked police vehicle. PO Javellana was assigned to Housing 131 and was working with PO Carroll.*

**CCRB Statement**

PO Javellana was interviewed by IAB on September 26, 2013 (encl. D 54-55b) and at the CCRB on May 23, 2014 (encl. D 55 c-e). § 87(2)(g) only important details are noted below.

On the § 87(2)(b) of § 87(2)(b) was arrested for violating an order of protection. PO Javellana placed § 87(2)(b) in handcuffs without any resistance. § 87(2)(b) did not appear to have any physical injuries. Once § 87(2)(b) was handcuffed, he became limp and fell towards the floor. The officers sat § 87(2)(b) up and called the elevator, which took two to three minutes to arrive. When it did, PO Javellana and PO Carroll pulled § 87(2)(b) into the elevator. The officers sat § 87(2)(b) up in the elevator. § 87(2)(b) was not saying anything, but § 87(2)(b) was moving. § 87(2)(b)'s hood kept falling over his face, so § 87(2)(b) made a movement in an attempt to get the hood out of his face. While in the elevator, PO Carroll told PO Javellana that the last time she arrested § 87(2)(b) he acted the same way by going limp once he was in handcuffs. PO Carroll also told him that once they got § 87(2)(b) into the cells at the stationhouse, he was fine.

PO Javellana and PO Carroll pulled § 87(2)(b) out of the elevator and into the lobby. § 87(2)(b) was not saying or doing anything at this time. The officers had to pull § 87(2)(b) and prop him up against one of the lobby walls. PO Javellana and PO Carroll decided that they were unable to transport him to the patrol car, so they called for additional police officers to help with the transport. PO Javellana asked § 87(2)(b) "Why don't you just get up? Stop playing games." § 87(2)(b) responded by saying, "No. I am not getting up." This was the last time that PO Javellana heard § 87(2)(b) say anything.

PO Javellana was shown, a clip of Video #1 between 6:09 and 6:30 and asked to describe his actions in relation to § 87(2)(b). PO Javellana stated that at that point in the video, while § 87(2)(b) was leaning against the lobby wall, he moved the hood of § 87(2)(b)'s sweater off of his head. PO Javellana did not want § 87(2)(b) to be too hot. PO Javellana was not able to see § 87(2)(b)'s face and was therefore not able to see if § 87(2)(b)'s eyes were open or closed.

While PO Javellana waited for additional officers to arrive, § 87(2)(b) did not say or do anything. PO Ortiz, PO Sapara and PO Craven then arrived and all of the officers carried § 87(2)(b) outside of the apartment building to the police car. PO Javellana reviewed Video #2 between 00:40 and 00:49. PO Javellana identified himself as being on the left side of § 87(2)(b) and closest to the camera. PO Javellana identified PO Craven as being the officer on the right side of § 87(2)(b). PO Javellana identified PO Carroll as the officer in front of himself, on the left side of § 87(2)(b). PO Javellana did not see any officer punch or hit § 87(2)(b). PO Javellana was directed to look at PO Craven's hand in the video which appears to punch § 87(2)(b). PO Javellana did not see PO Craven hit § 87(2)(b) at the time of the incident.



§ 87(2)(b) was carried to and placed into PO Javellana's police vehicle. § 87(2)(b) was not saying or doing anything, just breathing heavy. The officers laid § 87(2)(b) on the back seat, laying him on his side, with his face facing the rear of the vehicle. PO Javellana and PO Carroll drove § 87(2)(b) to the stationhouse. § 87(2)(b) did not say anything on the way to the stationhouse, but PO Javellana could hear § 87(2)(b) breathing heavily.

PO Javellana did not request medical attention for § 87(2)(b) at § 87(2)(b) or on the way to the stationhouse because PO Carroll told him that § 87(2)(b) went limp when he was arrested previously. PO Javellana agreed with his attorney that § 87(2)(b) did not request medical attention. PO Javellana did not have any conversation with PO Carroll about getting medical treatment for § 87(2)(b). PO Javellana could not see if § 87(2)(b)'s eyes were open in the vehicle and could not tell if § 87(2)(b) was conscious.

At the stationhouse, § 87(2)(b) was brought inside through the back entrance. PO Javellana, PO Carroll, PO Ortiz, PO Sapara and PO Craven carried § 87(2)(b) into the stationhouse. The officers carried § 87(2)(b) into the stationhouse in the same manner he was carried from the apartment building to the police car. The desk sergeant followed the officers carrying § 87(2)(b) towards the cells. There was a cell attendant present but PO Javellana did not recall who it was. The cell attendant was inside of the cell with PO Javellana. PO Javellana did not recall if PO Craven was inside of the cell. The desk sergeant watched § 87(2)(b) being placed into the cell. § 87(2)(b) was placed on a bench inside a cell.

When PO Javellana went to un-handcuff § 87(2)(b) he slumped over. PO Javellana tried to wake him up, and noted that he was still breathing heavily, but he was not responding. At this point, PO Javellana determined something was wrong with § 87(2)(b). At that point, EMS was called by the desk sergeant and an ambulance responded to the stationhouse. A lot of people came into the cell and PO Javellana was pushed towards the back. § 87(2)(b) was taken by the EMTs and PO Javellana stayed at the stationhouse.

**Subject Officer: PO TODD CRAVEN**

- PO Craven is a § 87(2)(b)-old, 6', 230 lbs., white male with brown hair and hazel eyes
- PO Craven worked from 5:30 p.m. on March 7, 2013 until 2:05 a.m. on March 8, 2013. PO Craven was dressed in uniform and assigned to a marked police vehicle. PO Craven was assigned to Housing 134 and was working with PO Sapara and PO Ortiz.

**Memobook**

PO Craven's memobook stated that at 7:21 p.m. he responded to a call for assistance by Housing 131 to § 87(2)(b) (encl. D 1-2).

**CCRB Statement**

PO Craven was interviewed by IAB on March 8, 2013 (encl. D 3-4c) and January 7, 2014 (encl. D 5-6b). PO Craven was interviewed by the CCRB on January 9, 2014 (encl. D 7-11). § 87(2)(g)

PO Craven, PO Ortiz, and PO Sapara arrived at the location in response to a call for assistance from PO Carroll and entered the lobby. § 87(2)(b) was sitting on the floor, in handcuffs, with his back up against the wall.

PO Craven approached § 87(2)(b) grabbed § 87(2)(b) under his right armpit, putting his left arm under § 87(2)(b)'s shoulder, and lifted him up off of the ground. Another officer, PO Craven did not recall whom, did the same on the opposite side of § 87(2)(b)'s body. Another officer grabbed § 87(2)(b)'s legs and walked behind him so § 87(2)(b) was carried as though his face was facing the ground, and his entire body was lifted off of the ground.

When PO Craven lifted § 87(2)(b) off of the ground, § 87(2)(b) did nothing and did not use any of his own strength to lift himself off of the ground. PO Craven did not remember § 87(2)(b) saying or doing anything at this point. § 87(2)(b) was told to comply with the orders of the officers and to put his feet on the ground and walk to the doorway, but § 87(2)(b) did not respond physically or verbally and was limp. PO Craven did not remember which officer was specifically telling § 87(2)(b) to walk.

Since there were five officers, PO Craven, PO Sapara, PO Ortiz, PO Carroll, and PO Javellana, in addition to § 87(2)(b) the officers had difficulty getting him outside the door of the lobby given the narrow doorway and the manner in which they were carrying him. PO Craven, with his right hand, tapped § 87(2)(b) two to three times on his right torso in order to get his attention so he would get up and walk since § 87(2)(b) was not listening to the officers. PO Craven was coming up on the doorway and his grip was loosening, so PO Craven did not want to drop § 87(2)(b). PO Craven's intention was to get § 87(2)(b) to comply with the officers' orders to walk. PO Craven did not remember if his right hand was balled into a fist when he tapped § 87(2)(b) but stated that he thought his right hand was open. § 87(2)(b) did not say anything, do anything, or respond to the action that PO Craven described as a tap. The tap was not a strike or a punch. There was no force behind the tap, and PO Craven described the motion as just his hand touching someone else. PO Craven also said there was no other reason, other than to get § 87(2)(b)'s attention, for the tap.

When PO Craven was interviewed by IAB on March 8, 2013, he made no mention of this action. PO Craven was specifically asked if while he was present any force was used against § 87(2)(b) and he said no. During his subsequent IAB interview on January 7, 2014, PO Craven was asked at what point he struck § 87(2)(b). PO Craven's response § 87(2)(g) that he tapped § 87(2)(b). PO Craven was not angry or attempting to hurt § 87(2)(b) and described his actions as a last resort after all other means failed.

The officers were able to squeeze through the doorway to get § 87(2)(b) out of the building. The officers carried § 87(2)(b) to the marked police vehicle that PO Carroll and PO Javellana drove to the location. The officers put § 87(2)(b) inside, head first, and laid him on his shoulder, facing the rear of the police vehicle so his handcuffed hands were facing the front of the car. PO Craven told IAB during his call out interview on March 8, 2013 that he had to push § 87(2)(b) from one side of the car, while a different officer on the opposite side of the car had to pull § 87(2)(b) in order to get § 87(2)(b) into the vehicle. From the time the officers left the building to the time that they got § 87(2)(b) into the patrol car, § 87(2)(b) did not say or do anything and remained limp. § 87(2)(b) was then transported to the 120<sup>th</sup> Precinct stationhouse by PO Javellana and PO Carroll.

PO Craven went to the stationhouse where he assisted officers in carrying § 87(2)(b) into the holding cells where it was determined that § 87(2)(b) was unresponsive. EMS was notified to respond to the location. PO Craven had no further interaction with § 87(2)(b).

**Witness Officer: SGT PATRICK O'NEIL**

- *Sgt. O'Neil is a § 87(2)(b)-old, 6'4", 240 lbs., white male with brown hair and blue eyes.*

- *Sgt. O'Neil worked from 4:00 p.m. on March 7, 2013 until 12:00 a.m. on March 8, 2013 and his assignment was the 120<sup>th</sup> Precinct Desk Officer.*

### **IAB Statement**

Sgt. Patrick O'Neil was interviewed by IAB on March 8, 2013 (encl. D 58-59b). On March 7, 2013, Sgt. O'Neil was at the 120<sup>th</sup> Precinct stationhouse and received a call from PO Carroll stating that she arrested § 87(2)(b) for violating an order of protection, that she was bringing him to the stationhouse, and that § 87(2)(b) who she has dealt with in the past, was passively resisting. PO Carroll did not express any concerns that § 87(2)(b) was in need of medical assistance.

PO Carroll, PO Craven, and PO Javellana carried § 87(2)(b) through the rear door of the stationhouse, so they did not have to bring him up the front steps, and took him toward the desk. § 87(2)(b) was face down as he was carried and his body was limp.

Sgt. O'Neil advised the officers to bring § 87(2)(b) to the holding cell area because he did not want there to be a crowd around the desk since traffic agents have been stationed out of the 120<sup>th</sup> Precinct stationhouse ever since Hurricane Sandy.

In the cell area, § 87(2)(b) did not respond to commands to stand up and walk and he did not make any noise, so Sgt. O'Neil instructed the officers to pick § 87(2)(b) up and search him. The officers picked § 87(2)(b) up and sat him on a bench. § 87(2)(b) slouched over and Sgt. O'Neil noticed that he was unconscious and was not breathing. Sgt. O'Neil began asked § 87(2)(b) questions and he did not respond. Sgt. O'Neil instructed the cell attendant, who was identified by the investigation as PO Michael Corsello, to check § 87(2)(b)'s pulse. Sgt. O'Neil instructed PO Corsello to lay § 87(2)(b) on the floor, try to remove his coat and handcuffs, and to check for a pulse.

Sgt. O'Neil went over the radio and requested a rush on an ambulance and asked for the estimated time of arrival. PO Corsello said that he could not find a pulse, so Sgt. O'Neil instructed someone to get the defibrillator. Before the defibrillator was brought to the holding cell, EMS workers arrived and tended to § 87(2)(b) for fifteen to twenty minutes before removing him from the location.

### **Additional Officers Interviewed**

PO Sapara and PO Ortiz were both interviewed twice by IAB (encl. D 14-17b, D 24-27) and once by the CCRB. PO Sapara was interviewed at the CCRB on January 10, 2014 (encl. D 18-21) and PO Ortiz was interviewed by the CCRB on February 11, 2014 (encl. D 28-30). Both officers made memobook entries regarding the incident and confirmed that § 87(2)(b) went limp and had to be carried out of § 87(2)(b). Both officers confirmed that PO Craven assisted in carrying § 87(2)(b) from the building and both officers denied that they ever observed PO Craven or any other officer punch § 87(2)(b).

The patrol supervisor, Sgt. Bruce Ceparano, was interviewed by IAB on July 1, 2013, and the cell attendant, PO Michael Corsello, was interviewed by IAB on March 8, 2013 (encl. 56-61). Neither of these officers responded to § 87(2)(b) in regard to this incident and were therefore not interviewed by the CCRB.

### **Medical Information**

#### **Medical Examiner's Report**

The medical examiner determined that the cause of § 87(2)(b)'s death was sudden cardiac death due to anomalous origin of left main coronary artery with acutely angled origin from right aortic and abnormal course between pulmonary artery and aorta cusp [a congenital heart disorder which can result in sudden death]. Other significant contributors were acute intoxication by the combined effects of ethanol and diazepam. The manner of death was accident (collapsed in police custody). Though the report documents numerous physical injuries to § 87(2)(b) there were no noted injuries to the right side of § 87(2)(b)'s torso (encl. E 2-9).

#### **Interview with Emergency Room Doctor**

On March 7, 2013, IAB interviewed § 87(2)(b) at § 87(2)(b) (encl. C 17-18). § 87(2)(b) treated § 87(2)(b) when he arrived at the hospital. Upon his arrival, § 87(2)(b) was in cardiac arrest and § 87(2)(b) pronounced him dead at § 87(2)(b). § 87(2)(b) observed abrasions to § 87(2)(b)'s head and face that appeared to be old injuries. § 87(2)(b) did not observe any other injuries to § 87(2)(b).

#### **Autopsy**

On March 8, 2013, IAB was present for the autopsy of § 87(2)(b) at Richmond County Medical Examiner's Office (encl. H 137-138). The examination of § 87(2)(b)'s cranial and torso bruises provided negative for sub-dermal contusions. The bruises to § 87(2)(b)'s head and body were not the cause of his death. Instead, § 87(2)(b) suffered from an "anomalous left main coronary artery origin," which is a rare condition that is consistent with sudden death.

#### **NYPD Documents**

##### **Unusual Occurrence Report**

An Unusual Occurrence Report was completed by Capt. Joseph Memoly of the 120<sup>th</sup> Precinct on March 8, 2013. The report documented a preliminary investigation into the matter and statements from PO Carroll, PO Craven, PO Sapara, PO Ortiz, Sgt. O'Neil, and PO Corsello. These statements and their corresponding worksheets are noted and enclosed above. PO Carroll and PO Javellena were not interviewed at the request of the Richmond County District Attorney's Office (encl. F 14-18).

#### **IAB Investigation**

IAB investigated and partially substantiated this case. In regard to PO Craven, IAB unsubstantiated an assault allegation because the Medical Examiner's Office determined that the force used by PO Craven did not cause any injuries to § 87(2)(b). IAB substantiated an unnecessary force allegation against PO Craven and recommended charges and specifications. IAB investigated allegations against PO Sapara, PO Ortiz, PO Javellana, and PO Carroll for failing to notify IAB. Since these officers stated that they did not observe PO Craven strike § 87(2)(b) and IAB could not determine from the video that they saw this action, IAB unsubstantiated these allegations. IAB also investigated an allegation of failure to supervise against Sgt. Ceparano, which they unsubstantiated (encl. F 1-12).

#### **Status of Civil Proceedings**

- On May 31, 2013, § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, assault and battery, use of excessive force, and deliberate indifference to medical needs and is claiming \$10,000,000 in redress (encl. I 17-19). According to the law offices of Rheingold, Valet, Rheingold, McCartney, and Giuffra LLP, they filed an amended Notice of Claim on behalf of § 87(2)(b)'s daughter, § 87(2)(b). However, according to the Comptroller's Office who responded to the CCRB on April 3, 2014, they do not have the amended Notice of Claim on file (encl. I15a-b).

### **Civilians Criminal History**

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

### **Civilians CCRB History**

- This is the first CCRB complaint involving § 87(2)(b) (encl. B 9).

- § 87(2)(b) [REDACTED]  
[REDACTED]

### **Subject Officers CCRB History**

- PO Craven has been a member of service for 12 years and has no substantiated CCRB allegations against him (encl. B 8).
- PO Carroll has been a member of service for 8 years and has no substantiated CCRB allegations against her (encl. B 8a).
- PO Javellana has been a member of service for 9 years and has no substantiated CCRB allegations against him (encl. B 8b).

### **Conclusion**

### **Identification of Subject Officers**

PO Carroll, PO Javellana, and PO Craven acknowledged interacting with § 87(2)(b) [REDACTED]

### **Investigative Findings and Recommendations**

**Allegation A – Abuse of Authority: PO Megan Carroll did not obtain medical treatment for** § 87(2)(b) [REDACTED]

**Allegation A – Abuse of Authority: PO Earl Javellana did not obtain medical treatment for** § 87(2)(b) [REDACTED]

The video evidence shows that from the time § 87(2)(b) [REDACTED] entered the elevator until he was taken out of the lobby of § 87(2)(b) [REDACTED] he was limp.

Video #1 runs for over fourteen minutes, and during that time, § 87(2)(b) [REDACTED] was limp and made no movements independent of assistance from the officers. PO Javellana and PO Carroll testified that § 87(2)(b) [REDACTED] remained limp even after the video ended, on the way to the stationhouse, and while the officers took him into the cell area. It was not until § 87(2)(b) [REDACTED] was in the cell area that EMS was summoned, and transported § 87(2)(b) [REDACTED] to § 87(2)(b) [REDACTED] where he was pronounced dead at § 87(2)(b) [REDACTED]. The Medical Examiner ruled the death accidental from cardiac arrest.

PO Carroll explained that she arrested § 87(2)(b) [REDACTED] the year prior, and he did the same thing by going limp and refusing to walk on his own. PO Javellana stated that PO Carroll informed him of this inside the elevator and that was why he did not get medical treatment for § 87(2)(b) [REDACTED]

A BADS search confirmed that PO Carroll did arrest § 87(2)(b) in § 87(2)(b). The report documents that § 87(2)(b) was intoxicated, but makes no mention of him going limp and he was not charged with resisting arrest.

Patrol Guide Procedure 210-04 states that when a prisoner in custody requires medical treatment, members of service are to request an ambulance or remove the prisoner to the hospital directly from the place of arrest, if necessary (encl. A 4-12).

Because PO Carroll had prior knowledge of § 87(2)(b) PO Carroll and PO Javellana decided not to obtain medical treatment for § 87(2)(b) and transport him to the stationhouse because they believed that he was merely passively resisting.

The video shows § 87(2)(b) immobile for over fourteen minutes. § 87(2)(b) was completely motionless on the floor of the elevator. PO Carroll and PO Javellana dragged § 87(2)(b) out of the elevator and placed him on the floor of the first floor hallway. PO Carroll and PO Javellana then carried him down the hallway and propped him against a wall. § 87(2)(b) was completely still for more than seven minutes in this position prior to the officers' carrying him out of the lobby. Based on the amount of time § 87(2)(b) was motionless, it should have been apparent to PO Carroll and PO Javellana that § 87(2)(b) was not merely passively resisting but rather was in need of medical attention.

§ 87(2)(g)

**Allegation C – Force: PO Todd Craven used physical force against § 87(2)(b)**

The video evidence shows that as PO Craven, PO Javellana, and PO Carroll were carrying § 87(2)(b) who was going limp and refusing to walk, out of § 87(2)(b) PO Craven swung his right hand in a punching motion in the direction of § 87(2)(b)'s torso and appears to make contact with him three times.

PO Craven stated that while he was helping to carry § 87(2)(b) from the lobby, he was losing his grip on § 87(2)(b) and thought that he was going to drop him so he tapped § 87(2)(b) on his right torso, using his right hand, two or three times. PO Craven did not remember if he used an open hand or a closed fist when he tapped § 87(2)(b). PO Craven denied that he struck or punched § 87(2)(b) instead stating that he tapped § 87(2)(b) to get his attention so he would comply with the orders of the officers to walk on his own. There was no force behind this action and PO Craven likened it to a touch. There was no other reason for his actions.

All the other officers interviewed by the CCRB denied that they observed PO Craven punch § 87(2)(b)

§ 87(2)(g) Prior to each time PO Craven's hand made contact with § 87(2)(b)'s torso, the video shows that PO Craven pulled his arm back away from § 87(2)(b)'s body in what appears to be an attempt to gain momentum to support and strengthen the punches he was throwing at § 87(2)(b)

Though § 87(2)(b) died while in police custody, the Medical Examiner's report ruled the death accidental. IAB was present for the autopsy and were informed that § 87(2)(b)'s death was caused



by a rare heart condition that commonly causes sudden death. There is no evidence to suggest that PO Craven's actions contributed to or caused § 87(2)(b)'s death.

Patrol Guide Procedure 203-11 states that officers may use the amount of force necessary to overcome resistance and effect an arrest (encl. A 1-2).

§ 87(2)(g)

**Allegation D – Other Misconduct: PO Todd Craven intentionally made a false official statement in violation of Patrol Guide Procedure 203-08.**

As described above in Allegation C, PO Craven denied that he punched § 87(2)(b) and instead stated that the contact that he had with § 87(2)(b) was a tap, with no force behind it, and likened the action to one person touching another.

The video evidence obtained by the CCRB shows PO Craven forcefully punch § 87(2)(b) three times in the torso.

Patrol Guide Procedure 203-08 states that the “intentional making of a false statement is prohibited” (encl. A 3).

§ 87(2)(g)

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

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

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

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

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

