

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #7	CCRB Case #: 201905757	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/28/2019 4:30 PM	Location of Incident: 94th Precinct Stationhouse		Precinct: 94	18 Mo. SOL 12/28/2020	EO SOL 8/14/2021
Date/Time CV Reported Mon, 07/01/2019 3:21 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 07/01/2019 3:21 PM		
Complainant/Victim		Type	Home Address		
Subject Officer(s)		Shield	TaxID	Command	
1. POM Malcolm Marcelle		10204	960868	094 PCT	
Witness Officer(s)		Shield No	Tax No	Cmd Name	
1. SGT Ayanna Harrison		00796	926931	094 PCT	
Officer(s)		Allegation			Investigator Recommendation
A.POM Malcolm Marcelle		Discourtesy: Police Officer Malcolm Marcelle spoke discourteously to § 87(2)(b) [REDACTED]			
B.POM Malcolm Marcelle		Abuse: Police Officer Malcolm Marcelle threatened § 87(2)(b) [REDACTED] with the use of force.			
C.POM Malcolm Marcelle		Off. Language: Police Officer Malcolm Marcelle made remarks to § 87(2)(b) [REDACTED] based upon ethnicity.			

Case Summary

On July 1, 2019, § 87(2)(b) filed the following complaint via the CCRB's online complaint form.

On June 28, 2019, at approximately 4:30 p.m., § 87(2)(b) went to the 94th Precinct stationhouse at 100 Meserole Avenue in Brooklyn, to file a complaint report for a stolen check. § 87(2)(b) spoke to Police Officer Malcolm Marcelle and Sergeant Ayanna Harrison, both of the 94th Precinct, at the desk, and presented paperwork to support his complaint. While looking through § 87(2)(b)'s paperwork, PO Marcelle allegedly said "shit," and "motherfucker" (**Allegation A: Discourtesy-Word**, § 87(2)(g)). When § 87(2)(b) asked to speak to a detective, PO Marcelle told him no, and allegedly threatened to hit him with both his chair, and the standing floor fan in the stationhouse (**Allegation B: Abuse of Authority-Threat of Force**, § 87(2)(g)). When § 87(2)(b) attempted to speak to an unidentified male detective passing through the stationhouse, PO Marcelle allegedly told the detective, "don't worry about him, we got him... The brothers poisoned him, they killed him. Don't worry about § 87(2)(b) he's going to die anyway" (**Allegation A: Discourtesy-Word**, § 87(2)(g)). As § 87(2)(b) exited the stationhouse, PO Marcelle allegedly told him to either "go back to the middle east," "go back to your country," or "go back where you came from" (**Allegation C: Offensive Language-Ethnicity**, § 87(2)(g)). § 87(2)(b) was neither arrested nor issued any summons as a result.

The investigation obtained two videos (BR01 & BR02) from two interior cameras affixed within the vestibule and lobby of the 94th Precinct stationhouse, however, neither camera captures any of this incident as alleged.

Findings and Recommendations

Allegation A—Discourtesy: Police Officer Malcolm Marcelle spoke discourteously to § 87(2)(b)

Allegation B—Abuse of Authority: Police Officer Malcolm Marcelle threatened § 87(2)(b) with the use of force.

Allegation C—Offensive Language: Police Officer Malcolm Marcelle made remarks to § 87(2)(b) based upon ethnicity.

The investigation obtained two videos (BR01 & BR02) from both interior cameras within the 94th Precinct stationhouse. Both videos capture footage from approximately 4:00 p.m. to 5:00 p.m. on June 28, 2019. However, neither video captures § 87(2)(b) enter or exit the 94th Precinct stationhouse, nor capture him within the stationhouse at any point.

§ 87(2)(b) stated that approximately one week prior to the incident date, which he believed to be on June 21, 2019, he went to the 94th Precinct stationhouse in Brooklyn, to file a complaint report in regards to a stolen Human Resources Administration ("HRA") grant check (BR03). § 87(2)(b) spoke to PO Marcelle, who told him he would need to provide the check number and HRA paperwork in order to file a complaint report. When asked during his interview, whether he was certain of the incident date and time, § 87(2)(b) said that to the best of his recollection the incident occurred at the date and time he provided.

§ 87(2)(b) stated that on June 28, 2019, at approximately 4:30 p.m., he returned to the 94th Precinct stationhouse with the stolen check number and related HRA paperwork, and again spoke to PO Marcelle, who was working behind the desk with Sgt. Harrison. § 87(2)(b) presented his paperwork to Sgt. Harrison, who looked through § 87(2)(b)'s paperwork and "seemed to say that maybe we can help," but PO Marcelle would not let her. Despite being asked several times during his interview, § 87(2)(b) could not definitely state what, if anything, Sgt. Harrison said.

with regard to his paperwork, nor explain or describe why he believed that she seemed to want to help him.

While looking through § 87(2)(b)'s paperwork, PO Marcelle said, "shit," and "motherfucker." Despite being asked several times if PO Marcelle said or directed those phrases toward him, § 87(2)(b) repeatedly replied, "who else," and refused to definitively state that PO Marcelle made the aforementioned remarks toward him. After looking through his papers, PO Marcelle suddenly became upset, stood up from his chair, and began "cursing and yelling" at § 87(2)(b). § 87(2)(b) did not know why PO Marcelle was upset, and did not remember any specific curses or statements he made at the time.

§ 87(2)(b) asked if he could speak to a detective upstairs who could look into his case. PO Marcelle told him no, and then threatened to hit § 87(2)(b) with both his chair, and the standing floor fan that was positioned behind him. § 87(2)(b) denied that he said anything in response to PO Marcelle's threats, and could not describe what specific words PO Marcelle used, or actions he took, when he threatened him.

Shortly thereafter, an unidentified male detective, dressed in a suit, walked through the lobby of the 94th Precinct stationhouse, wherein § 87(2)(b) attempted to explain his situation to him. However, PO Marcelle "was still running his mouth," and prevented the detective from helping § 87(2)(b). PO Marcelle told the detective, "don't worry about him, we got him... The brothers poisoned him, they killed him. Don't worry about § 87(2)(b) he's going to die anyway." § 87(2)(b) did not respond to PO Marcelle's remark. During his interview, § 87(2)(b) explained that approximately a year and a half prior to the incident date, he got sick while staying at § 87(2)(b) in Queens, and believed it was due to some "gangster drug dealers" putting rat poison in his food. § 87(2)(b) believed that PO Marcelle read something from the computer at the desk, which prompted him to bring up the prior poisoning incident, though acknowledged that he could not see PO Marcelle's computer screen.

As § 87(2)(b) began to walk out of the 94th Precinct stationhouse, PO Marcelle told him to either "go back to the middle east," "go back to your country," or "go back where you came from," but was ultimately unable specify which aforementioned phrase PO Marcelle stated to him. § 87(2)(b) exited the 94th Precinct stationhouse.

PO Marcelle stated that on or about June 21, 2019, § 87(2)(b) entered the 94th Precinct stationhouse, after being sent by a different precinct, and wanted to file a complaint report in regard to stolen checks (BR04). PO Marcelle called the precinct that had sent § 87(2)(b) to the 94th Precinct, and an officer told him that § 87(2)(b) wanted to file a complaint report against someone without providing any evidence. PO Marcelle said that he attempted to help § 87(2)(b) by calling the individual who gave the check to § 87(2)(b) and left a voicemail when they did not answer. PO Marcelle explained to § 87(2)(b) that if he had evidence against the individual that allegedly stole the check from him, he would file a complaint report for him, but could not make a report with only § 87(2)(b)'s handwritten notes and his belief that someone stole from him.

Approximately one week later, on or about June 28, 2019, § 87(2)(b) returned to the 94th Precinct stationhouse with only a check number and nothing else. PO Marcelle described § 87(2)(b) as being erratic, "not being all there," and said that § 87(2)(b) cursed at him, though he could not recall what he specifically said. PO Marcelle explained to § 87(2)(b) that merely providing a check number was not enough to accuse the individual he wanted to file a complaint report against. § 87(2)(b) did not take PO Marcelle's explanation in good faith, said he did not believe him, and that he was not helpful. PO Marcelle denied that he said the word "shit,"

referred to § 87(2)(b) as a “motherfucker,” or used profanity at any point during their interaction. PO Marcelle also denied that he picked up his chair or the standing floor fan, and denied that he threatened to hit § 87(2)(b) with either.

PO Marcelle called a detective from the 94th Precinct down to speak with § 87(2)(b) and told him that Sgt. Harrison was right there if he wanted to speak with someone else. PO Marcelle could not recall which detective spoke to him, but said that they provided § 87(2)(b) with the same explanation. PO Marcelle did not recall § 87(2)(b) | remarking about or referring to any prior occurrence involving him being poisoned at a § 87(2)(b) PO Marcelle denied that he stated or told any other officer, “Don’t worry about § 87(2)(b) the brothers already poisoned him. He’s going to die anyway.” PO Marcelle denied that he told § 87(2)(b) to “go back to your country,” “go back to the middle east,” or “go back where you came from,” while he was exiting the stationhouse.

Although listed as the desk sergeant during the incident, and identified by PO Marcelle as a witness, Sgt. Harrison did not have any independent recollection of this incident (BR05). Sgt. Harrison did not recall any particular incident occurring on or about June 21, 2019 or June 28, 2019, within the 94th Precinct stationhouse, did not recognize § 87(2)(b) by name or photograph, and did not have any recollection of interacting with, or witnessing an interaction with § 87(2)(b).

Civilian and Officer CCRB Histories

- This is the first CCRB complaint in which § 87(2)(b) has been a party.
- PO Marcelle, a three-year-member-of-service, has had one prior CCRB complaint filed against him, with a total of one allegation, which was not substantiated (see Officer History).

§ 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.

- As of October 16, 2019, § 87(2)(b) has not filed a Notice of Claim with the NYC Comptroller's Officer in regards to this incident (BR06).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 7

Investigator: _____

Signature

Print Title & Name

Date

Squad Leader: _____

Signature

Print Title & Name

Date

Reviewer: _____

Signature

Print Title & Name

Date