

CCRB INVESTIGATIVE RECOMMENDATION

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|--|---|---------------------------|--|------------------------------------|--|
| Investigator: Charis Jones | Team: Squad #3 | CCRB Case #: 201910975 | <input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Thursday, 12/26/2019 1:15 PM | Location of Incident: Intersection of Brookhaven Avenue and Caffrey Avenue | | Precinct: 101 | 18 Mo. SOL 6/26/2021 | EO SOL 2/10/2022 |
| Date/Time CV Reported Fri, 12/27/2019 9:10 AM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Fri, 12/27/2019 9:10 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
| | | |

| Subject Officer(s) | Shield | TaxID | Command |
|------------------------|--------|--------|---------|
| 1. POM Numael Amador | 09643 | 953634 | 101 PCT |
| 2. SGT Nicholas Murray | 606 | 955244 | 101 PCT |
| 3. POM Lukasz Solis | 14287 | 943832 | 101 PCT |
| 4. POM Brendan Hannon | 03918 | 956718 | 101 PCT |
| 5. POM Roberto Napoli | 09648 | 956965 | 101 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|-----------------------|--|-----------------------------|
| A.POM Numael Amador | Force: Police Officer Numael Amador used physical force against § 87(2)(b) | |
| B.POM Roberto Napoli | Force: Police Officer Roberto Napoli used physical force against § 87(2)(b) | |
| C.POM Brendan Hannon | Force: Police Officer Brendan Hannon used physical force against § 87(2)(b) | |
| D.POM Numael Amador | Abuse: Police Officer Numael Amador frisked § 87(2)(b) | |
| E.POM Numael Amador | Abuse: Police Officer Numael Amador searched § 87(2)(b) | |
| F.POM Roberto Napoli | Abuse: Police Officer Roberto Napoli searched the vehicle in which § 87(2)(b) was an occupant. | |
| G.SGT Nicholas Murray | Abuse: Sergeant Nicholas Murray searched the vehicle in which § 87(2)(b) was an occupant. | |
| H.SGT Nicholas Murray | Abuse: Sergeant Nicholas Murray searched the vehicle in which § 87(2)(b) was an occupant. | |
| I.POM Lukasz Solis | Abuse: Police Officer Lukasz Solis searched the vehicle in which § 87(2)(b) was an occupant. | |
| § 87(2)(b) | § 87(2)(g), § 87(4-b) | |
| § 87(2)(b) | § 87(2)(g), § 87(4-b) | |
| § 87(2)(b) | § 87(2)(g), § 87(4-b) | |
| § 87(2)(b) | § 87(2)(g), § 87(4-b) | |

Case Summary

On December 27, 2019, § 87(2)(b) filed this complaint with the CCRB over the phone. This case was originally assigned to Investigator Zev Carter and was reassigned to the undersigned investigator on October 8, 2021.

On December 26, 2019, at approximately 1:15 p.m., § 87(2)(b) was driving his car when Sergeant Nicholas Murray, Police Officer Numael Amador, and Police Officer Roberto Napoli of the 101st Precinct stopped him in the vicinity of Brookhaven Avenue and Caffrey Avenue in Queens for failing to signal and driving with an obstructed view. Police Officer Brendan Hannon and Police Officer Lukasz Solis, also assigned to the 101st Precinct, responded to the location as well. PO Amador, PO Napoli, and PO Hannon pulled § 87(2)(b) out of his vehicle (**Allegations A and B: Force, Substantiated; Allegation C: Force, § 87(2)(g)**). PO Amador frisked and searched § 87(2)(b) (**Allegations D and E: Abuse of Authority, § 87(2)(g)**). PO Napoli and Sgt. Murray searched the driver's side of § 87(2)(b)'s vehicle (**Allegation F and G: Abuse of Authority, § 87(2)(g)**). Sgt. Murray and PO Solis searched the entirety of § 87(2)(b)'s vehicle (**Allegations H and I: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) was subsequently taken to the 101st Precinct stationhouse.

§ 87(2)(g), § 87(4-b)
§ 87(2)(b)

PO Amador issued § 87(2)(b) traffic summons § 87(2)(b) for failure to signal and traffic summons § 87(2)(b) for driving with an obstructed view (Board Review 01, 02). No arrests were made, and no additional summonses were issued as a result of this incident.

§ 87(2)(b)'s civil attorney, § 87(2)(b), alleged that § 87(2)(b) sustained a fractured rib as a result of hitting the ground after the officers pulled him out of his vehicle (Board Review 03).

PO Hannon has since been promoted to a Detective, Third Grade, and now works in the 101st Precinct Detective Squad.

IAB conducted a concurrent investigation into this incident, which generated log # 20-01578 (Board Review 07).

This case contains body-worn-camera (BWC) footage from PO Hannon, PO Solis, Sgt. Murray, PO Napoli, and PO Amador (Board Review 04). The officers' footage, respectively, captures the incident in its entirety.

Findings and Recommendations

Allegation (A) Force: Police Officer Numael Amador used physical force against § 87(2)(b)

Allegation (B) Force: Police Officer Roberto Napoli used physical force against § 87(2)(b)

Allegation (C) Force: Police Officer Brendan Hannon used physical force against § 87(2)(b)

Allegation (D) Abuse of Authority: Police Officer Numael Amador frisked § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Numael Amador searched § 87(2)(b)

Allegation (F) Abuse of Authority: Police Officer Roberto Napoli searched the vehicle in

which § 87(2)(b) was an occupant.

Allegation (G) Abuse of Authority: Sergeant Nicholas Murray searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (H) Abuse of Authority: Sergeant Nicholas Murray searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (I) Abuse of Authority: Police Officer Lukasz Solis searched the vehicle in which § 87(2)(b) was an occupant.

The following facts are undisputed: In the days leading up to this incident, Sergeant James Geissler of the Intelligence Bureau Criminal Intelligence Section, while working as a Field Intelligence Officer at the 101st Precinct, issued an “officer safety flyer” that noted that § 87(2)(b) may have been in possession of a firearm (Board Review 05). The flyer noted § 87(2)(b)’s address, included his photograph, described his vehicle, and that he should be treated as armed and dangerous. On the incident date, § 87(2)(b) got into his white 2008 Lexus ES-350 with New York State license plate number § 87(2)(b) and drove to the intersection of Caffrey Avenue and Brookhaven Avenue in Queens. PO Amador, PO Napoli, and Sgt. Murray, who were working anti-crime for the 101st Precinct, stopped § 87(2)(b) for a moving violation. PO Hannon and PO Solis, also working anti-crime for the 101st Precinct, responded to the location to back up the officers. PO Amador, PO Hannon and PO Napoli removed § 87(2)(b) from the vehicle. PO Napoli, Sgt. Murray, PO Hannon, and PO Solis searched the vehicle. They did not find a weapon inside of the vehicle. § 87(2)(b) was taken to the 101st Precinct stationhouse and issued two summonses for the traffic violations. § 87(2)(b)’s vehicle was taken to the 101st Precinct stationhouse as well.

§ 87(2)(b) (Board Review 06) testified that after he was pulled over, PO Amador approached his driver side window and requested his driver license and registration. § 87(2)(b) took his wallet out of his back pocket, put it on his lap, and reached toward his glove compartment to retrieve his insurance documents. PO Amador asked § 87(2)(b) to get out of the vehicle. § 87(2)(b) asked why, and PO Amador ordered him to get out again. § 87(2)(b) told PO Amador that it would take him longer than usual to get out of the car because he had limited use of his left arm and left leg due to a gunshot injury. As § 87(2)(b) took off his seatbelt with his right arm, approximately five officers in plain clothes opened the car door, grabbed § 87(2)(b)’s chest and torso area, and pulled him to the ground in one fluid motion. § 87(2)(b) landed on the ground face-first and PO Amador put his left arm behind his back causing pain. PO Amador informed § 87(2)(b) that he was removed because he refused to comply with their orders and the officers needed to make sure that he did not have a gun. While § 87(2)(b) was on the ground, officers searched his pockets. § 87(2)(b) could not tell which officer searched him or which pockets were searched because he felt so many hands on him. § 87(2)(b) heard his car door being opened and assumed that the officers were searching his car. Officers brought § 87(2)(b) to the 101st Precinct stationhouse, questioned him about his knowledge of local gangs and recent shootings, and issued him two summonses. An officer then walked § 87(2)(b) to his vehicle, which was parked across the street from the stationhouse. § 87(2)(b) noticed that the interior of his car was messy, as though officers had moved things around. § 87(2)(b)’s wallet was placed on his front seat. Papers formerly inside of § 87(2)(b)’s dashboard were placed outside of it.

§ 87(2)(b) § 87(2)(b), § 87(2)(g), § 87(2)(a) CVR § 50-b

§ 87(2)(b) provided the investigation with § 87(2)(b)’s medical records. § 87(2)(b)

His medical records noted that § 87(2)(b) complained of back pain and stated that police assaulted him and held his hand behind his back with

force. His medical records also note that § 87(2)(b) had reduced range of motion in his left arm and was shot in the past. X-rays revealed that § 87(2)(b) had no fractures, dislocations, or rib pathology and did not have a separated shoulder.

The NYPD Intelligence Bureau's Officer Safety Flyer noted that § 87(2)(b) "may be in possession of a firearm," his previous arrests, home addresses, and described his vehicle (Board Review 05). The flyer also notes that § 87(2)(b) should be treated as armed and dangerous but is not a wanted fugitive. The flyer did not contain a date.

PO Napoli, Sgt. Murray, PO Amador, PO Hannon, and PO Solis testified that they were familiar with § 87(2)(b) prior to this incident because of an officer safety flyer they had received. PO Napoli testified that he observed the officer safety flyer regarding § 87(2)(b) on the day of the incident (Board Review 10). Sgt. Murray stated that he received the flyer at some point during the week of the incident (Board Review 11). PO Amador and PO Hannon did not recall when they first observed the flyer (Board Reviews 09 and 12). PO Solis could not recall if he was made aware of § 87(2)(b) by word of mouth or the flyer (Board Review 13).

In his CCRB interview, PO Amador (Board Review 09) testified that he was in a vehicle with Sgt. Murray and PO Napoli when he observed § 87(2)(b) walk to his car. PO Amador recognized § 87(2)(b) from the flyer he received. PO Amador did not see any suspicious bulges anywhere on § 87(2)(b)'s body. § 87(2)(b) got into his car and drove away from his parking spot without signaling. PO Amador deployed his vehicle's turret lights and stopped § 87(2)(b). PO Amador approached § 87(2)(b)'s window and asked for his driver license, registration, and proof of insurance. From where he stood, PO Amador could not see § 87(2)(b)'s legs or feet, and he did not have the time to look for bulges on § 87(2)(b)'s body. PO Amador asked for § 87(2)(b)'s driver's license two more times before § 87(2)(b) provided it. PO Amador ordered § 87(2)(b) to get out of the vehicle. § 87(2)(b) did not step out. PO Amador did not remember whether § 87(2)(b) said anything about whether he had limited mobility in his arm. PO Amador opened § 87(2)(b)'s car door and asked him to get out of the vehicle again. PO Amador reached into the vehicle to prevent § 87(2)(b) from reaching toward anything and to guide § 87(2)(b) out of the vehicle. § 87(2)(b) still did not move. The information on the flyer, § 87(2)(b)'s initial non-compliance when asked to provide an ID, and his non-compliance when asked to get out of the vehicle all led PO Amador to believe that § 87(2)(b) possessed a firearm. During this time, § 87(2)(b) reached down underneath his car seat. PO Amador did not see what § 87(2)(b) was reaching for. PO Amador attempted to remove § 87(2)(b) from the vehicle. § 87(2)(b) put his head against the car seat headrest in his vehicle, effectively preventing his head from leaving the vehicle. PO Amador interpreted this as an intentional act because the positioning of § 87(2)(b)'s head prevented PO Amador and the other officers from taking him out of the vehicle. PO Amador held on to § 87(2)(b) and guided him out of the vehicle. PO Amador could not recall where on § 87(2)(b)'s body he grabbed while guiding him out of the vehicle. PO Amador denied using effort or force to guide § 87(2)(b) out of the vehicle and to the ground. He did not throw or push § 87(2)(b) to the ground. After § 87(2)(b) was handcuffed, PO Amador searched § 87(2)(b)'s waist to ensure his safety. PO Amador stood next to § 87(2)(b) for the duration of his time on scene PO Amador did not witness other officers search § 87(2)(b)'s vehicle. Sgt. Murray decided that § 87(2)(b) should be taken to the stationhouse. PO Amador transported § 87(2)(b) to the stationhouse. At the stationhouse, PO Amador lodged § 87(2)(b) in a holding cell and completed the summonses. PO Amador did not search § 87(2)(b)'s vehicle at the stationhouse nor did he hear of any other officers doing so.

PO Amador was interviewed by IAB for this incident (Board Review 24, IA # 241 for transcription). PO Amador's CCRB testimony was generally consistent with his IAB testimony,

apart from additional contextual details as well as why he ordered § 87(2)(b) to step out of the vehicle. PO Amador stated that § 87(2)(b) stalled in providing his identification and his demeanor was such that it seemed he was trying to buy time. § 87(2)(b) began asking questions about why he had been stopped and appeared nervous. § 87(2)(b) PO Amador ordered § 87(2)(b) to step out of the vehicle because he had been stopped for a traffic infraction, had refused PO Amador's orders several times prior, and the flyer stated that he could be in possession of a firearm. § 87(2)(b) did not want to get out of the vehicle, so PO Amador opened the driver side door. Simultaneously, § 87(2)(b) reached his hand beneath the driver's seat. For the safety of himself and his partners, PO Amador grabbed § 87(2)(b)'s hand and removed him from the vehicle. Once on the ground, PO Amador searched § 87(2)(b) to ensure that he did not have any weapons on his person. After PO Amador issued § 87(2)(b) the summonses at the stationhouse, PO Amador walked § 87(2)(b) to his vehicle and shook his hand.

PO Napoli's (Board Review 10) CCRB testimony was generally consistent with PO Amador's apart from his own interaction with § 87(2)(b). PO Napoli clarified that § 87(2)(b) repeatedly asked PO Amador why he was being stopped before PO Amador opened the door. After PO Amador opened § 87(2)(b)'s door, PO Napoli and PO Amador ordered § 87(2)(b) to get out of the vehicle. PO Napoli did not know who decided that § 87(2)(b) should get out of the vehicle or why the decision was made. Simultaneously, § 87(2)(b) reached underneath the driver's seat, which caused PO Napoli to lose sight of § 87(2)(b)'s hands. PO Napoli grabbed one of § 87(2)(b)'s arms and PO Amador grabbed the other to remove him from the vehicle. § 87(2)(b) pressed his head onto the ceiling of the vehicle and said that he was stuck. PO Amador and PO Napoli ordered § 87(2)(b) to lower his head. § 87(2)(b) eventually moved his head and PO Amador and PO Napoli brought § 87(2)(b) to the ground face-first. PO Napoli did not pull § 87(2)(b) out of the vehicle. PO Napoli handcuffed § 87(2)(b) once he was on the ground. After handcuffing § 87(2)(b) PO Napoli entered § 87(2)(b)'s vehicle on the driver's side and searched beneath the driver's seat and the floor area where § 87(2)(b) could have reached. PO Napoli was looking for a weapon or anything else that § 87(2)(b) could have been reaching for. PO Napoli did not recover any weapons or contraband from § 87(2)(b)'s vehicle. PO Napoli eventually drove himself and Sgt. Murray to the stationhouse. An officer drove § 87(2)(b)'s vehicle back to the stationhouse. PO Napoli did not search the vehicle at the stationhouse. Other officers did not search the vehicle at the stationhouse. PO Napoli's CCRB testimony was consistent with his IAB testimony regarding his initial interaction with § 87(2)(b) and the actions he took while on scene (Board Review 24, IA # 241 for transcription).

Sgt. Murray's (Board Review 11) CCRB testimony was generally consistent with PO Amador and PO Napoli's statements, except for his own interaction with § 87(2)(b) and additional actions he took on scene. Once § 87(2)(b) was stopped, Sgt. Murray approached on the passenger side of § 87(2)(b)'s vehicle. Sgt. Murray could see § 87(2)(b)'s legs and upper body from where he stood. Sgt. Murray did not recall seeing any suspicious bulges on § 87(2)(b)'s person. Sgt. Murray did not see any objects around § 87(2)(b)'s feet. Sgt. Murray could see § 87(2)(b)'s hands, but he could not remember where § 87(2)(b) kept them. PO Amador asked for § 87(2)(b)'s driver's license and registration numerous times and eventually asked him to get out of the vehicle. § 87(2)(b) did not exit his vehicle. § 87(2)(b) raised his voice and appeared upset. Sgt. Murray did not remember what § 87(2)(b) said or whether he said anything about his medical conditions. Sgt. Murray was on the passenger's side of the vehicle when § 87(2)(b) made a "furtive movement" with his hand toward the floor of his vehicle. Sgt. Murray went around the rear of the vehicle to the driver's side and observed PO Amador and PO Napoli holding onto § 87(2)(b)'s wrists as they pulled him out of the vehicle to the ground. Sgt. Murray did not participate in pulling § 87(2)(b) out of the car. Once § 87(2)(b) was handcuffed, Sgt. Murray entered the driver's seat of § 87(2)(b)'s vehicle and searched the driver's seat area for a possible

firearm. Sgt. Murray could not recall if he searched anywhere else in the vehicle. Sgt. Murray did not find any weapons in § 87(2)(b)'s car. Sgt. Murray decided that § 87(2)(b) would be removed to the stationhouse because § 87(2)(b) was upset and because a crowd was forming. An officer drove § 87(2)(b)'s car to the stationhouse and parked it in the garage.

Sgt. Murray was also interviewed for this incident (Board Review 24, IA # 241 for transcription). Sgt. Murray's CCRB testimony was generally consistent with his IAB testimony, § 87(2)(b), § 87(2)(g). Sgt. Murray stated that it was his decision to take § 87(2)(b) to the stationhouse because he was concerned about the safety of his officers since a crowd started to form and § 87(2)(b) was still upset.

In his CCRB interview, PO Hannon (Board Review 12) stated that he was on patrol with PO Solis when they were notified to go to the incident location to assist the other anti-crime unit. PO Hannon did not remember how he and PO Solis were notified nor did he recall whether he was aware that there was a car stop at the location before arriving. Upon arrival, PO Hannon observed that § 87(2)(b)'s door was open and § 87(2)(b) was sitting in the driver's seat. PO Amador and PO Napoli were holding on to § 87(2)(b)'s arms and telling him to get out of the vehicle. PO Hannon ran to assist them. § 87(2)(b)'s head appeared wedged against the ceiling of his vehicle. § 87(2)(b) repeatedly said that he could not get out of the vehicle. PO Hannon pulled lightly on § 87(2)(b)'s upper arm to get him out of the vehicle. § 87(2)(b) landed face first on the ground. PO Hannon helped the other officers put § 87(2)(b) into two sets of handcuffs because § 87(2)(b) said that his arm could not bend. After § 87(2)(b) was handcuffed, PO Hannon recognized § 87(2)(b) from the officer safety flyer. Sgt. Murray gave PO Hannon the keys to § 87(2)(b)'s car and told him to open the trunk. PO Hannon did not open the trunk for any other reason. Sgt. Murray and PO Hannon searched the trunk of the vehicle, then closed the trunk. PO Hannon did not find anything in the trunk. PO Hannon did not search the vehicle any further. PO Hannon did not witness any other officer search the vehicle. PO Hannon eventually transported § 87(2)(b) and PO Amador back to the 101st Precinct stationhouse, where § 87(2)(b) was lodged in the holding cells. PO Hannon did not remember what happened to § 87(2)(b)'s vehicle. PO Hannon did not search § 87(2)(b)'s vehicle at the stationhouse. PO Hannon's CCRB testimony was consistent with his IAB testimony regarding his response to the location and the actions he took while on scene (Board Review 24, IA # 241 for transcription).

In his CCRB interview, PO Solis (Board Review 13) testified that a member of the other 101st Precinct anti-crime unit on duty at the time used their radio and transmitted that they had stopped a car. PO Solis did not remember if they provided any other information over the radio. PO Solis and PO Hannon drove to the location. Upon arrival, PO Solis observed Sgt. Murray and PO Amador ordering § 87(2)(b) who was in the vehicle, to get out. § 87(2)(b) was not complying with their orders. PO Solis ran to the passenger's side of § 87(2)(b)'s vehicle to assist the other officers by pushing § 87(2)(b) out. PO Solis then ran to the open driver's side door, but there was no room because of the other officers. PO Solis ran back to the open passenger's side door intending to push § 87(2)(b) out of the vehicle, but by the time that he got to the passenger's side a second time, § 87(2)(b) was already out of the vehicle laying face-down on the ground. PO Solis was not able to see what these officers were doing before bringing him out of the vehicle, or how § 87(2)(b) got out of the vehicle, because his vision was obstructed by § 87(2)(b)'s vehicle as he was switching sides. PO Solis did not witness any officers making physical contact with or using physical force against § 87(2)(b). PO Solis believed that § 87(2)(b)'s vehicle may have a firearm inside of it based on what he learned from the officer safety flyer. PO Solis searched inside any area of § 87(2)(b)'s vehicle where § 87(2)(b) could have lunged and grabbed something from. PO Solis searched underneath the front floor mat, beneath the front driver and passenger seats, the center console, and the glovebox. PO Solis then searched the back

passenger area behind the front passenger seat. PO Solis looked through a brown paper bag that had jackets inside. PO Solis lifted each jacket in the bag to make sure that nothing was placed inside of the bag before or during the car stop. PO Solis also searched any crevice in these areas in which a gun could fit. PO Solis observed Sgt. Murray search the front passenger's side of § 87(2)(b)'s vehicle. Sgt. Murray also may have searched the trunk, but PO Solis was not certain. PO Solis drove § 87(2)(b)'s vehicle back to the stationhouse and parked it in front of the building. PO Solis gave the keys to either Sgt. Murray or PO Amador. PO Solis was not sure whether anyone searched the vehicle at the stationhouse. PO Solis' CCRB testimony was consistent with his IAB testimony regarding the initial observations he made when arriving at the location, the actions he took on scene, and his reason for taking those actions (Board Review 24, IA # 241 for transcription).

The investigation determined that the BWC footage from all the responding officers captured the incident in its entirety as well as the actions they took, respectively (Board Review 04).

PO Amador's BWC footage, which is approximately 21 minutes and 32 seconds in length, captures his interaction with § 87(2)(b) (Board Review 04). At 1:10, PO Amador approaches § 87(2)(b)'s window and asks for his driver license and registration. § 87(2)(b) says, "Yes, can I ask why I was stopped?" PO Amador tells § 87(2)(b) that he did not signal from a parking spot. § 87(2)(b) reaches toward his door and grabs his wallet, saying, "Signal from a parking spot?" PO Amador asks § 87(2)(b) whether he has a driver's license, saying that this is the third time he has asked for it. § 87(2)(b) says that he is reaching for his license. At 1:41, § 87(2)(b) hands his license to PO Amador, who asks for the vehicle's registration. At 1:48, § 87(2)(b) asks Sgt. Murray (who is standing by the front passenger's side window), "What, you can't see? I don't have no tints on it," while reaching into his glove compartment for documentation. At 2:00, § 87(2)(b) gives PO Amador his registration. PO Amador tells § 87(2)(b) to exit the vehicle. § 87(2)(b) says, "Step out of the car? I though you pulled me over for a..." PO Amador repeats the order and says that he will "Take § 87(2)(b) out." § 87(2)(b) says, "We don't have to do..." § 87(2)(b)'s door opens, though it is unclear who opens it. PO Amador leans into the open door and grabs a hold of § 87(2)(b)'s right arm. PO Napoli holds § 87(2)(b)'s left arm. § 87(2)(b) says that he is trying to get out of the vehicle and that he has a "bad arm" because he had been shot before. He tells the officers to let him get out on his own. PO Hannon's arms are visible reaching for § 87(2)(b)'s left shoulder. At 2:15, § 87(2)(b) leans forward and reaches beneath the driver's seat. PO Amador holds onto both of § 87(2)(b)'s wrists and attempts to pull him out of the vehicle. § 87(2)(b) asks if he can pick his wallet up and PO Amador tells him to stop reaching. PO Amador and PO Napoli continue to pull § 87(2)(b)'s wrists and attempt to pull him out of the vehicle. § 87(2)(b) tells the officers that he is trying to get out but that he has a bad arm. At 2:27, § 87(2)(b) has his forehead against the interior door frame of the vehicle. § 87(2)(b) repeats that he is trying to get out of the car but that his head is stuck. At 2:32 an officer tells § 87(2)(b) to put his head down. Simultaneously, PO Amador, PO Napoli, and PO Hannon pull § 87(2)(b) from the vehicle. § 87(2)(b) lands on the ground face-first. At 2:44, Sgt. Murray enters the driver's side of the vehicle and looks beneath the driver's seat. At 2:37, PO Amador rolls § 87(2)(b) onto his stomach. PO Hannon handcuffs § 87(2)(b). At 3:14, PO Amador briefly pats down and searches § 87(2)(b)'s buttocks and left front pants pocket. At 3:30, Sgt. Murray and PO Solis lean into § 87(2)(b)'s driver's side doorway and rear right doorway, respectively. At 4:00, Sgt. Murray opens and enters the vehicle through the rear passenger's side door behind the driver's seat. At 4:30, Sgt. Murray walks around the rear of the vehicle, opens the front passenger door, and leans in. Simultaneously, PO Napoli leans into the vehicle and looks under the driver's seat. PO Amador stands with § 87(2)(b) and yells at PO Amador, in sum and substance telling PO Amador that he wronged him and did not need to pull him out of the car. At 4:58, PO Napoli hands § 87(2)(b)'s keys to Sgt. Murray who is

standing at the rear of the vehicle with PO Solis. There is no discussion amongst the officers during this time. At 5:30, PO Amador and PO Napoli lift § 87(2)(b) off the ground. § 87(2)(b) continues to speak angrily at the officers. At 6:03, Sgt. Murray searches the trunk of the vehicle. At 7:24, PO Napoli tells § 87(2)(b) that the officers are going to bring him back to the 101st Precinct stationhouse. The officers walk § 87(2)(b) to a police vehicle and have him sit in the back seat.

PO Hannon's BWC recording, which is approximately six minutes and 29 seconds in length, captures his physical interaction with § 87(2)(b) as well as his search of the vehicle (Board Review 04). At 0:59, PO Hannon holds on to § 87(2)(b)'s left arm and pulls § 87(2)(b) out of the vehicle. § 87(2)(b) lands on his left hip and rolls on to his back. Officers roll him onto his stomach. PO Hannon puts handcuffs on § 87(2)(b)'s left wrist. At 4:08, PO Hannon leans into § 87(2)(b)'s open driver's door and opens the trunk, then returns to the rear of the vehicle and lifts the trunk door. At 4:29, PO Hannon reaches his hands into the trunk and moves objects around.

PO Napoli's BWC, which is approximately nine minutes and 46 seconds in length, captures him searching the driver's side area of § 87(2)(b)'s vehicle. From 03:00 to 03:15, PO Napoli bends down and reaches into the driver seat floor area (Board Review 04). The footage does not capture where on the floor area he reaches. PO Napoli then picks up § 87(2)(b)'s wallet from the floor and puts it on the driver's seat. At 04:33, PO Napoli shines his flashlight beneath the driver's seat.

Sgt. Murray's BWC footage, which is approximately seven minutes and 51 seconds in length, captures his search of the vehicle (Board Review 04). At 2:36, Sgt. Murray leans into the open driver's door. He extends his hand underneath the dashboard, but it is unclear what he is reaching for. At 3:22, Sgt. Murray leans into the open driver's side door, but the positioning of the camera is such that his actions are unclear. Sgt. Murray searches the center console and the side of the front passenger seat. At 3:56, Sgt. Murray walks to the rear passenger side door behind the driver seat, opens it, and searches the pocket behind the driver's seat. At 4:15, Sgt. Murray opens the front passenger door and searches the floor area and the glove compartment. Approximately five people walk across the street in front of § 87(2)(b)'s parked vehicle. At 4:35, Sgt. Murray asks an officer, "You got his keys? Pop the trunk." PO Napoli throws § 87(2)(b)'s keys to Sgt. Murray. Two civilians are captured standing on the sidewalk opposite the officers. Sgt. Murray hands the keys to PO Hannon and asks him if he can open the trunk. At 5:35, Sgt. Murray leans into the rear passenger's side door. The sound of a plastic bag moving is audible, although the camera is not pointed into the vehicle. Sgt. Murray asks PO Solis, who is leaning into the front passenger seat, "Did you go through this thing here?" At 5:42, Sgt. Murray returns to the rear of the vehicle where the trunk is open. Sgt. Murray removes a milk crate full of water bottles, shoes, and cleaning supplies from the vehicle, searches a jacket, and then returns the objects to the trunk with PO Hannon. PO Hannon looks through items in the trunk as well.

PO Solis' BWC, which is approximately 13 minutes 15 seconds in length, captures his search of § 87(2)(b)'s vehicle (Board Review 04). At 2:05, PO Solis opens the rear passenger's side door of § 87(2)(b)'s vehicle and moves objects around inside of the passenger cabin. He also searches a paper bag that is on the floor and the passenger's side seatback pocket. At 2:59, PO Solis exits the car as Sgt. Murray leans into the open driver's side door. PO Solis walks around the vehicle and at 3:52, he opens the front passenger door, lifts the floor mat from the ground, and puts it down. PO Solis sifts through papers in the door compartment. At 4:26, PO Solis closes the door and walks to the rear of the vehicle where Sgt. Murray and PO Hannon are searching the trunk.

The investigation received the Automatic Vehicle Locator (AVL) document, which showed the location of PO Amador's vehicle, RMP #§ 87(2)(b) before the incident (Board Review 25). The search

revealed that PO Amador's vehicle was in the vicinity of § 87(2)(b) s residence, § 87(2)(b) [REDACTED]

After reviewing the AVL log during his CCRB interview, PO Amador stated that he did not know why the vehicle was in the area for that period. He stated that an officer could have been going to the bathroom, it could have been parked, or any other reason (Board Review 09). During his IAB interview, PO Amador testified that he, PO Napoli, and Sgt. Murray were stationed outside of § 87(2)(b) s residence waiting to see if § 87(2)(b) would go into his vehicle. PO Amador, PO Napoli, and Sgt. Murray had been watching § 87(2)(b) s vehicle, which was unoccupied at the time (Board Review 24, IA # 241 for transcription).

No TRI reports were generated as a result of this incident (Board Review 14).

IAB Group 54 investigated the same allegations and came to their own dispositions. § 87(2)(b) [REDACTED]

NYPD Patrol Guide Procedure 221-01 states that "force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances" (Board Review 15). The following factors, among others, are to be considered when determining whether the use of force is proper; the nature and severity of the crime/circumstances; actions taken by the subject; duration of the action; the immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders; whether the subject is actively resisting custody; the number of subjects in comparison to the number of officers; the size, age, and condition of the subject in comparison to officers; the subject's violent history (if known); and the presence of a hostile crowd or agitators (Board Review 16).

In People v. Mitchell, 185 A.D.2d 163, the court noted that while the police are permitted to rely on the direction of their fellow officers to arrest without simultaneously knowing the underlying facts which led to such direction, they cannot be considered to have relied on information possessed by each other without there having been any communication of either the information itself or a direction to arrest (Board Review 28).

In People v. Hardee 126 A.D.3d 626, the court established that the facts available to the officer, including the defendant's furtive behavior, suspicious actions in looking into the back seat on multiple occasions and refusal to follow the officers' legitimate directions, went beyond nervousness. Rather, the defendant's actions both inside and outside the vehicle created a "perceptible risk" and supported a reasonable conclusion that a weapon that posed an actual and specific danger to the officers' safety was secreted in the area behind the front passenger seat, which justified the limited search of that area, even after the defendant had been removed from the vehicle (Board Review 17).

In People v. Torres, 74 N.Y.2d 224, the court established that a police officer acting on reasonable suspicion that criminal activity is afoot and on an articulable basis to dear for his own safety may intrude upon the person or personal effects of the suspect only to the extent that is actually

necessary to protect himself from harm (Board Review 26).

In People v. Mundo, 99 N.Y.2d 55 the court held that absent probable cause, it is unlawful for a police officer to invade the interior of a stopped vehicle once the suspects have been removed and patted down without incident, as any immediate threat to the officers; safety has consequently been eliminated (Board Review 18).

NYPD Patrol Guide Procedure 218-13 states that whenever any property comes into the custody of this Department an inventory search will be conducted as follows ; if the contents to be inventoried are in an automobile 1) Search the interior of the vehicle thoroughly. This search should include any area that may contain valuables including but not limited to; the glove compartment, console, map pockets in or on doors and rear of side seats, areas under the seats and in and around the seat stuffing springs, under the floor mats, under and behind the dashboard, inside the ashtrays, in the air vent where accessible under the hood, and the trunk. 2) Force open trunk, glove compartment, etc. only if it can be done with minimal damage and 3) Remove all valuables from the vehicle and invoice on a separate property clerk invoice (Board Review 27).

Although § 87(2)(b) did not allege being frisked, BWC footage revealed that he was frisked and searched by PO Amador. Based on the BWC footage, the investigation also determined that PO Amador, PO Napoli, and PO Hannon were the subjects of the force allegations and that PO Amador searched § 87(2)(b) since § 87(2)(b) could not attribute which officers took these specific actions against him. Although PO Hannon subsequently searched the trunk of § 87(2)(b)'s vehicle, a vehicle search allegation was not pled against PO Hannon since Sgt. Murray had instructed him to do so.

The BWC footage shows § 87(2)(b) providing PO Amador with all his documentation upon PO Amador's request. The BWC also shows PO Amador ordering § 87(2)(b) to get out of the vehicle three consecutive times without giving § 87(2)(b) the time to do so. § 87(2)(g) § 87(2)(b) verbalized to the officers that he was trying to step out of the vehicle but that it would take him a moment because he had an injured arm. The BWC also showed § 87(2)(b) asking the officers if he could pick up his wallet while simultaneously reaching for it. PO Amador and PO Napoli testified that they could not see where or what § 87(2)(b) was reaching for, which concerned them based on what was noted in the officer safety flyer, and immediately proceeded to remove him from the vehicle. However, given PO Amador and PO Napoli did not allow § 87(2)(b) a reasonable amount of time to comply with their orders despite § 87(2)(b)'s verbal compliance, § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)

PO Hannon testified that upon his arrival he observed PO Amador and PO Napoli physically engaged with § 87(2)(b) and therefore assisted them in taking § 87(2)(b) out of the car. Per the court's decision in People v. Mitchell, PO Hannon did not need to know the underlying facts that precipitated the situation to assist PO Amador and PO Napoli in pulling § 87(2)(b) out of the car. § 87(2)(g)

§ 87(2)(g)

BWC footage shows PO Amador frisking and searching § 87(2)(b) on the ground after he was handcuffed. PO Amador stated that he searched § 87(2)(b) to ensure that he did not have any weapons on his person. § 87(2)(g)

BWC footage captures PO Napoli and Sgt. Murray searching the driver's seat after § 87(2)(b) was removed from the vehicle. PO Napoli and Sgt. Murray both testified that they observed § 87(2)(b) reach towards the driver seat floorboard and that they subsequently searched that area for weapons. § 87(2)(g)

BWC footage shows Sgt. Murray and PO Solis searching § 87(2)(b)'s vehicle after § 87(2)(b) had been removed from it. In addition to his search of the driver's seat area, Sgt. Murray also searched the front passenger seat area, both back passenger seat areas, and the trunk. PO Solis searched the front and back passenger seats. Sgt. Murray could not recall which portion of the vehicle he searched but stated that that he did so to look for weapons, and PO Solis stated that he searched the vehicle for potential weapons as well. § 87(2)(g)

§ 87(2)(b) Although § 87(2)(b)'s vehicle was removed to the stationhouse, the officers testified that the vehicle was only searched on scene for a firearm and thus, an inventory search was not conducted. § 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
[REDACTED]
- [REDACTED]
Sgt. Murray has been a member of service for eight years and has been a subject in one other CCRB complaint and one other allegation, which was not substantiated. § 87(2)(g)
[REDACTED]
- PO Amador has been a member of service for eight years and has been a subject in eight other CCRB complaints and 19 other allegations, six of which were substantiated.
 - 201505360 contained substantiated allegations of interference with a recording device, retaliatory summons, threat of arrest, and courtesy against PO Amador. The Board recommended charges and PO Amador forfeited two vacation days after the NYPD found him guilty only of issuing a retaliatory summons. PO Amador was also cited with other misconduct for failure to prepare a memo book entry and making a false official statement.
 - 201800301 contained two substantiated allegations of chokeholds against PO Amador. The Board recommended charges and the PO Amador forfeited 30 vacation days after the NYPD found him guilty.
 - § 87(2)(g)
[REDACTED]
- PO Napoli has been a member of service for seven years and has been a subject in six other CCRB complaints and 19 other allegations, none of which were substantiated § 87(2)(g)
[REDACTED]
- PO Hannon has been a member of service for seven years and has been a subject in one other case and three other allegations, none of which were substantiated. § 87(2)(g)
[REDACTED]
- PO Solis has been a member of service for 14 years and has been a subject in nine other cases and 11 other allegations, one of which was substantiated.
 - 201710526 contained a substantiated allegation of refusal to provide shield number against PO Solis. The Board recommended command discipline B and the NYPD imposed instructions.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming assault, battery, false arrest, false imprisonment, malicious prosecution, intentional infliction of emotional distress, negligent infliction of emotional distress, outrageous conduct giving rise to personal injuries, *prima facie* tort, and violation of civil rights and seeking \$5,000,000, plus attorney's fees in redress (Board Review 22). A 50H hearing was held § 87(2)(b)
[REDACTED].

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

Squad: 3

| | | | |
|---------------|--------------|--------------------|------------|
| Investigator: | Charis Jones | Inv. Charis Jones | 12/27/2021 |
| | Signature | Print Title & Name | Date |

Squad Leader: Olga Golub IM Olga Golub 12/27/2021
Signature Print Title & Name Date

Reviewer: _____ Signature _____ Print Title & Name _____