

201408836
Mauvin Bute

On August 15, 2014, at about 10:00 pm, a landlord called the police because she noticed a light on in an upstairs apartment of her two-story building, though only the lower floor was rented. Police arrived at the building and went to the lower floor apartment (which was occupied) first. The officers later stated that they were under the impression that the entire building was unoccupied, and one officer stated that the ground floor tenant was subject to an eviction proceeding (there was no other evidence that the ground floor tenant was being evicted). The officers knocked on the man's door and he came out. Security camera footages shows that the man was immediately frisked and placed into handcuffs. Officers then entered and searched the apartment; after a twenty minute search they removed two NYPD radios and charged the man with possessing them illegally.

In his statement to the CCRB, Lieutenant Bute stated that he only entered the apartment to remove the man after the door was open, and that he noticed the police radios in plain view when he did. The video showed that the man was secure in the hallway in handcuffs before any officer entered the apartment, and that Lieutenant Bute spent over twenty minutes inside after entering.

The CCRB found that the search was improper, and that Lieutenant Bute had made a false official statement when he stated the officers entered the room to take the man out.

The NYPD disciplined Lieutenant Bute by forcing him to forfeit 5 vacation days.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Erin Sweeney	Team: Squad #8	CCRB Case #: 201408836	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input type="checkbox"/> Injury
Incident Date(s) Fri, 08/15/2014 9:57 PM	Location of Incident: [REDACTED]		Precinct: 67	18 Mo. SOL 02/15/2016	EO SOL 2/15/2016
Date/Time CV Reported Wed, 08/27/2014 11:47 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/27/2014 11:47 AM		

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

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Remy Jeanfrancois	24399	§ 87(2)(b)	067 PCT
2. POM Thomas Guy	19685	§ 87(2)(b)	067 PCT
3. LT Mauvin Bute	00000	§ 87(2)(b)	067 PCT
4. POM Joel Crooms	17984	§ 87(2)(b)	067 PCT
5. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Andreas Sargent	24928	§ 87(2)(b)	067 PCT
2. POM Francisco Martinez	02786	§ 87(2)(b)	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Thomas Guy	Discourtesy: On August 15, 2014, at § 87(2)(b) in Brooklyn, PO Thomas Guy spoke discourteously to Jarreth Joseph.	A . § 87(2)(g)
B . POM Joel Crooms	Abuse of Authority: On August 15, 2014, at § 87(2)(b) in Brooklyn, PO Joel Crooms frisked Jarreth Joseph.	B . § 87(2)(g)
C . LT Mauvin Bute	Abuse of Authority: On August 15, 2014, Lt. Mauvin Bute authorized the entry and search of § 87(2)(b) Apartment 1, in Brooklyn.	C . § 87(2)(g)
D . POM Joel Crooms	Force: On August 15, 2014, at § 87(2)(b) in Brooklyn, Joel Crooms tightly handcuffed Jarreth Joseph.	D . § 87(2)(g)
E . POM Remy Jeanfrancois	Force: On August 15, 2014, at the 67th Precinct stationhouse, PO Remy Jeanfrancois used physical force against Jarreth Joseph.	E . § 87(2)(g)
F . Officers	Abuse of Authority: On August 29, 2014, officers entered and searched § 87(2)(b) Apartment 1, in Brooklyn.	F . § 87(2)(g)

Officer(s)	Allegation	Investigator Recommendation
G . LT Mauvin Bute	Other: Lt. Mauvin Bute provided a false official statement to G . § 87(2)(g) the CCRB.	

Case Summary

On August 15, 2014, at approximately 9:57 p.m., § 87(2)(b) a landlord, drove past her property at § 87(2)(b) in Brooklyn and saw a light on in the second floor apartment (enc. 6A). Although the first floor was rented to a tenant, § 87(2)(b) the second floor was supposed to be vacant. § 87(2)(b) called the police because she suspected a burglary, and PO Andreas Sargent, PO Joel Crooms, PO Thomas Guy, and Lt. Mauvin Bute of the 67th Precinct arrived at § 87(2)(b). The officers entered the building, and PO Sargent and Lt. Bute immediately went upstairs to the second floor apartment, while PO Crooms and PO Guy immediately went to the rear door of § 87(2)(b)'s first floor apartment. § 87(2)(b) opened his apartment door, and PO Guy gestured for him to enter the hallway, and § 87(2)(b) complied. § 87(2)(b) alleged the following: PO Guy told him to "Shut the fuck up," one or two times (**Allegation A**). PO Crooms frisked him (**Allegation B**). PO Guy, Lt. Bute, and PO Sargent entered § 87(2)(b)'s apartment several times and searched his apartment, including in his closet and drawers (**Allegation C**). § 87(2)(b) complained about his handcuffs being too tight, and PO Crooms tightened them (**Allegation D**). At the 67th Precinct stationhouse, PO Remy Jeanfrancois of the 67th Precinct slammed the door of the Central Booking transfer van on § 87(2)(b)'s leg three or four times (**Allegation E**).

Upstairs, PO Sargent and Lt. Bute knocked on the door, and two individuals identified as § 87(2)(b) and § 87(2)(b) answered. They told the officers and § 87(2)(b) that they were renting the second floor apartment from § 87(2)(b) who had listed it on Craigslist (enc. 8C).

§ 87(2)(b) provided surveillance footage that captures some of the officers' actions at § 87(2)(b) (IA #11). Relevant portions of the video will be referenced throughout this report, and the entire summary is located in IA #95 (transcription of video enc. 7H-7J).

On September 8, 2014, § 87(2)(b) filed a duplicate complaint, but also stated that officers entered the same apartment on August 29, 2014 (**Allegation F**). Lt. Bute § 87(2)(g) § 87(2)(b) for providing a false official statement to the CCRB (**Allegation G**).

This case was originally assigned to Investigator Leanne Fornelli, but on December 15, 2014, the case was reassigned to the undersigned investigator.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation because § 87(2)(b) was arrested and § 87(2)(b) § 87(2)(b), § 87(2)(a) CPL 160.50 (enc. 14K). As of May 11, 2015, the arrest had been sealed (enc. 25A-25C).
- As of May 12, 2015, § 87(2)(b) has not filed a Notice of Claim related to this incident (enc. 23A-23B).
- § 87(2)(b) (enc. 24A-24M).

Civilian and Officer CCRB Histories

- PO Crooms has been a member of the service for three years and has two previous cases with no substantiated allegations. § 87(2)(g) § 87(2)(b)
- PO Guy has been a member of service for three years and has three previous cases with no substantiated allegations. In case 201406690, a courtesy allegation was pled against him that was Unsubstantiated. (enc. 2B).
- Lt. Bute has been a member of the service for 17 years and has two previous cases with no substantiated allegations (enc. 2C).

- PO Jeanfrancois has been a member of service for three years, and has one case, 201305598, in which the sole allegation is force. It was closed as Complainant Uncooperative (enc. 2D).
- This is § 87(2)(b)'s second CCRB complaint (enc. 3A). § 87(2)(b)


Findings and Recommendations

Explanation of Subject Officer Identification

- Lt. Bute, the only supervisor on scene, acknowledged leading the search of § 87(2)(b)'s apartment, and the other officers' testimony corroborated this. The video shows Lt. Bute entering and exiting § 87(2)(b)'s apartment four times (IA #11, 5:36, 15:45, 25:16, and 49:09) and he spends over 21 minutes and 4 seconds inside § 87(2)(b)'s apartment. As such, **Allegation D** is solely pled against Lt. Bute.
- § 87(2)(b) stated that at the 67th Precinct stationhouse, an officer named "PO Jeanfrancisco" slammed a van door into his leg. He said he learned his name by reading his shield. § 87(2)(b) described the officer as a black male with prescription glasses who stood 6'5" tall and had a large body build. As § 87(2)(b) provided a substantially similar name to PO Jeanfrancois, and accurately described him, **Allegation E** is pled against PO Jeanfrancois.

Allegation A-Discourtesy: At § 87(2)(b) in Brooklyn, PO Thomas Guy spoke discourteously to § 87(2)(b)

§ 87(2)(b) stated that he exited his apartment and asked the officers why they were there. He tried to show his paperwork to PO Guy, and PO Guy said, "Shut the fuck up," to § 87(2)(b) one or two times. § 87(2)(b) cited 1:58 as the point in the video when PO Guy said this to him.

§ 87(2)(b) stated that no officer cursed at § 87(2)(b) (enc. 8A-8E). § 87(2)(b) a friend of § 87(2)(b)'s who witnessed the incident, and § 87(2)(b) and § 87(2)(b) who were visiting § 87(2)(b) when the police arrived, did not mention any officer speaking discourteously to § 87(2)(b) (enc. 10A, 11A, and 12A).

PO Guy stated that he never said, "Shut the fuck up," or spoke discourteously to § 87(2)(b) and he never heard an officer say that or anything similar (enc. 17F-17I). Lt. Bute, PO Crooms, and PO Sargent denied saying or hearing any officer say, "Shut the fuck up" (enc. 16E-16I, 15E-15H, and 14M-14P).

The video shows that § 87(2)(b) did show papers to PO Guy, but it is in question if PO Guy says anything to § 87(2)(b) as there is no audio.

§ 87(2)(g)

§ 87(2)(b)

Allegation B-Abuse of Authority: At § 87(2)(b) in Brooklyn, PO Joel Crooms frisked § 87(2)(b)

§ 87(2)(b) stated that when he exited his apartment, PO Crooms told him to drop his papers and put his hands behind his back. § 87(2)(b) placed his papers on the ground and asked PO Crooms what he did wrong. PO Crooms grabbed § 87(2)(b)'s right rear pocket and buttocks followed by his left rear and front pockets.

PO Crooms acknowledged patting down § 87(2)(b) and grabbing the outside of his pockets (enc. 15E-15H). PO Crooms stated that he thought § 87(2)(b) might have been involved in the burglary because § 87(2)(b) had a vacate order that stated the house should have been empty; PO Crooms did not view this vacate order but was told about it by another officer (he could not recall which one). PO Crooms stated that after § 87(2)(b) came into the hallway, PO Crooms asked § 87(2)(b) if there was anyone else inside of his apartment. § 87(2)(b) did not answer this question, which PO Crooms interpreted as evasive. § 87(2)(b) kept reaching his hands toward his back. Upon viewing the video, PO Crooms stated that he could not recall with which hand § 87(2)(b) reached behind his back. The fact that § 87(2)(b) was reaching, combined with his refusal to answer PO Crooms' question, made PO Crooms feel unsafe. Nothing on § 87(2)(b) resembled a weapon, but PO Crooms thought that § 87(2)(b) might have had a weapon because he had video cameras in his hallway that could have alerted him of the officers' presence. PO Crooms found § 87(2)(b)'s wallet during the pat-down, but nothing else. PO Crooms patted down § 87(2)(b) on his own accord and no officer instructed him to do so. Lt. Bute stated that he did not instruct PO Crooms or any other officer to do this (enc. 16E-16I). PO Crooms acknowledged that § 87(2)(b) was not considered under arrest when he frisked him.

The video indicates that § 87(2)(b) puts his papers on the ground at 2:55. He then spreads his arms and opens his palms as if to show that there was nothing in his hands. § 87(2)(b)'s right hand remains visible, but his left hand goes out of view at 2:56. His right arm remains visible when PO Crooms touches § 87(2)(b)'s right thigh at 3:01. At 3:02, PO Crooms turned § 87(2)(b) so that his back was facing the camera. At 3:10, § 87(2)(b) bends down to pick up his papers, and at 3:15, PO Crooms grabs § 87(2)(b)'s right rear pants pocket. At 3:18, PO Crooms turns § 87(2)(b) so that his back is facing PO Crooms' front, and PO Crooms grabs his left rear pants pocket. At 3:20, PO Crooms turns § 87(2)(b) so that his front is facing the camera and grabs the outside of § 87(2)(b)'s front left pants pocket, and § 87(2)(b) places his hands in the air. At 3:21, PO Crooms touches § 87(2)(b)'s waist on his front left side.

An officer may conduct a frisk if the officer suspects that he is in danger of physical harm by virtue of the detained being armed People v. De Bour, 40 N.Y.2d 210 (1976) (enc. 1A-1K).

§ 87(2)(g)



Allegation C- Abuse of Authority: Lt. Mauvin Bute authorized the entry and search of § 87(2)(b) Apartment 1, in Brooklyn.

§ 87(2)(b) stated that Lt. Bute, PO Sargent, and PO Guy entered his apartment several times and conducted a thorough search. He thought this because the 17:12 minute-mark of the video shows PO Sargent moving around near a filing cabinet directly next to the rear door, and because his apartment was in disarray when he returned from jail. The officers also took two

walkie-talkies that § 87(2)(b) stated were in a closet and charged him with possession of police radios. After § 87(2)(b) sat on the steps for approximately forty minutes, Lt. Bute took § 87(2)(b) into the front room and asked him to sign a paper that would authorize the officers' search of the apartment. § 87(2)(b) did not sign the paper because the officers had already searched.

§ 87(2)(b) and § 87(2)(b) corroborated § 87(2)(b)'s testimony that the apartment was searched, and § 87(2)(b) stated that she saw officers present § 87(2)(b) with a consent to search form (enc. 11A and 12A).

§ 87(2)(b) told 911 that she saw a light on in the upstairs apartment, which was supposed to be vacant, and that she could not see anyone upstairs. She said nothing about § 87(2)(b) or the first floor. When Central dispatched the 67th Precinct, the operator said, "The light is on, no further" (enc. 7A). In her CCRB interview, she did not mention that she told the officers anything about § 87(2)(b) before they entered the building. § 87(2)(b) exited his apartment willingly and was placed in handcuffs. § 87(2)(b) said that § 87(2)(b) invited the officers into his apartment by stating that he had more documents inside his apartment that proved he had lawful access to the second floor. The officers entered and found radios inside of his apartment. PO Sargent went to the stationhouse to get a form that § 87(2)(b) was asked to sign, but § 87(2)(b) refused to sign it (enc. 8C-8E).

Lt. Bute stated that § 87(2)(b) told the officers that § 87(2)(b) was on the first floor and that she was in the process of evicting him because he was behind on his rent. The second floor was supposed to be vacant. § 87(2)(b) said nothing else about § 87(2)(b) and did not tell the officers to enter his apartment. Lt. Bute stated that he entered § 87(2)(b)'s apartment to remove him from the apartment and bring him into the hallway in order to place him under arrest for criminal impersonation. He could not recall § 87(2)(b) giving him permission to enter. Lt. Bute did not verbally instruct the other officers to enter, but they entered after the first officer (he could not remember which one, or if he was the first) entered. When he entered the threshold of the apartment, he saw four police radios in plain view under a television stand directly to the left (enc. 14E-14I). Lt. Bute identified them as police radios because they were identical to the ones officers carry. He continued into the apartment because the radios raised his suspicion that there might be other contraband. The radios raised his suspicion because the radios were illegal, as they were capable of overhearing police communications. He acknowledged looking inside a drawer of a glass case, but did not look in any other closed compartments. Lt. Bute thought he entered the apartment two or three times, and said that he entered again after § 87(2)(b) had exited the apartment because he wanted to search for additional contraband in plain view. He looked in common areas that included behind chairs and behind a couch. No contraband besides the radios was found. Lt. Bute first said that he did not know if § 87(2)(b) was asked to sign anything in the front room of his apartment, but then immediately said that sometimes, he has consent to search forms signed, but he could not recall if § 87(2)(b) was asked to sign one. They did not have a warrant for the apartment. When asked why he did not secure a warrant to search the apartment, Lt. Bute stated that his sole observation of the radios would not be enough evidence to be granted a search warrant. Upon viewing the video, Lt. Bute clarified his earlier statement. He acknowledged PO Crooms and PO Guy did not go immediately upstairs, but instead went to the rear of the first floor, near § 87(2)(b)'s rear door. Lt. Bute did not instruct them to do this.

PO Sargent initially said that he did not search § 87(2)(b)'s apartment and no other officer searched § 87(2)(b)'s apartment. He later stated that he went inside § 87(2)(b)'s apartment and found radios that were illegal because they were capable of listening to police communication. However, the radios were not inspected (enc. 14I) and charges for the radios

were eventually dropped (enc. 14K). He first said that the radios were not in the front room of the apartment, but later said that they were in the front room on a desk next to a television. He also said that he saw scales and drug paraphernalia in plain view. The arrest paperwork revealed that these items were not vouchered (enc. 14G-14H) and there was no charge related to these items (enc. 14E-14K). Upon viewing the video, PO Sargent stated that he entered § 87(2)(b)'s apartment because he was following Lt. Bute. He could not recall what Lt. Bute did inside the apartment and did not know for what he was looking. PO Sargent could not recall what else he did besides see the radios in plain view, and when he was asked why he remained in the apartment from 5:36 to 13:56, he said that he was speaking to Lt. Bute. PO Sargent stated that when he re-entered the apartment at 14:42, exited at 15:21, and then immediately re-entered, he may have been ensuring no one else was inside the apartment, and that he retrieved the radios during this time. Lt. Bute wanted § 87(2)(b) to sign a consent to search form, but § 87(2)(b) refused to sign it.

PO Crooms acknowledged that Lt. Bute entered the apartment, and stated that he thought Lt. Bute wanted to search the apartment for narcotics or other contraband (enc. 15E-15H).

Upon seeing the video, PO Guy acknowledged that he immediately went to the rear of the first floor, near § 87(2)(b)'s door, and then went upstairs to speak to the occupants (enc. 17F-17I). He acknowledged that Lt. Bute and PO Sargent entered § 87(2)(b)'s apartment before PO Guy communicated what the upstairs tenants had told him about § 87(2)(b) and stated he did not know why Lt. Bute and PO Sargent entered § 87(2)(b)'s apartment. PO Guy entered § 87(2)(b)'s apartment the first time, at minute-mark 7:16, because they were investigating a burglary, which involves searching for people who are hiding. Upon viewing the video, PO Guy acknowledged that he entered the apartment a second time, at 10:08, and a third time, at 14:42, and said that he was securing the apartment, meaning looking for more people. PO Guy also acknowledged looking for weapons in § 87(2)(b)'s apartment, but did not recall if he searched inside closed compartments. He later said that he would have looked in closed compartments such as closets in order to look for weapons. He could not recall if the officers looked for anything else besides weapons. He could not recall where the police radios were found or who found them.

Absent consent or exceptional circumstances, an officer may not enter a home to arrest an occupant without an arrest warrant People v. Reese 799 N.Y. 2d 163 (2004) (enc. 1L-1O). An officer can make a warrantless seizure of contraband under the plain view doctrine if the officer observes the contraband from a lawful vantage point People v. Theodore 114 A.D.3d 814 (2014) (enc. 1P-1R) A person is guilty of unlawful possession of radio devices if those devices are determined to be capable of overhearing police communications and the person in possession of such devices has intent to use those devices in connection with committing a crime NY Penal Law §140.40 (enc. 1S-1T).

§ 87(2)(g)

The video shows that § 87(2)(b) was already arrested and handcuffed outside of the apartment by the time that Lt. Bute entered (5:36). § 87(2)(g) The other officers entered and searched after Lt. Bute.

§ 87(2)(g)

Allegation D- Force: At § 87(2)(b) in Brooklyn, PO Joel Crooms tightly handcuffed § 87(2)(b)

§ 87(2)(b) alleged that he complained to PO Crooms about his handcuffs being too tight, and PO Crooms responded by tightening § 87(2)(b)'s handcuffs with a key that was on a string around his neck.

PO Crooms denied tightening § 87(2)(b)'s handcuffs. § 87(2)(b) was moving while he was sitting, and his movements could have caused the cuffs to tighten. When PO Crooms viewed the video, he said he could not recall adjusting the handcuffs, but based on what he observed in the video, he was probably double-locking the cuffs to prevent them from tightening further.

PO Crooms, PO Guy, and Lt. Bute stated that they did not see PO Crooms do this. PO Crooms, Lt. Bute, and PO Guy added that if an officer wanted to tighten a pair of handcuffs, he or she would use their hands, and not a key. A key would only be used to loosen or double-lock the handcuffs.

The video shows that § 87(2)(b) was moving while he was sitting on the steps, and PO Crooms took a key from around his neck and held it to his handcuffs. § 87(2)(g)

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

Allegation E- Force: At the 67th Precinct stationhouse, PO Remy Jeanfrancois used physical force against § 87(2)(b)

§ 87(2)(b) stated that a uniformed officer, PO "Jeanfrancisco," whose name he learned by reading his badge, placed him in leg shackles and escorted him to the transfer van to Brooklyn Central Booking. PO "Jeanfrancisco" slammed the door on § 87(2)(b)'s knee three or four times.

The investigation determined that a female named § 87(2)(b) was in the transfer van at the same time as § 87(2)(b). § 87(2)(b) stated that no officer ever slammed the door on § 87(2)(b)'s leg, and that § 87(2)(b) was complaining, yelling, and refusing to sit calmly while he was being placed in the transfer van and during the ride to Central Booking. She stated that he was so difficult, "The officers should have filed a complaint against him" (enc. 13A). The investigation determined that § 87(2)(b) was another prisoner in the same transfer van as § 87(2)(b), but he did not cooperate with the investigation (enc. 26K-26L).

PO Jeanfrancois denied having any interaction with, or knowledge of, § 87(2)(b) (enc. 19F). PO Jeanfrancois and his partner, PO Martinez, were assigned to Patrol Sector II, but were back at the stationhouse during the time of the incident (enc. 18B-18C; 19B-19D). They did not escort any prisoners to Central Booking that day; two officers with the last name Lopez transferred § 87(2)(b) to Central Booking (enc. 21C). PO Jeanfrancois did not recall escorting or placing any person in the transfer van that day. PO Jeanfrancois never closed the door of the transfer van on § 87(2)(b)'s leg or legs, and he never saw another officer do this. He did not recall if his partner, PO Martinez, placed any prisoner in the transfer van that day.

PO Martinez did not recall § 87(2)(b) being at the stationhouse (enc. 18E). He was not asked to and did not place anyone in the transfer van, and he did not recall PO Jeanfrancois being asked or placing anyone in the transfer van that day. PO Martinez never slammed a door on § 87(2)(b)'s leg, and he did not observe or hear about another officer doing this.

§ 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Allegation F- Abuse of Authority: On August 29, 2014, officers entered § 87(2)(b) in Brooklyn.

§ 87(2)(b) alleged in the complaint he filed via telephone on September 8, 2014, that on August 15, 2014, and August 29, 2014, officers entered § 87(2)(b)'s apartment. No other complainant, victim, or witness in this case mentioned the second incident on August 29, 2014. On September 16, 2014, and September 25, 2014, § 87(2)(b) missed two scheduled appointments (enc. 12B). § 87(2)(g)

[REDACTED]

Allegation G- Other Misconduct: On August 29, 2014, Lt. Mauvin Bute provided a false official statement to the CCRB.

Lt. Bute testified that he entered § 87(2)(b)'s apartment in order to remove him and place him under arrest. The video shows that by the time Lt. Bute entered the apartment, § 87(2)(b) was already in the hallway in handcuffs. § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Patrol Guide Procedure 203-08 prohibits officers from making false official statements.

§ 87(2)(g)

[REDACTED]

[REDACTED]

Pod: 8

Investigator: _____ Erin Sweeney _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date