

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #3	CCRB Case #: 202107193	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 11/24/2021 11:00 PM	Location of Incident: 73rd Precinct stationhouse	Precinct: 73	18 Mo. SOL 5/24/2023	EO SOL 5/24/2023	
Date/Time CV Reported Thu, 11/25/2021 12:00 AM	CV Reported At: CCRB	How CV Reported: E-mail	Date/Time Received at CCRB Thu, 11/25/2021 12:00 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. CHIEF Jeffrey Maddrey	00000	899501	HB

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Nicholas Lettini	21384	959751	073 PCT
2. SGT Korkut Koseoglu	04909	949176	073 PCT
3. SGT Karl Hanisch	00454	952825	073 PCT
4. PO Mdabdul Halim	15322	956714	073 PCT
5. PO Joseph Guarrera	19904	971457	073 PCT
6. PO Orkhan Mamedov	01393	965787	073 PCT
7. PO Benjamin Chen	06647	960362	073 PCT
8. PO Chase Rubio	16339	971657	073 PCT
9. PO Derrell Henry	06754	966101	073 PCT
10. PO Kelsey Corpac	14213	971382	073 PCT
11. PO Robert Stosch	05029	971693	073 PCT
12. PO Matthew Strzelczyk	02191	953453	073 PCT
13. DC Scott Henderson	00000	915880	PBBN
14. PO Charles Markert	26227	967184	073 PCT
15. INSP Terrell Anderson	00000	933551	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CHIEF Jeffrey Maddrey	Abuse: Chief Jeffrey Maddrey improperly influenced an arrest.	

### Case Summary

On November 25, 2021, an § 87(2)(b) reporting non-witness filed this complaint with CCRB via e-mail on behalf of § 87(2)(b) and § 87(2)(b). On November 30, 2021, § 87(2)(b) the mother of § 87(2)(b) filed a complaint via the CCRB's call processing system.

On November 24, 2021, at about 9:30 p.m., § 87(2)(b) and § 87(2)(b) juvenile boys, were walking in the vicinity of Saratoga Avenue and Pacific Street in Brooklyn. The three were allegedly menaced with a firearm by § 87(2)(b) a retired former NYPD police officer. § 87(2)(b) was arrested for menacing and taken to the 73<sup>rd</sup> Precinct stationhouse. Chief Jeffrey Maddrey, then of the NYPD's Community Affairs Bureau, participated in the investigation of the alleged crime. At the 73<sup>rd</sup> Precinct stationhouse, at about 11:00 p.m., Chief Maddrey abused his authority in relation to the crime victims by ordering the release of § 87(2)(b) and voiding his arrest (**Allegations A: Abuse of Authority – § 87(2)(g)**).

Body worn camera (BWC) video was obtained from NYPD Legal (**BR 1-11**). Video from the 73<sup>rd</sup> Precinct stationhouse was obtained from NYPD Legal (**BR 12-14**).

§ 87(2)(g)

### Findings and Recommendations

#### **Allegation (A) Abuse of Authority: Chief Jeffrey Maddrey improperly influenced an arrest.**

§ 87(2)(b) (§ 87(2)(b) old), § 87(2)(b) (§ 87(2)(b) old), and § 87(2)(b) (12 years old), provided statements to CCRB § 87(2)(g) (**BR 15-16**). The three boys were walking in the neighborhood. § 87(2)(b) was playing with a basketball as they walked. § 87(2)(b) threw the basketball, and it struck the surveillance camera of a local business. The three boys ran away from the location. A man, identified via investigation as former NYPD Police Officer § 87(2)(b) chased the boys and pulled out a gun. The boys provided inconsistent statements about a gunshot, with § 87(2)(b) and § 87(2)(b) noting that they heard a gunshot, and § 87(2)(b) not making this allegation. § 87(2)(b) noted that he called 911 and reported that they were being chased by a man with a gun. Officers arrived and § 87(2)(b) and § 87(2)(b) informed the officers about what had happened. § 87(2)(b) said he ran home and did not speak with officers until they came to his apartment building. None of the boys saw § 87(2)(b) being arrested.

§ 87(2)(b) the mother of § 87(2)(b) and § 87(2)(b) stated that the day after the incident, her sister received a call from an § 87(2)(b) male caller who said he was from the 73<sup>rd</sup> Precinct (**BR 17**). The caller stated that the man who had menaced the boys had been arrested, but that he was released from the stationhouse. The caller said that he did not agree with what happened and advised the family to contact CCRB and the media.

The 911 call related to this incident call reflects that § 87(2)(b) reported that he was being chased by someone with a gun (**BR 18**). He described a black male, in his 30s, 5'10 – 5'11" tall, weighing about 200 pounds, with a medium build, a black jacket. "Can you please not tell my mom about this?" § 87(2)(b) informed the operator that he threw a basketball in the air, accidentally striking a camera, which caused the man to chase him. § 87(2)(b) notes that the perpetrator went back into his store. The man told § 87(2)(b) that he was going to be arrested for breaking the camera. § 87(2)(b) asks the 911 operator if he can be arrested for accidentally breaking the camera. The call ends after § 87(2)(b) tells the operator that officers arrived.

Event documents related to the incident did not reveal any ShotSpotter activations or any other calls related to this incident (**BR19**).

Arrest report § 87(2)(b) regarding the arrest of § 87(2)(b) notes the following in the narrative: “At T/P/O listed individual did chase three others after they broke his camera. Under further investigation it was determined above listed person did not commit a crime.” § 87(2)(b) was charged with Menacing in the Third Degree, which is defined as “when, by physical menace, he or she intentionally placed or attempts to place another person in fear of death, imminent serious physical injury or physical injury.” New York State Penal Law § 120.15. The arrest report notes that § 87(2)(b) is a black man, stands 6’0” tall, and weighs 185 pounds. (**BR20**).

§ 87(2)(b), § 87(2)(b) tells § 87(2)(b) that he put his hoodie on to go outside after the three boys threw a basketball at his surveillance camera. He was carrying his firearm in his waistband, but never drew it. He intended to ask the boys to leave his camera alone. After he left his building, he put his hands in his hoodie pocket. One of the boys said, “I think that ‘N-word’ might have a gun.” § 87(2)(b) denies that he drew or fired his gun. § 87(2)(b) did not believe he was released because he was a former officer. § 87(2)(b) believed that the leak of the incident to the media may have been related to a personal vendetta (**BR21**).

Surveillance video was obtained from a residential building at 2133 Pacific Street. The video shows two of the boys running up the street, with one of them repeatedly yelling, “He’s got a gun.” At 00:43, § 87(2)(b) enters the frame and walks past the house with his hands in his sweatshirt’s front pocket (**BR33**).

Video from PO Benjamin Chen’s BWC video (**BR01**) starting 01:18, shows officers arriving on scene. § 87(2)(b) runs up to the officers and says, “He ran into his store” and points up the street. At 02:15, § 87(2)(b) has led the officers to § 87(2)(b)’s storefront. At 02:50, PO Chen runs to the side entrance of the building where he encounters § 87(2)(b) in the vestibule. § 87(2)(b) says, “I chased him down. He said I had a gun. I have my gun on me right now.” § 87(2)(b) tells the officers he is a retired officer from the 73<sup>rd</sup> Precinct and shows them video of the children breaking his surveillance camera. The children and various family members begin to gather outside the building.

Video from PO Chase Rubio’s BWC (**BR05**) at 04:20 shows PO Benjamin Chen removing the gun from § 87(2)(b)’s holster, which is on the right side of his waist. The gun is black and has a grey/silver rectangular marking on the top of the barrel. § 87(2)(b) tells the officers that he told the children, “I said don’t come back. You come back I’m going to shoot you. But I didn’t take it out.” § 87(2)(b) repeatedly says that he did not take his gun out. At 06:26 in Sgt. Karl Hanisch’s BWC video (**BR10**), PO Chen shows the gun to Sgt. Hanisch. Visible on the BWC, the gun has a mostly silver handle with brown on the handle. At 07:20, Sgt. Hanisch asks § 87(2)(b) how the children would know he had a gun if it was concealed. § 87(2)(b) says, “He said that I had a gun.” An officer asks him, “Do they know you have one?” § 87(2)(b) says no.

BWC video from PO Robert Stosch (**BR09**) shows him and other officers reviewing surveillance video from § 87(2)(b)’s building. At 25:00 minutes, officers review video facing Saratoga Avenue which shows § 87(2)(b) hitting the surveillance camera with a basketball and then running away. The officers exclaim that this appears intentional. At 28:00 minutes, the officers observe § 87(2)(b) exit the store, apparently picking up his camera at 28:35, a police RMP

with lights activated drives by, and at 28:40, § 87(2)(b) and § 87(2)(b) run past § 87(2)(b) in the same direction as the police vehicle. PO Stosch questions why the kids would run past § 87(2)(b) if they saw he had a gun.

Starting at 34:40, BWC Video from PO Stoch (**BR09**) then shows officers viewing video from Pacific Street, which is the street the children turned onto after breaking the surveillance camera. § 87(2)(b) is seen exiting the building and walking in the direction that the children ran with his hands in his pocket.

Starting at 02:40, BWC video from Sgt. Hanisch (**BR10**), the patrol supervisor, shows him interviewing § 87(2)(b) (wearing a black hoodie with a PlayStation logo) and § 87(2)(b) (wearing a red hoodie). § 87(2)(b) recounts that he hit the camera with a basketball, prompting all three boys to run away. § 87(2)(b) followed the boys with his gun in his hand. At 04:55, Sgt. Hanisch asks the boys about the color of the gun. § 87(2)(b) says the gun is black. § 87(2)(b) says the gun is black with a little bit of silver and that he could not fully tell because it was dark. At 15:44, Sgt. Hanisch speaks with § 87(2)(b) outside of his apartment building. § 87(2)(b) recounts that § 87(2)(b) pulled a gun out of his pocket, aimed at his friend, and fired one shot. He says the gun is “Silver and black on the thing” as he gestures with his hands. At 18:30, § 87(2)(b) and § 87(2)(b) arrived at the location. Sgt. Hanisch asks them if a gun was fired. § 87(2)(b) says no. § 87(2)(b) explains that he heard something, but he was not sure. Sgt. Hanisch tells the persons present that after their investigation is conducted the man will most likely be arrested. At 20:20, Sgt. Hanisch says to nearby officers that, “It’s gonna be 92. They described the gun, they described where he pulled it from, it’s too... They said silver and black on top, they told me they pulled it from the side of the waist where he has his holster...It’s hard to say someone’s got a gun, and describe the gun, and then that guy has a gun, and it matches.” The officers collect contact information for the three boys.

Starting at 22:00, Sgt. Hanisch and other officers begin to go to the original incident location (**BR10**). Sgt. Hanisch says to another officer, “There’s too many coincidences that...That’s a very distinctive gun.” Starting at 24:30, Sgt. Hanisch enters a room where officers are reviewing surveillance video from § 87(2)(b)’s business. The video shows the boys running up the street after having hit the surveillance camera and § 87(2)(b) coming back into the building from the direction that the boys ran. The officers note that, “So you can’t see.” At 28:40, Sgt. Hanisch tells an officer, “He’s gonna have to come back. The third kid I even talked to describes the gun, where he pulled it from, black top, silver bottom. His gun’s just not normal.” At 29:30, Sgt. Hanisch informs § 87(2)(b) that he is under arrest.

Sgt. Hanisch’s testimony was consistent with the substance of the BWC video described above (**BR22**). He interviewed two of the children who provided a description of the firearm that was allegedly used to menace them. He entered the lobby and was shown the firearm by an officer who had recovered it. The firearm matched the description provided by the children. Sgt. Hanisch sought out the third child who was no longer on scene. The third child provided a consistent description of the firearm and where it was pulled from. Sgt. Hanisch did not develop any reason to discredit the account of the children. Sgt. Hanisch determined that § 87(2)(b) would be placed under arrest based on the consistent statements from the three children and the recovered firearm. The video footage Sgt. Hanisch reviewed was inconclusive as to whether or not § 87(2)(b) revealed his firearm.

After the arrest was made, Sgt. Hanisch received a call from his commanding officer, Inspector Terrell Anderson, instructing him to search for additional evidence regarding this incident. Before he could conduct any additional canvass, he received a call instructing him to call Chief Scott

Henderson. After explaining to Chief Henderson why he authorized the arrest, Chief Henderson instructed Sgt. Hanisch to return to the stationhouse. The desk officer at the stationhouse also texted Sgt. Hanisch and advised him that Chief Maddrey was en route to the stationhouse.

After arriving at the stationhouse, Chief Maddrey and Chief Henderson reviewed Sgt. Hanisch's BWC video. After reviewing the video, the Chiefs asked him to explain what had happened. The Chiefs told Sgt. Hanisch that § 87(2)(b) was allowed to carry a firearm since he is a retired member of service and that he never should have been arrested. Chief Maddrey said that the children should have been arrested for criminal misconduct. They asked Sgt. Hanisch if he had asked § 87(2)(b) if he had been trying to conduct an arrest. Sgt. Hanisch said that he did not, and that § 87(2)(b) never stated that he was trying to arrest them. At the end of the conversation, Chief Maddrey ordered Sgt. Hanisch to void the arrest and release § 87(2)(b). Chief Maddrey said how he wanted the narrative of the voided arrest report to be written (**BR22, explained by Sgt. Hanisch at the 23:15 minute mark of the interview**). The Chiefs did not explain how they determined that no crime had been committed.

Inspector Anderson, the Commanding Officer of the 73<sup>rd</sup> Precinct, testified that he was off duty at the time of the incident, but received an alert on his department cell phone about the incident (**BR23**). After being informed by the desk officer that Chief Maddrey and Chief Henderson were on their way to the stationhouse, he reached out to Sgt. Hanisch for more information. Sgt. Hanisch explained he verified the arrest based on the consistent statements from the boys describing the gun. Later that evening, Sgt. Hanisch informed Inspector Anderson that the arrest was voided per Chief Henderson and Chief Maddrey. Inspector Anderson asked Sgt. Hanisch if he knew why the Chiefs had the arrest voided. Sgt. Hanisch did not provide any reason, he merely noted that § 87(2)(b) knew Chief Maddrey from the past. The next day, Sgt. Hanisch presented Inspector Anderson with a copy of the voided arrest report. Sgt. Hanisch explained that Chief Henderson directed him as to what should be written in the narrative of the arrest report. Inspector Anderson denied that he provided any instructions to anyone regarding the release of § 87(2)(b).

Chief Maddrey, who was the Chief of the Community Affairs Bureau at the time of the incident, testified that he was concluding his day when he received a call from a sergeant at an investigatory unit notifying him that PO § 87(2)(b) a former member of service, had been arrested for no reason (**BR24**). The sergeant had been informed of the situation by PO § 87(2)(b)'s brother. Chief Maddrey knew PO § 87(2)(b) from his three years as the Commanding Officer of the 73<sup>rd</sup> Precinct when PO § 87(2)(b) worked in the same command. Chief Maddrey described PO § 87(2)(b) as a decent officer who worked hard, was a good man, and whose family owned property within the confines of the precinct. Chief Maddrey decided to involve himself in this situation because it was alleged that a former officer was falsely arrested, he was in the vicinity of the precinct, he knew PO § 87(2)(b) and he wanted to ensure that a thorough investigation was conducted. Chief Maddrey explained that when an active member of the service is arrested, an investigations unit and the duty captain are typically called to conduct an investigation. Chief Maddrey follows this same procedure when dealing with interactions involving retired members of service, especially when probable cause is in question.

Chief Maddrey arrived at the stationhouse and was eventually joined by Chief Henderson and the duty captain, whose name he did not know. After reviewing BWC video and video from § 87(2)(b)'s building, Chief Maddrey determined that there was not enough evidence to establish probable cause to arrest § 87(2)(b) and ordered him to be released and the arrest voided. Chief Maddrey did not find the children credible because they had apparently lied by claiming the surveillance camera was broken accidentally, when video suggested this was an intentional act. Further, the video reviewed by Chief Maddrey did not provide any proof that § 87(2)(b)

menaced the children. Chief Maddrey did not know how the children were able to describe § 87(2)(b)'s firearm. Chief Maddrey ordered Sgt. Hanisch to void the arrest but did not provide any specific instructions in regards. Chief Maddrey denied that he provided any direction about what was to be written on the voided arrest report (**BR 24, addressed in the interview starting at 34:30-38:00**).

Chief Maddrey used this incident as a learning experience for Sgt. Hanisch, whom he said was young and inexperienced in that he had only been a sergeant for about six months. Chief Maddrey explained to Sgt. Hanisch that he had to take his time when conducting an investigation, and that the worst thing that can be done is to place an innocent person in jail. Chief Maddrey expressed that a police report or a juvenile report should have been made, and that the children should have been brought back to the stationhouse, given the video evidence showing them damaging the surveillance camera. Chief Maddrey told Sgt. Hanisch that he should have sought help with reaching a higher-ranking officer or more tenured supervisor.

Chief Henderson, the Executive Officer of Patrol Borough Brooklyn North, provided testimony that was consistent with Chief Maddrey's regarding the circumstances that led to § 87(2)(b)'s release and the arrest to be voided (**BR25**). He affirmed that the decision was made by Chief Maddrey. Chief Henderson denied that he issued any instructions regarding the generation of the arrest report and denied observing Chief Maddrey do so.

An officer may arrest a person for any offense for a crime when they have reasonable cause to believe that such person has committed such crime, whether in the officer's presence or otherwise. New York State Criminal Procedure Law, Section 140.10 (**BR26**).

Probable cause does not require proof sufficient to warrant a conviction beyond a reasonable doubt but merely information sufficient to support a reasonable belief that an offense has been or is being committed or that evidence of a crime may be found in a certain place. "The legal conclusion is to be made after considering all of the facts and circumstances together. Viewed singly, these may not be persuasive, yet when viewed together the puzzle may fit and probable cause found." People v. Bigelow, 66 N.Y.2d 417 (1985) (**BR27**).

Probable cause was found to exist for a charge of menacing when a victim reported to the police that he had been menaced by a man with a gun and provided the officers with a description of the gun, the assailant's attire and his name. The Court notes that it is well settled that information provided by an identified citizen, accusing another identifiable individual of a crime, is sufficient to provide police with probable cause to arrest. People v. Cotton, 143 A.D.2d 680 (1988) (**BR28**).

NYPD Patrol Guide, Procedure No. 212-36 (**BR29**) addresses procedures to be adhered to when a uniformed member of the service responds to or becomes aware of an incident with the potential for confrontation involving a former/retired MOS or off duty/retired Federal, State, or City law agent authorized to carry a weapon. The procedure directs officers to ascertain the identity of the former member, determine if they are armed, and obtain their personal identification and pistol license. The procedure directs the patrol supervisor to obtain relevant information from witnesses, approve an appropriate resolution (arrest/summons/no police action), and notify the desk officer of available details, when necessary. The desk officer is directed to make additional notifications as necessary. The procedure notes the following: "Any incident involving an off-duty officer or member of another law enforcement agency should be treated in a comparable manner to other incidents or confrontations routinely encountered with other members of the public. These individuals should not receive preferential treatment based on their former or present status."

NYPD Administrative Guide, Procedure No. 318-09 (**BR30**) addresses arrests involving current arrested members of the service (uniformed or civilian). The arresting officer is instructed to notify the desk officer of the arrest. The desk officer is then instructed to make various notifications, including to IAB, the Command Officer/Executive Officer/Duty Captain, and to the Operations Unit. The procedure then proscribes various duties to the high-ranking officers involved in the incident, including that the Patrol Borough Commander concerned shall assign a captain or above to conduct an investigation into the matter.

NYPD Administrative Guide, Procedure 304-06 (**BR34**) prohibits members from “participating in the Department disciplinary process, or its investigatory process, when there is a . . . personal (e.g., friend, neighbor, business/financial, close colleague, etc.) relationship, or any other relationship with the respondent that could create, or appear to create, a conflict of interest.” Administrative Guide 304-06, page 2, paragraph 9.

It is undisputed that Sgt. Hanisch authorized the arrest of § 87(2)(b) and that Chief Maddrey ordered the release of § 87(2)(b) and that his arrest be voided. The investigation did not uncover any documentary or video evidence that directly confirmed the allegation that § 87(2)(b) § 87(2)(b) § 87(2)(b) menaced the children with a gun or that he chased them, although video footage confirmed that he followed the children, albeit at a walking pace. However, the investigation assessed whether probable cause existed to arrest § 87(2)(b) and whether Chief Maddrey’s determination to void the arrest was proper, based on the evidence available to him and within the procedures outlined in the Patrol Guide and the Administrative Guide.

Officers need not have proof beyond a reasonable doubt or exhaust every possible investigative avenue to prove that the alleged crime has been committed. Bearing this in mind, the investigation determined that Sgt. Hanisch possessed probable cause to arrest § 87(2)(b) following from Cotton. In determining to void the arrest, Chief Maddrey cited the absence of any evidence directly showing that § 87(2)(b) § 87(2)(b) menaced the children and his credibility assessment about the children. However, this ignores the assessment made by Sgt. Hanisch, based on the consistent and independent information provided to him by three juvenile crime victims. Chief Maddrey could not provide any explanation for how the children could each describe § 87(2)(b) § 87(2)(b) s distinctive firearm so similarly.

The investigation considered whether Chief Maddrey’s decision to void the arrest was based on the facts available to him about the alleged crime, or whether this decision was influenced by other factors, specifically § 87(2)(b) § 87(2)(b) s status as a former member of service or Chief Maddrey’s prior professional relationship with him and his personal knowledge of him and his family. First, Chief Maddrey’s involvement in the investigation and summoning other investigators into the alleged crime against a retired MOS went far beyond the minimum requirements in Patrol Guide 212-36. Chief Maddrey believed the children should have been arrested for damaging § 87(2)(b) § 87(2)(b) s camera. Chief Maddrey was critical of Sgt. Hanisch’s assessment of the incident and blamed his relative inexperience in the role of sergeant at the time of the incident for a poor investigation into the accusations against § 87(2)(b) § 87(2)(b). Both of these serve to redirect attention away from § 87(2)(b) § 87(2)(b) s actions and onto other actors in the incident. Sgt. Hanisch’s testimony that he was asked whether § 87(2)(b) § 87(2)(b) had been attempting to make an arrest demonstrates a further attempt to downplay § 87(2)(b) § 87(2)(b) s actions by generating an alternative explanation for what occurred, which was never raised by § 87(2)(b) § 87(2)(b) at the time of the incident to officers or in any of his public statements about the incident. Chief Maddrey denied providing specific direction regarding the language of the arrest report, but Sgt. Hanisch’s and Inspector Anderson’s testimonies in regards also suggested direct involvement by Chief Maddrey in the minutia of voiding the arrest, specifically what would be written in the narrative of the arrest report. The

