

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Luxama	Team: Team # 7	CCRB Case #: 200902290	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 02/11/2009 8:58 PM	Location of Incident: § 87(2)(b)	Precinct: 42	18 Mo. SOL 8/11/2010	EO SOL 8/11/2010	
Date/Time CV Reported Thu, 02/12/2009 12:01 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 02/17/2009 12:21 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Robert Jaquez	03895	938711	042 PCT
2. POF Leslie Rosa	25255	935646	042 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jason Vasquez	29040	941163	042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Robert Jaquez	Force: PO Robert Jaquez used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Robert Jaquez	Discourtesy: PO Robert Jaquez spoke obscenely to § 87(2)(b)	§ 87(2)(b)
C.POF Leslie Rosa	Off. Language: PO Leslie Rosa made remarks to § 87(2)(b) based upon race.	§ 87(2)(b)
§ 87(4-b) § 87(2)(g)	§ 87(2)(b)	§ 87(2)(b)

## Case Summary

The following complaint was reported to the Internal Affairs Bureau (IAB), IAB log # 09-06583, on February 11, 2009 regarding an incident that occurred on the same day (encl. C 1). This case was referred to the Civilian Complaint Review Board (CCRB) and was received on February 17, 2009 (encl. C 2-3). § 87(2)(b) independently contacted the CCRB by phone on February 23, 2009 and filed a duplicate complaint, § 87(2)(b) which was incorporated into this complaint.

On February 11, 2009 at approximately 9:00 p.m., § 87(2)(b) went to § 87(2)(b) in the Bronx because she learned that her son, § 87(2)(b) who had escaped from ACS custody, was at that location. § 87(2)(b) contacted ACS and the police to inform them of the situation. Detectives from the 42<sup>nd</sup> Precinct arrived at the location, because they wanted to question § 87(2)(b) about a crime. § 87(2)(b) refused to go with the detectives and picked up a broom stick and started swinging it. The detectives called for assistance and PO Robert Jaquez, PO Leslie Rosa, and PO Jason Vasquez of the 42<sup>nd</sup> Precinct arrived at the location. The following allegations resulted from the officers' actions:

- **Allegation A - Force:** PO Robert Jaquez used physical force against § 87(2)(b) § 87(2)(g)
- **Allegation B and C – Discourtesy and Offensive Language:** PO Robert Jaquez spoke obscenely to § 87(2)(b) § 87(2)(g)
- § 87(4-b) § 87(2)(g)

## Results of Investigation

### Civilian Statements:

#### Complaint Victim: § 87(2)(b)

- § 87(2)(b) is a § 87(2)(b) -old, 5', 120 lb., black female with brown hair.

#### Statements to Medical Personnel

§ 87(2)(b) told EMS that she was “beat up,” kicked in the face, and had her hair pulled (encl. E 1-2).

#### CCRB Testimony

§ 87(2)(b) was interviewed at the CCRB on March 5, 2009. § 87(2)(b) appeared at the CCRB a second time on February 4, 2010 in order to view photo arrays to identify the subject officers (encl. C 4-20). Both statements are summarized below.

§ 87(2)(b) is § 87(2)(b) -year-old son, § 87(2)(b) suffers from bipolar disorder and she has released him to the care of Administration for Children Services (ACS) because she can no longer control his behavior. § 87(2)(b) escaped from ACS's custody on February 2, 2009, and § 87(2)(b) did not know his whereabouts. After his escape, § 87(2)(b) heard rumors that someone had attempted to shoot her son, so she reported this to detectives at the 42<sup>nd</sup> Precinct.

On February 11, 2009, § 87(2)(b) received a telephone call from her sister-in-law, who she identified only as § 87(2)(b) stating that § 87(2)(b) was at her home. § 87(2)(b) traveled to § 87(2)(b) residence located at § 87(2)(b) in the Bronx and contacted ACS and the 42<sup>nd</sup> Precinct detectives. § 87(2)(b) arrived at the location and observed § 87(2)(b) on a flight of stairs. Upon observing § 87(2)(b) § 87(2)(b) began to scream because he did not want to go back to ACS.

Officers arrived at the location and said that they were going to take § 87(2)(b) in for questioning in regard to a crime. § 87(2)(b) picked up a broom stick near the top of the stairs and swung it like a bat stating, "I'm not going anywhere." § 87(2)(b) then began to walk down the stairs and the officers backed up. § 87(2)(b) then turned around and went into the residence. § 87(2)(b) then observed § 87(2)(b) looking out of her second floor window toward the roof, so she suspected that § 87(2)(b) was on the roof and told the officers that § 87(2)(b) was suicidal. The officers on the scene then called for assistance.

§ 87(2)(b) and the two officers went back inside the building. § 87(2)(b) was found on the third floor with the broom in his hand. § 87(2)(b) was swinging the broom while saying, "Don't come closer." Both officers ran up the stairs, and struggled with § 87(2)(b). Other officers then arrived and force was used to restrain § 87(2)(b). § 87(2)(b) did not have a complaint regarding the force the officers used to take § 87(2)(b) into custody.

As officers were taking § 87(2)(b) down the stairs, seven police officers stood in front of § 87(2)(b). § 87(2)(b) shouted, "What are you doing to my son?" One of the officers, who was identified by the investigation as PO Robert Jaquez, placed his hands on § 87(2)(b)'s stomach and told her that he was going to arrest her. § 87(2)(b) ran down the stairs and PO Jaquez shoved her against a wall and said "arrest this bitch." PO Jaquez held § 87(2)(b)'s head against the wall and then threw her to the ground. PO Jaquez attempted to place § 87(2)(b)'s hands behind her back, but she stated that she "locked" herself in a fetal position. PO Jaquez struggled to place § 87(2)(b)'s arm behind her back. PO Jaquez lifted her off the ground by her hair. Another officer, who was identified by the investigation as PO Vasquez also grabbed § 87(2)(b)'s hair and pulled it in the opposite direction.

PO Jaquez was still holding § 87(2)(b)'s hair and he tried to force her back to the ground as PO Vasquez kicked her in her back. § 87(2)(b) repeatedly asked why she was being arrested and PO Jaquez replied, "Shut the fuck up." PO Vasquez kicked § 87(2)(b) in the face and then she fell to the ground. The officers then placed her in handcuffs. § 87(2)(b) was handcuffed by PO Leslie Rosa, who § 87(2)(b) identified by name. PO Rosa placed the handcuffs on tight, and when § 87(2)(b) pointed this out, PO Rosa replied, "Shut the fuck up you black bitch." § 87(2)(b) stated that once the handcuffs were applied they were not readjusted or removed. § 87(2)(b) was placed in a police vehicle and transported to the 42<sup>nd</sup> Precinct stationhouse. § 87(2)(b) complained that she had pain in her neck, back, and jaw. Her wrists were also sore. § 87(2)(b) was taken to § 87(2)(b). § 87(2)(b) was charged with § 87(2)(b).

#### **Attempts to Interview § 87(2)(b)**

§ 87(2)(b) is a ward of the State of New York and resides in the § 87(2)(b) located in § 87(2)(b). On November 19, 2009, § 87(2)(b)'s counselor, § 87(2)(b), was contacted and spoke with § 87(2)(b). § 87(2)(b) stated that he did not wish to provide a statement in regard to the incident.

#### **NYPD Statements:**

##### **Officer Statement: PO ROBERT JAQUEZ**

- PO Robert Jaquez is a § 87(2)(b)-old, 5'9", 220 lbs., Hispanic male with black hair and brown eyes.

- *PO Jaquez worked from 3:00 p.m. until 11:35 p.m. on February 11, 2009. PO Jaquez was dressed in uniform and was working conditions with PO Jason Vasquez and PO Leslie Rosa.*

### **Memobook**

PO Jaquez's memobook confirmed his involvement in the incident (encl. D 1-4).

### **Line-of-Duty Injury Report**

PO Jaquez completed a Line-of-Duty injury report stating that he was kicked and punched by a perpetrator causing pain, bruising, and swelling to his knee, shin, and left eye brow (encl. D 5-7).

### **CCRB Testimony**

PO Jaquez was interviewed at the CCRB on June 21, 2009 (encl. D 8-9). On the incident date, PO Jaquez responded to the incident location in response to a call for assistance from members of the 42<sup>nd</sup> Precinct detective squad. When PO Jaquez arrived at the location, two detectives were attempting to handcuff § 87(2)(b). § 87(2)(b) was fighting with the detectives. PO Jaquez assisted in apprehending § 87(2)(b) at which time § 87(2)(b)'s mother, who was identified by the investigation as § 87(2)(b) physically intervened with the arrest by pushing the detectives. § 87(2)(b) was cursing at the officers and stated that she did not want her son arrested.

The officers attempted to remove § 87(2)(b) from the location, but § 87(2)(b) acted emotionally disturbed. § 87(2)(b) followed the detectives, who were with § 87(2)(b). PO Rosa stepped ahead of § 87(2)(b) in an effort to give the officers clearance to pass. § 87(2)(b) pushed PO Rosa in the chest. PO Jaquez then went to place § 87(2)(b) against the wall and she kicked him in the left knee twice. PO Jaquez grabbed § 87(2)(b) by the shoulders and placed her against a wall. § 87(2)(b) screamed, cursed, and kicked PO Jaquez in the knee a second time. PO Jaquez tried to turn § 87(2)(b) to handcuff her, but she held her arms in front of her chest and went down to the ground, face first, on her own accord. PO Jaquez did not throw her to the ground or down the stairs. § 87(2)(b) held her hands under her body, so it took four of five officers to force her arms behind her back to be handcuffed. PO Jaquez did not recall if any of the officers kicked § 87(2)(b) in the back or face. PO Jaquez did not threaten to break § 87(2)(b)'s arm nor did he pull her hair. PO Jaquez did not speak to § 87(2)(b) discourteously nor did he hear other officers speak to her in that manner. § 87(2)(b) did not complain of sustaining injuries and was transported to the 42<sup>nd</sup> Precinct by the detectives that were one scene. PO Jaquez was taken to the hospital for knee pain.

### **Officer Statement: PO LESLIE ROSA**

- *PO Leslie Rosa is a § 87(2)(b)-old, 5'2", Hispanic female with brown hair and brown eyes.*
- *PO Rosa was dressed in uniform and worked the same tour and assignment as PO Jaquez on the incident date.*

### **Memobook**

PO Rosa had no memobook entries regarding this incident (encl. D 10-11).

### **CCRB Testimony**

PO Rosa was interviewed at the CCRB on July 21, 2009 (encl. D 13-14). PO Rosa's statement is consistent with PO Jaquez's statement and only additions are noted below.

On the incident date, PO Rosa responded to the incident location and saw detectives struggling with an individual who was identified by the investigation as § 87(2)(b). There were many officers and civilians at the location, so PO Rosa could not get close to the detectives.

PO Rosa observed a female, who was identified by the investigation as § 87(2)(b) attempting to prevent the officers from making an arrest. PO Rosa approached § 87(2)(b) and § 87(2)(b) pushed PO Rosa against the wall. PO Rosa lost her footing and did not have an opportunity to respond, because several other officers went around her to arrest § 87(2)(b) PO Rosa went down the stairs, and did not observe the interaction § 87(2)(b) had with the police officers.

PO Rosa did not witness any police officers kick § 87(2)(b) or use any discourteous language towards her. PO Rosa never called § 87(2)(b) a “black bitch” or curse at her. PO Rosa said that she was not involved in handcuffing § 87(2)(b) that she handled crowd control for the remainder of the incident. The only other interaction that PO Rosa had with § 87(2)(b) was searching her later at the 42<sup>nd</sup> Precinct stationhouse.

#### **Officer Statement: PO JASON VASQUEZ**

- PO Jason Vasquez is a § 87(2)(b) -old, 5’8”, 185 lbs., Hispanic male with brown hair and brown eyes.
- PO Vasquez was dressed in uniform and worked the same tour and assignment as PO Jaquez on the incident date.

#### **Memobook**

PO Vasquez’s memobook confirmed his involvement in the incident (encl. D 15-17).

#### **Complaint and Arrest Reports**

PO Vasquez completed the arrest report for § 87(2)(b) s arrest (encl. D 18-21). The report states that § 87(2)(b) kicked PO Jaquez in the face and legs causing swelling and redness to his chin and right knee. § 87(2)(b) also pushed and slapped PO Rosa. § 87(2)(b) attempted to prevent the administration of law by interference and physical force. § 87(2)(b) also attempted to prevent her arrest by lying on her hands. § 87(2)(b) was arrested for § 87(2)(b)

#### **CCRB Testimony**

PO Vasquez was interviewed at the CCRB on October 8, 2009 (encl. D 26-27). PO Vasquez’s statement is consistent with PO Jaquez’ and PO Rosa’s statements and only additions are noted below.

On the incident date, PO Vasquez assisted detectives in arresting § 87(2)(b) As the officers were taking him out of the building, § 87(2)(b) attempted to intervene and smacked PO Rosa and kicked PO Jaquez. § 87(2)(b) threw herself to the ground and resisted as PO Vasquez and other officers struggled with her to get he hands behind her back and in handcuffs. PO Vasquez did not remember any officer kicking § 87(2)(b) PO Vasquez did not recall any officers telling § 87(2)(b) to “shut the fuck up” or say that she was a “black bitch.”

#### **Other Evidence**

##### **Arrest Photographs**

§ 87(2)(b) was photographed by the NYPD on the incident date (encl. C 21). The photographs show no visible facial injuries to § 87(2)(b)

#### **Medical Records**

##### **Ambulance Call Report**

The Ambulance Call Report notes that § 87(2)(b) complained of pain to both wrists, left jaw, and right side of her head (encl. E 1-2).

**Records from § 87(2)(b)**

The medical records note that § 87(2)(b) complained of pain to the left jaw and the left side of her face. No bruising was observed and x-rays revealed no fractures (encl. E 3-20).

**Arrest for Incident and Disposition**

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

**Status of Civil Proceedings**

- § 87(2)(b) has filed a Notice of Claim with the City of New York on § 87(2)(b), claiming personal injuries, psychological injuries, pain and suffering, and medical expenses and seeking five million dollars in redress (encl. F 12-16).

**Civilian Criminal History**

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

**Civilian CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. B 3).

**Subject Officers CCRB History**

- PO Jaquez has been a member of service for four years and there are no substantiated CCRB allegations against him (encl. B 1).
- PO Rosa has been a member of service for five years and there are no substantiated CCRB allegations against her (encl. B 2).

**Conclusion**

**Identification of Subject Officers**

- PO Jaquez acknowledged interacting with § 87(2)(b) and was identified by a photo array.
- PO Rosa acknowledged interacting with § 87(2)(b) who identified her by name

**Investigative Findings and Recommendations**

**Allegation A: PO Robert Jaquez used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that PO Jaquez used force to arrest her, which included kicking her in the face and pulling her hair. Patrol Guide: Patrol Guide Section, 203-11 (encl. A 1-2), states that physical force may be used by an officer to overcome resistance and effect an arrest. Given § 87(2)(b)'s testimony, it is undisputed that she resisted arrest when PO Jaquez attempted to place her into handcuffs. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) Her arrest photographs and medical records both indicate that there was no bruising to § 87(2)(b)'s face, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation B: PO Robert Jaquez spoke obscenely to § 87(2)(b)**

§ 87(2)(b) alleged that PO Jaquez stated “arrest this bitch” and then told her to “Shut the fuck up.” PO Jaquez denied making any discourteous statements to § 87(2)(b) and there are no corroborating statements to support § 87(2)(b) s allegation. § 87(2)(g)

§ 87(2)(g)

**Allegation C: PO Leslie Rosa made remarks to § 87(2)(b) based upon race.**

§ 87(2)(b) alleged that PO Rosa told her, “Shut the fuck up you black bitch.” PO Rosa denied making this statement. § 87(2)(g)

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

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

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

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

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