

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Max Gross	Team: Team # 3	CCRB Case #: 201201365	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 01/26/2012 1:45 PM	Location of Incident: in front of § 87(2)(b) and inside of § 87(2)(b)	Precinct: 42	18 Mo. SOL 7/26/2013	EO SOL 7/26/2013	
Date/Time CV Reported Thu, 01/26/2012 2:02 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/31/2012 3:15 PM		

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

Subject Officer(s)	Shield	TaxID	Command
1. SGT Mervin Montalban	01823	930758	042 PCT
2. POF Alfonsina Delacruz	04363	932538	042 PCT
3. POM Jodi Brown	23758	936246	042 PCT
4. POM Robert Jaquez	03895	938711	042 PCT
5. POM Nelson Ramos	30679	925962	042 PCT
6. POM Jason Vasquez	29040	941163	042 PCT
7. Officers			042 PCT
8. An officer			042 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Mervin Montalban	Force: Sergeant Mervin Montalban used physical force against § 87(2)(b)	§ 87(2)(b)
B.POM Jodi Brown	Force: Officer Jodi Brown used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Jason Vasquez	Force: Officer Jason Vasquez used physical force against § 87(2)(b)	§ 87(2)(b)
D.POM Nelson Ramos	Force: Officer Nelson Ramos used physical force against § 87(2)(b)	§ 87(2)(b)
E.POM Robert Jaquez	Force: Officer Robert Jaquez used physical force against § 87(2)(b)	§ 87(2)(b)
F.POM Robert Jaquez	Force: Officer Robert Jaquez struck § 87(2)(b) with an asp.	§ 87(2)(b)
G. Officers	Force: Officers struck § 87(2)(b) with asps.	§ 87(2)(b)
H. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
I.POM Robert Jaquez	Force: Officer Robert Jaquez used pepper spray against § 87(2)(b)	§ 87(2)(b)
J.POF Alfonsina Delacruz	Force: Officer Alfonsina Delacruz used physical force against § 87(2)(b)	§ 87(2)(b)
K. Officers	Abuse: Officers entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
L. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
M. Officers	Discourtesy: Officers spoke obscenely to § 87(2)(b)	

Case Summary

On January 26, 2012, § 87(2)(b) filed this complaint on behalf of himself and § 87(2)(b) with the Internal Affairs Bureau (IAB), log 12-05301. During the course of the investigation, § 87(2)(b) was also identified as a victim in this case. Captain Martine Materasso of Patrol Borough Bronx also made a notification to IAB regarding the incident, log 12-06176. This case was forwarded to the CCRB on January 31, 2012, via log 12-05469. On January 29, 2011, § 87(2)(b) also filed a complaint about the incident with the Mayor's Office, which was forwarded to the CCRB on February 12, 2012.

Between January 30, 2012, and February 7, 2012, this incident received extensive media coverage. Print articles were published in the New York Times, Wall Street Journal, New York Daily News, New York Post, and the New York Metro Daily. Digital content was also published on Gothamist.com. The incident received television broadcast coverage on NY1, WPIX-NY, and local affiliates of ABC, CBS, NBC, FOX, as well as Spanish language coverage via Galavision and Univision. Video footage of the incident taken by § 87(2)(b) from a cell phone was also posted on social media websites Youtube.com and Worldstarhip.com. As such, this case was added to the CCRB's sensitive case list.

In addition to the cell phone video, the investigation obtained video surveillance footage which captured significant portions of the incident in front of § 87(2)(b) in the Bronx. The following narrative is based on that footage, and the statements § 87(2)(b) provided when filing his report to IAB. § 87(2)(b) complaint is summarized below.

On January 26, 2012, § 87(2)(b) and § 87(2)(b) were walking in front of § 87(2)(b) when they encountered five uniformed officers identified by the IAB referral report as Officer Jason Vazquez, Officer Nelson Ramos, Officer Jodi Brown, Officer Robert Jaquez, and Sergeant Mervin Montalban, all at the time assigned to the 42nd Precinct. The officers attempted to handcuff § 87(2)(b) and he initially attempted to run away. When the officers grabbed him, a struggle ensued, during which § 87(2)(b) was forced against the wall and punched repeatedly while he struggled with the officers, before he was forced to the ground (**Allegations A-E**). While on the ground, § 87(2)(b) was struck numerous times about the torso and lower body with asps by three officers, including one officer identified via the video footage and NYPD photograph as Officer Jaquez (**Allegations F-G**). § 87(2)(b) was also kicked twice in the back by an unidentified officer as he lay on his side (**Allegation H**).

While the officers were arresting § 87(2)(b) § 87(2)(b) was filming the incident on his cell phone. An officer, identified as Officer Jaquez, approached § 87(2)(b) and sprayed him with pepper spray (**Allegation I**). After § 87(2)(b) was restrained in handcuffs and on the ground, an officer identified via the IAB referral report as Officer Alfonsina Delacruz, came up to § 87(2)(b) and kicked him once in the back (**Allegation J**). As a result of the incident, § 87(2)(b) sustained a laceration to the back of his head which required two stitches and a laceration to his left elbow which required three stitches.

According to § 87(2)(b) he witnessed the entire incident from his § 87(2)(b) story apartment inside of § 87(2)(b) § 87(2)(b). When § 87(2)(b) yelled a remark to the officers they were using excessive force, three unidentified officers entered § 87(2)(b) building and came upstairs to his apartment, § 87(2)(b). There, they kicked the door open and entered § 87(2)(b) apartment, punched him in the neck, kicked him in the ribcage, and called him a "pussy" (**Allegations K-M**). The officers then left the scene without arresting § 87(2)(b) or issuing him a summons.

The CCRB was unable to obtain any direct statements from the civilians involved in this incident. On February 17, 2012, the investigator spoke with § 87(2)(b) who is § 87(2)(b) and § 87(2)(b)'s civil attorney. On March 2, 2012, the investigator spoke with § 87(2)(b), § 87(2)(b) attorney. Both § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) declined to have any of their clients provide verified statements to the CCRB, citing pending criminal and civil proceedings. Despite the resolution of § 87(2)(b)'s criminal case, § 87(2)(b) indicated that his client would not cooperate with any city agency and would only make § 87(2)(b) available for an investigation by a special prosecutor. Both attorneys expressed an understanding of the CCRB's Charter requirements and the consequences of their lack of participation.

On February 7, 2012, a canvass of § 87(2)(b) was conducted. The canvass included every business on the block as well as apartments inside of § 87(2)(b) and § 87(2)(b). The canvass did not uncover any eyewitness testimony.

Following the aforementioned refusals from the victim's attorneys, this case was truncated on March 19, 2011. On May 9, 2012, CCRB panel 3D-2012 returned this case for further investigation requesting that additional attempts to contact the civilians be made. On June 14, 2012, letters were mailed to the residences of § 87(2)(b) and § 87(2)(b) as well as to the offices of their respective attorneys, § 87(2)(b) and § 87(2)(b). The letter informed the civilians and their attorneys that they needed to contact the investigator by June 28, 2012, if they wanted the CCRB to investigate the incident. The letters noted the attorneys' prior refusal to allow their clients to participate in this investigation. None of those letters were returned to the CCRB stamped "return to sender" by the United States Postal Service (USPS). To date, none of the civilians nor their respective attorneys have contacted the CCRB to schedule an appointment to provide a statement in regards to the incident.

Based on review of the video surveillance footage and cell phone video, it is clear that all five initial responding officers were physically involved in § 87(2)(b)'s arrest. As such, allegations A-E are pleaded accordingly. After a review of the footage and comparison of NYPD officer photographs obtained via the CCRB's MAS section, the investigation was able to visually identify Officer Jaquez as one of the officers who struck § 87(2)(b) with an asp and the officer who subsequently sprayed § 87(2)(b) with pepper spray. Therefore allegations F,G, and I are pleaded against Officer Jaquez. Officer Delacruz, the only female officer present at the scene, was identified via the IAB referral report as the officer who kicked § 87(2)(b) after he was restrained in handcuffs. Therefore, allegation J is pleaded against her. Due to lack of verified statements or concrete photographic or video evidence, the investigation was unable to accurately attribute additional allegations, prompting allegation H to be pleaded against "an officer" from the 42nd Precinct. Since no clarification was reached on § 87(2)(b) narrative and he indicated numerous officers entered his apartment and interacted with him, allegations G, K, L, and M, are be pleaded against "officers" from the 42nd Precinct.

§ 87(2)(g)

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date