

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Eric Rigie	Team: Squad #3	CCRB Case #: 201602528	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 03/11/2016 12:10 AM	Location of Incident: In front of 1150 Union Avenue in the Bronx and inside the PSA 7 stationhouse	Precinct: 42	18 Mo. SOL 9/11/2017	EO SOL 9/11/2017	
Date/Time CV Reported Fri, 03/25/2016 2:03 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 03/25/2016 2:03 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Miguel Frias	1309	930184	PSA 7
2. POM Giovanni Laguna	26882	952959	PSA 7
3. POM Nicholas Rios	06583	955377	PSA 7
4. POM Elvis Duran	21865	946965	PSA 7
5. An officer			
6. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Felix Baez	04759	953654	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.POM Nicholas Rios	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios pointed his gun at § 87(2)(b) and § 87(2)(b)	
B.POM Giovanni Laguna	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna pointed his gun at § 87(2)(b) and § 87(2)(b)	
C.POM Giovanni Laguna	Discourtesy: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna spoke discourteously to § 87(2)(b)	
D.POM Giovanni Laguna	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna used physical force against § 87(2)(b)	
E.POM Nicholas Rios	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios used physical force against § 87(2)(b)	
F.POM Nicholas Rios	Discourtesy: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios spoke discourteously to § 87(2)(b)	
G.POM Elvis Duran	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Elvis Duran used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
H.POM Nicholas Rios	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios used a chokehold against § 87(2)(b)	
I.POM Nicholas Rios	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios restricted § 87(2)(b)'s breathing.	
J.POM Nicholas Rios	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios restricted § 87(2)(b)'s breathing.	
K.POM Giovanni Laguna	Force: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna restricted § 87(2)(b)'s breathing.	
L. An officer	Force: In front of 1150 Union Avenue in the Bronx, an officer used physical force against § 87(2)(b)	
M.SGT Miguel Frias	Abuse: At the PSA 7 stationhouse, Sergeant Miguel Frias detained § 87(2)(b) and § 87(2)(b)	
N.POM Giovanni Laguna	Abuse: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna stopped § 87(2)(b)	
O.POM Giovanni Laguna	Abuse: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna searched § 87(2)(b)	
P. Officers	Force: At the PSA 7 stationhouse, officers used physical force against § 87(2)(b)	
Q. Officers	Abuse: At the PSA 7 stationhouse, officers strip-searched § 87(2)(b)	
R. An officer	Discourtesy: At the PSA 7 stationhouse, an officer spoke discourteously to § 87(2)(b)	
S. An officer	Off. Language: At the PSA 7 stationhouse, an officer made remarks to § 87(2)(b) based upon gender.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On March 25, 2016, § 87(2)(b) filed this complaint with the CCRB via phone.

On March 11, 2016, at approximately 12:10 a.m., § 87(2)(b) was standing in front of 1150 Union Avenue in the Bronx with his girlfriend, § 87(2)(b). § 87(2)(b) was approached by § 87(2)(b) and got into a physical fight during which § 87(2)(b) brandished a black BB gun. During this altercation, § 87(2)(b) pepper sprayed § 87(2)(b). PO Giovanni Laguna and PO Nicholas Rios, of the PSA 7 Anti-Crime unit, observed this fight during their patrol of the area. PO Laguna and PO Rios exited their unmarked RMP and approached § 87(2)(b) and § 87(2)(b) with their guns pointed (**Allegations A and B**). PO Laguna immediately started yelling commands to § 87(2)(b) along the lines of, “Get the fuck on the floor” and, “Put your fucking hands up” (**Allegations C**). PO Rios then handcuffed § 87(2)(b) while at the same time PO Laguna approached § 87(2)(b) and continued to tell him to get onto the floor, but § 87(2)(b) refused to comply. At that point, PO Laguna grabbed § 87(2)(b) and attempted to pull § 87(2)(b)'s arms behind his back (**Allegation D**). After PO Rios finished handcuffing § 87(2)(b) he moved toward § 87(2)(b) and allegedly punched him multiple times in his ribs (**Allegation E**). Both PO Laguna and PO Rios allegedly continued to tell § 87(2)(b) “Get on the fucking floor!” (also **Allegation C** and **Allegation F**). At this point, Sgt. Miguel Frias, PO Elvis Duran, and PO Felix Baez, also of the PSA7 Anti-Crime unit, arrived on the scene with PO Duran assisting in handcuffing § 87(2)(b) (**Allegation G**). PO Rios then allegedly choked § 87(2)(b) using both his hands on § 87(2)(b)'s neck, which temporarily restricted § 87(2)(b)'s breathing (**Allegations H and I**). PO Laguna and PO Rios then placed § 87(2)(b) on his stomach and held him down by his back, further restricting his breathing (**Allegations J and K**). PO Rios and PO Laguna then pulled § 87(2)(b)'s hands behind his back and handcuffed him. Other uniformed officers subsequently arrived on the scene in marked RMPs. An unknown officer then allegedly punched § 87(2)(b) in the face (**Allegation L**). On the orders of Sgt. Frias, § 87(2)(b) and § 87(2)(b) were arrested and transported to the PSA7 stationhouse by uniformed officers (**Allegations M**). The Anti-Crime officers remained on the scene to canvass the area for § 87(2)(b)'s firearm. During this canvassing, PO Laguna stopped, handcuffed, and searched § 87(2)(b) (**Allegations N and O**). At the PSA 7 stationhouse, unknown officers allegedly threw § 87(2)(b) against a wall multiple times and then allegedly had him stand naked in front of the wall (**Allegations P and Q**). One of these unknown officers then allegedly told § 87(2)(b) “I can feel your ass getting nervous now. Why the fuck is you shaking now?” and, “You’re acting like a b-i-t-c” (**Allegations R and S**). The anti-crime officers then returned to the PSA7 stationhouse where Sgt. Frias made the decision to release § 87(2)(b) and § 87(2)(b) without charges, because § 87(2)(b)'s weapon was not recovered during the incident and neither male wished to press charges against the other.

Security footage from the entrance of 1150 Union Street was obtained from NYCHA, but this footage only showed flashing lights in the distance and not individuals or allegations. Therefore, this footage was not used in the disposition of the allegations.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to § 87(2)(b)'s chokehold allegation.

- On June 29, 2016, a FOIL registration to the Officer of the Comptroller confirmed that § 87(2)(b) and § 87(2)(b) filed no Notices of Claim for this incident (01 Board Review).
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) [REDACTED]
[REDACTED]
[REDACTED]
- § 87(2)(b) has no conviction history (04 Board Review).

Civilian and Officer CCRB Histories

- § 87(2)(b) has been involved in one prior CCRB case § 87(2)(b) [REDACTED]. This is § 87(2)(b) and § 87(2)(b)'s first CCRB complaint (05 Board Review).
- PO Laguna has been a member of the NYPD for three years and this is his first CCRB case.
- PO Rios has been a member of the NYPD for two years and has one prior CCRB case involving three allegations including one substantiated allegation for a frisk. The recommended disposition for this allegation was command discipline B, but no final disposition has been confirmed by the NYPD. § 87(2)(g) [REDACTED]
[REDACTED]
- PO Duran has been a member of the NYPD for seven years and has seven prior CCRB cases involving 13 allegations including two substantiated allegations for a stop and a frisk, § 87(4-b), § 87(2)(g) [REDACTED]. The recommended dispositions for the stop and vehicle search were charges, but the NYPD disposition was no disciplinary action. § 87(4-b), § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
- Sgt. Frias has been a member of the NYPD for 13 years and has five previous CCRB cases involving 12 allegations including five substantiated allegations for a refusal to provide name and shield, a strip search, a retaliatory summons, a stop, and physical force. § 87(4-b), § 87(2)(g) [REDACTED]. For the refusal to provide name and shield, the strip search, the retaliatory summons, and § 87(4-b), § 87(2)(g) [REDACTED] charges were recommended. Sgt. Frias subsequently pled guilty and forfeited 15 vacation days. Command discipline B was recommended for the force allegation, but no final NYPD disposition has been determined. § 87(4-b), § 87(2)(g) [REDACTED]
[REDACTED]

Potential Issues

- § 87(2)(b) did not cooperate with providing a verified statement and § 87(2)(b) chose not to provide a verified statement.

Explanation of Subject Officer Identity

- With regard to **Allegations L, P, Q, R, and S**, the subject officers could not be identified because § 87(2)(b) was unable to provide any descriptions of the subject officers beyond saying that some were white, some were Hispanic, and that they looked “very stereotypical.” Furthermore, no officers acknowledged committing any of § 87(2)(b)'s allegations and § 87(2)(b) and § 87(2)(b) did not observe any of these allegations.

Findings and Recommendations

Allegations Not Pleaded

- Although § 87(2)(b) alleged that officers pepper sprayed him, § 87(2)(b) confirmed that she was the one who pepper sprayed § 87(2)(b) § 87(2)(g) (06 and 07 Board Review).
- Although § 87(2)(b) said that the desk sergeant refused to have him transported to the hospital when he complained of general pain, § 87(2)(b) had no visible injuries, was released after approximately 90 minutes later, and did not obtain medical attention on his own until March 17, 2016, six days after the incident, indicating that he had no apparent need to go to the hospital. § 87(2)(g) (08 and 09 Board Review).
- § 87(2)(b) alleged that an officer said, “Fuck your pants” to § 87(2)(b). However, § 87(2)(b) did not cooperate with providing a verified statement and § 87(2)(b) did not make this allegation. § 87(2)(g) (07 and 09 Board Review).
- § 87(2)(b) alleged that PO Laguna and PO Rios told § 87(2)(b) to, “Put your fucking hands up!” However, neither § 87(2)(b) nor § 87(2)(b) made this allegation. § 87(2)(g) (06, 07, and 9 Board Review).
- § 87(2)(b) alleged additional force used against § 87(2)(b) during the handcuffing and indicated that seven to eight officers used force against him. However, § 87(2)(b) only alleged that PO Laguna and PO Rios used force against him. PO Duran acknowledged assisting in § 87(2)(b)'s handcuffing. § 87(2)(g)

Allegation A –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios pointed his gun at § 87(2)(b) and § 87(2)(b)

Allegation B –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna pointed his gun at § 87(2)(b) and § 87(2)(b)

Allegation C –Discourtesy: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna spoke discourteously to § 87(2)(b)

Allegation F –Discourtesy: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios spoke discourteously to § 87(2)(b)

§ 87(2)(b) said that he began fighting with § 87(2)(b) because, while speaking to him, § 87(2)(b) reached into his pocket and attempted to take out what § 87(2)(b) believed to be a gun. § 87(2)(b) grabbed § 87(2)(b)'s hand and felt what he believed to be the handle of a gun. § 87(2)(b) then fought with § 87(2)(b) to prevent him from brandishing his gun. While he and

§ 87(2)(b) fought each other in the street, PO Laguna and PO Rios arrived on the scene in an unmarked Chevy Impala. PO Laguna and PO Rios got out with their guns drawn and pointed at § 87(2)(b) and § 87(2)(b). PO Laguna approached § 87(2)(b) while PO Rios approached § 87(2)(b) and handcuffed him. PO Laguna yelled two or three times for § 87(2)(b) to, “Get the fuck on the floor.” When PO Rios came over to assist PO Laguna in handcuffing § 87(2)(b) he and PO Laguna yelled multiple commands along the lines of, “Get on the fucking floor!” to § 87(2)(b). § 87(2)(b)'s phone statement was generally consistent with his IAB interview, but he said that PO Laguna only told him to “Get on the floor” (09 and 10 Board Review).

§ 87(2)(b) said that prior to § 87(2)(b) fighting with § 87(2)(b) he lifted up his sweater and she observed, what she believed to be, the handle of a gun. § 87(2)(b) then told § 87(2)(b) that § 87(2)(b) had a gun. § 87(2)(b) said that PO Laguna and PO Rios arrived in an unmarked RMP while § 87(2)(b) and § 87(2)(b) were fighting. PO Laguna and PO Rios got out and identified themselves as police and yelled, “Put your hands up, put your fucking hands up” at § 87(2)(b) and § 87(2)(b). Later, during the handcuffing, PO Laguna screamed at § 87(2)(b) to, “Get on the fucking floor!” (07 Board Review).

§ 87(2)(b) said that he was coming home from a basketball game and on his way to a relative's house. On the way, § 87(2)(b) got into a verbal argument with § 87(2)(b) but the argument did not get physical. Officers arrived on the scene and broke up this argument. (06 Board Review).

PO Laguna said that as he and PO Rios were driving, he observed § 87(2)(b) and an unknown third male scuffling on the ground. During this scuffle, PO Laguna observed § 87(2)(b) holding what appeared to be a black firearm. In addition to § 87(2)(b) and the unknown male scuffling, PO Laguna observed § 87(2)(b). No other civilians or officers were present when PO Laguna and PO Rios arrived on the scene. As PO Laguna and PO Rios got out of their RMP, PO Laguna heard something hit the floor and observed § 87(2)(b) pick up a black object and run away. PO Laguna approached § 87(2)(b) while PO Rios approached § 87(2)(b). Both officers had their guns drawn and pointed at § 87(2)(b) and § 87(2)(b). As PO Laguna got closer to the group of males he yelled, “Police!” PO Laguna did not remember whether he said, “Get on the fucking floor!” or, “Put your fucking hands up!” PO Laguna did not remember whether he or PO Rios used any profanity later during the handcuffing. A few hours after § 87(2)(b) and § 87(2)(b) were released, a firearm was recovered from the RMP used to transport § 87(2)(b) (11 Board Review).

§ 87(2)(g) Sgt. Frias, PO Duran, and PO Baez were not present during this initial interaction (13-15 Board Review).

P.G. 203-09 says that officers must be courteous and respectful (17 Board Review).

In Police Department v. Sgt. Michelle the Oath Court said that the use of a discourtesy toward an unruly civilian during a tense street encounter did not rise to the level of actionable misconduct (18 Board Review).

In Police Department v. PO Steve Gliner the Oath Court said that an officer may draw and point his firearm at another individual when the officer has a reasonable fear for his or another person's safety (19 Board Review).

§ 87(2)(g)

Allegation D –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna used physical force against § 87(2)(b)

Allegation E –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios used physical force against § 87(2)(b)

Allegation G –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Elvis Duran used physical force against

Allegation H –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios used a chokehold against § 87(2)(b)

Allegation I –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios restricted § 87(2)(b) s breathing.

Allegation J –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Nicholas Rios restricted § 87(2)(b) s breathing.

Allegation K –Force: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna restricted § 87(2)(b) s breathing.

Allegation M –Abuse of Authority: At the PSA 7 stationhouse, Sergeant Miguel Frias detained § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) said that PO Laguna placed him against a car and tried to pull § 87(2)(b) s hands behind his back while still telling him to get on the ground. § 87(2)(b) did not actively resist, but continued to refuse to get onto the floor and did not allow PO Laguna to pull his hands behind his back or place him on the floor, because he wanted to explain to PO Laguna what had happened. § 87(2)(b) explained that he kept his hands in front of him, but did not wave them around or attempt to strike PO Laguna. § 87(2)(b) did not move his body while PO Laguna was trying to

handcuff him. PO Rios then ran toward § 87(2)(b) and punched him multiple times in the ribs. § 87(2)(b) asked PO Rios why he was hitting him. PO Laguna and PO Rios yelled multiple times for § 87(2)(b) to get on the floor. PO Laguna and PO Rios pulled § 87(2)(b)'s hands behind his back hard even though § 87(2)(b)'s hands were already behind his back. PO Rios then choked § 87(2)(b) by placing both his hands on § 87(2)(b)'s neck and squeezing, which briefly restricted § 87(2)(b)'s breathing. § 87(2)(b) observed this and complained, "Don't choke him! He has asthma!" § 87(2)(b) then allowed PO Laguna and PO Rios to take him to the floor and he landed on his side. § 87(2)(b) got a small scratch on his head from being held on the floor. PO Laguna and PO Rios did not fall with § 87(2)(b). On the floor, § 87(2)(b) had trouble breathing due to the pressure that PO Laguna and PO Rios put on him while he was on the floor on his stomach. PO Laguna and PO Rios held § 87(2)(b) down by his back and his head and pulled his arms behind his back hard and handcuffed him. § 87(2)(b) did not try to prevent PO Laguna and PO Rios from handcuffing him once he was on the floor. While on floor, § 87(2)(b) yelled that he could not breathe because of his asthma. § 87(2)(b)'s phone statement was generally consistent with his CCRB interview (09 and 10 Board Review).

§ 87(2)(b) did not mention any specific force used against § 87(2)(b) during his handcuffing (06 Board Review).

§ 87(2)(b) said that § 87(2)(b) put his hands in the air, and said he did not have a weapon when PO Laguna and PO Rios arrived on the scene. PO Laguna placed § 87(2)(b) against the back window of a red minivan that was nearby. At the same time, PO Rios handcuffed § 87(2)(b). PO Laguna told § 87(2)(b) to get on the floor, but § 87(2)(b) asked why he had to get on the floor. PO Laguna began screaming at § 87(2)(b) to get on the floor. § 87(2)(b) was not fighting or making any movements, but did not comply with PO Laguna's instructions. PO Laguna put pressure on the back of § 87(2)(b)'s arm and shoulder. § 87(2)(b) sat on the ground and PO Rios used one hand to pull him over to PO Laguna and § 87(2)(b). PO Laguna and PO Rios started punching § 87(2)(b) in his ribs and told § 87(2)(b) to get back. § 87(2)(b) asked the officers why they were hitting and punching § 87(2)(b) when he was not resisting. Another unmarked RMP arrived on the scene with Sgt. Frias, PO Duran, and PO Baez. A marked RMP then arrived on the scene with additional uniformed officers. By the end of the incident there were three RMPs and seven to eight officers, some in uniform and some in plainclothes. One officer grabbed § 87(2)(b) by the back of his neck and was punching him on the head. Officers were punching § 87(2)(b)'s ribs, sitting on § 87(2)(b)'s head, and put knees on his back while one officer put § 87(2)(b)'s hands behind his back. § 87(2)(b) told the officers that § 87(2)(b) could not breathe because of their actions and asked why they were hitting him unnecessarily (07 Board Review).

PO Laguna did not remember whether § 87(2)(b) or § 87(2)(b) appeared to be injured when he first approached. PO Laguna approached § 87(2)(b) to handcuff him while PO Rios approached § 87(2)(b). PO Laguna told § 87(2)(b) to get on the ground multiple times, but § 87(2)(b) kept refusing. As PO Laguna got closer, he holstered his firearm and grabbed § 87(2)(b)'s hands in order to force them behind his back. § 87(2)(b) continued to resist by pulling his arms in front of him. PO Laguna continued to tell § 87(2)(b) to put his hands behind his back, but § 87(2)(b) continued to refuse by saying, "No! Get the fuck off of me!" At one point, PO Laguna and § 87(2)(b) were both struggling against a parked car. During this time, PO Rios was

able to handcuff § 87(2)(b) PO Laguna never saw PO Rios punch § 87(2)(b) in the face. PO Laguna never heard § 87(2)(b) complain of being punched in the face. Once PO Rios handcuffed § 87(2)(b) he approached § 87(2)(b) and assisted PO Laguna in handcuffing § 87(2)(b). During the handcuffing, PO Laguna kept telling § 87(2)(b) to give him his hands and to get onto the ground. PO Laguna said that PO Rios radioed a request for assistance from other officers and multiple officers arrived on the scene to assist PO Laguna handcuffing § 87(2)(b). PO Laguna did not remember how many officers helped to handcuff § 87(2)(b) or who the specific officers were. PO Laguna never saw PO Rios or any officer punch § 87(2)(b) in the side of his ribs. PO Laguna never observed PO Rios choke § 87(2)(b) with two hands to his neck. § 87(2)(b) never complained of being punched or choked or complained that his breathing was restricted.

PO Laguna and the other officers moved with § 87(2)(b) from the road onto the sidewalk. The group then collectively fell onto the ground as they tripped over the curb. PO Laguna did not remember whether § 87(2)(b) fell face down onto the ground. PO Laguna fell on the ground in front of § 87(2)(b). Once on the ground, § 87(2)(b) continued to resist by moving his arms away from a position behind his back. § 87(2)(b) did not resist in any other way and the officers were eventually able to force § 87(2)(b)'s hands behind his back. No other force was used against § 87(2)(b) in order to handcuff him. PO Laguna did not remember whether he or any officer held § 87(2)(b) onto the ground by pushing their weight onto him. § 87(2)(b) never complained that he could not breathe while on the ground. Altogether, it took a few minutes to handcuff § 87(2)(b). Once handcuffed, § 87(2)(b) yelled at § 87(2)(b) "You're going to be dead!" PO Laguna did not remember observing any injuries on § 87(2)(b) after the handcuffing. § 87(2)(b) never complained of any injuries or requested medical attention. Once § 87(2)(b) and § 87(2)(b) were handcuffed, PO Laguna debriefed Sgt. Frias on what had transpired (11 Board Review).

PO Baez denied that any officer committed any of the aforementioned allegations, but said that § 87(2)(b) was already on the ground in handcuffs when he arrived on the scene. PO Baez said that he assisted PO Rios in handcuffing § 87(2)(b) by pulling his hands behind his back and that § 87(2)(b) did not resist being handcuffed (15 Board Review).

Sgt. Frias said that PO Baez and PO Duran assisted PO Rios and PO Laguna in handcuffing § 87(2)(b) but did not see or hear the handcuffing, because he was performing crowd control with his back to the officers. Sgt. Frias said that a large angry crowd of 20 to 25 individuals ran toward the scene and yelled profanity at the officers. Because a large hostile crowd had formed, Sgt. Frias ordered the officers to remove § 87(2)(b) and § 87(2)(b) from the scene. PO Laguna and PO Rios then explained to Sgt. Frias what had happened during the incident. Because § 87(2)(b)'s firearm was not recovered during the incident, and because neither § 87(2)(b) nor § 87(2)(b) wished to press charges against the other, Sgt. Frias ordered that their arrests be voided and they both be released without charges (13 Board Review).

PO Rio's statement generally corroborated that of PO Laguna, although he did not recall whether § 87(2)(b) was brought to the ground prior to handcuffing. PO Duran's statement generally corroborated that of PO Laguna, but he also did not recall § 87(2)(b) being brought to the ground and he denied that PO Rios, PO Laguna, or any officer committed any of the aforementioned allegations. (12 and 14 Board Review).

P.G 203-11 says that officers must use minimum necessary force to overcome resistance and effect an arrest. Whenever possible, officers should make every effort to avoid tactics, such as sitting or standing on a subject's chest, which may result in chest compression, thereby reducing the subject's ability to breathe (16 Board Review).

In Police Department v. Sgt. Gilberto Beltran the Oath Court found that it was not excessive force for an officer to punch an individual in the head after the individual actively resisted arrest while on the ground (20 Board Review).

People v. DeBour says that an officer needs reasonable suspicion to conduct a level three stop and probable cause to search and arrest an individual (21 Board Review).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation N –Abuse of Authority: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna stopped § 87(2)(b)
Allegation O –Abuse of Authority: In front of 1150 Union Avenue in the Bronx, Police Officer Giovanni Laguna searched § 87(2)(b)

§ 87(2)(b) said that while she was waiting for § 87(2)(b)'s mother, PO Laguna placed her against a wall and put her in handcuffs. PO Laguna shined a flashlight in her purse, asked what she had picked up, and where the weapon was. § 87(2)(b) said she did not have a weapon and explained that she picked up § 87(2)(b)'s phone, with cracked screen, and put it in her back pocket. § 87(2)(b) asked the officers if she was under arrest, but they did not respond. PO

Laguna searched around the area for a weapon while another officer stood by her and watched her. PO Laguna came back and asked § 87(2)(b) where she put the weapon. § 87(2)(b) said she had been standing there the whole time and had not moved. § 87(2)(b) was released after she showed PO Laguna § 87(2)(b)'s cell phone (07 Board Review).

§ 87(2)(b) said that after the incident, § 87(2)(b) told him that PO Laguna put her into handcuffs and stood her against a wall because they thought she picked up a weapon, but she actually picked up § 87(2)(b)'s cell phone. PO Laguna asked § 87(2)(b) what happened, but later let her go and did not take her to the stationhouse (09 Board Review).

PO Laguna said that during the earlier scuffle, he observed § 87(2)(b) holding what appeared to be a black firearm. As PO Laguna and PO Rios got out of their RMP, PO Laguna heard something hit the floor and observed § 87(2)(b) pick up a black object and run away. While it was nighttime, the area was lit by streetlights. PO Laguna stopped and handcuffed § 87(2)(b) on his own, because he was not sure whether she had picked up the firearm he had observed. PO Laguna checked § 87(2)(b)'s pockets and waist band. PO Laguna did not remember whether he went into § 87(2)(b)'s pockets or searched § 87(2)(b)'s purse by shining a flashlight into it. As she was being handcuffed, § 87(2)(b) explained to PO Laguna that she had picked up a cell phone. PO Laguna then saw this cell phone in her hand and observed that it was black and had a crack on the screen. PO Laguna therefore believed § 87(2)(b) and released her after approximately two minutes (11 Board Review).

Sgt. Frias generally corroborated PO Laguna's statement. PO Baez corroborated that § 87(2)(b) was questioned by officers after § 87(2)(b) and § 87(2)(b) were transported from the scene, but did not recall her being placed into handcuffs or her bag being searched. PO Rios and PO Duran did not recall § 87(2)(b) being stopped or searched by any officer (13-15 Board Review).

People v. DeBour says that an officer needs reasonable suspicion to conduct a level three stop and probable cause to search an individual (21 Board Review).

§ 87(2)(g)
[REDACTED]

Allegation L –Force: In front of 1150 Union Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation P –Force: At the PSA 7 stationhouse an officer used physical force against § 87(2)(b)

Allegation Q –Abuse of Authority: At the PSA 7 stationhouse an officer strip-searched § 87(2)(b)

Allegation R –Discourtesy: At the PSA 7 stationhouse, an officer spoke discourteously to § 87(2)(b)

Allegation S – Offensive Language: At the PSA 7 stationhouse an officer made remarks to § 87(2)(b) based upon gender.

On April 14, 2016, § 87(2)(b) said during a phone call that he did not wish to provide a verified statement or participate any further in the investigation because he wanted to move on. § 87(2)(b) said that he was not coerced by the CCRB or NYPD into making this decision.

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

[REDACTED]

Squad: 3

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer:

Title/Signature

Print

Date