

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #6	CCRB Case #: 201900230	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/07/2019 8:27 AM	Location of Incident: [REDACTED]	Precinct: 33	18 Mo. SOL 7/7/2020	EO SOL 2/21/2021	
Date/Time CV Reported Wed, 01/09/2019 8:19 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 01/09/2019 8:19 AM		

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Jeffrey Mota	29380	944130	TB DT03

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Bramlin Rosa	27614	948416	TB DT03

Officer(s)	Allegation	Investigator Recommendation
A . POM Jeffrey Mota	Discourtesy: At the 168th Street A/C train subway station, Police Officer Jeffrey Mota spoke discourteously to [REDACTED]	A . § 87(2)(g) [REDACTED]
B . POM Jeffrey Mota	Force: At the West 168th Street A/C train subway station, Police Officer Jeffrey Mota used physical force against [REDACTED]	B . § 87(2)(g) [REDACTED]
C . POM Jeffrey Mota	Discourtesy: At the Transit District 3 stationhouse, Police Officer Jeffrey Mota acted discourteously toward [REDACTED]	C . § 87(2)(g) [REDACTED]
D . POM Jeffrey Mota	Other: There is evidence suggesting Police Officer Jeffrey Mota provided a false official statement in violation of Patrol Guide Procedure 203-08.	D . § 87(2)(g) [REDACTED]

Case Summary

On January 9, 2019, § 87(2)(b) called the CCRB and filed this complaint via telephone.

On January 7, 2019, at approximately 8:27 a.m., § 87(2)(b) was panhandling inside of the West 168th Street A/C train subway station in Manhattan. PO Jeffrey Mota and PO Bramlin Rosa, both of Transit District 3, approached § 87(2)(b) and PO Mota allegedly ordered § 87(2)(b) to “leave my fucking station” (**Allegation A: Discourtesy, § 87(2)(g)**). § 87(2)(b) complied and left the subway station. PO Mota and PO Rosa followed § 87(2)(b) outside of the subway station and placed him under arrest. PO Mota allegedly pushed § 87(2)(b)'s head into a wall and pushed him by his lower back (**Allegation B: Force, § 87(2)(g)**).

§ 87(2)(b) was arrested for forgery, criminal trespass, and disorderly conduct, and transported to the Transit District 3 stationhouse. At the stationhouse, § 87(2)(b) urinated through the cell bars and onto the floor outside of his holding cell. PO Mota dragged § 87(2)(b)'s jacket through his urine (**Allegation C: Discourtesy, § 87(2)(g)**). The CCRB found evidence suggesting that PO Mota provided a false official statement during his CCRB interview when he denied that he dragged § 87(2)(b)'s jacket through his urine (**Allegation D: § 87(2)(g)**).

According to the Office of Court Administration (OCA), as of May 30, 2019, § 87(2)(b)'s criminal case has been adjourned and consolidated with an another case (Board Review 01).

Body-worn camera footage recorded by PO Rosa and PO Mota and stationhouse footage from Transit District 3 captured portions of this incident. The body-worn camera footage can be found in IAs #43 – 45 (Board Review 02, Board Review 03, Board Review 04) and is summarized in IAs #65 – 66 (Board Review 05, Board Review 06) and IA #83 (Board Review 07). The original stationhouse footage can be found in IAs #70 – 71 (Board Review 08, Board Review 09) and is summarized in IAs #86 – 87 (Board Review 10, Board Review 11). A sub clip generated via iINPUT-ACE of the stationhouse footage relevant to the investigation is located in IA #89 (Board Review 12) and summarized in IA #112 (Board Review 13).

Findings and Recommendations

Allegation A – Discourtesy: At the 168th Street A/C train subway station, Police Officer Jeffrey Mota spoke discourteously to § 87(2)(b)

§ 87(2)(b) (Board Review 14), who is homeless, testified that he asked passerbys for assistance while he stood on the unpaid side of the turnstiles at the West 168th Street A/C train subway station. § 87(2)(b) noted that he did not specifically ask for money or MetroCard swipes, but asked people if they could help in any kind of way. After approximately 15 minutes, PO Mota and PO Rosa approached § 87(2)(b) and PO Mota ordered § 87(2)(b) to leave the station if he was not riding the subway. § 87(2)(b) said okay but remained where he was. PO Mota then allegedly ordered § 87(2)(b) to “leave my fucking station.”

PO Mota (Board Review 15) testified that he and PO Rosa were patrolling the mezzanine level of the West 168th Street A/C train subway station when his attention was drawn to § 87(2)(b) who was screaming and yelling for MetroCard swipes. PO Mota and PO Rosa approached § 87(2)(b) and they both explained that he cannot solicit for swipes and needed to leave the station if he did not have fare money. PO Mota was unable to recall the exact words he used while speaking to § 87(2)(b) but denied that he ever said “leave my fucking station.”

PO Rosa (Board Review 16) testified that he did most of the talking with § 87(2)(b) because he was the officer with the most transit experience. PO Rosa was unable to recall what PO Mota said to § 87(2)(b) and denied that PO Mota told § 87(2)(b) to “leave my fucking station.”

Neither PO Rosa's nor PO Mota's body-worn cameras were activated during this aspect of the incident.

§ 87(2)(g)

Allegation B – Force: At the West 168th Street A/C train subway station, Police Officer Jeffrey Mota used physical force against § 87(2)(b)

Body-worn camera footage recorded by PO Rosa (Board Review 02) depicts the following: the video begins with PO Mota standing behind § 87(2)(b) who is facing a wall. PO Mota has one hand against the side of § 87(2)(b)'s head, which he appears to hold against a brick wall. § 87(2)(b) yells for the officers to provide their probable cause as PO Mota appears to frisk him. § 87(2)(b) tells PO Mota to stop pushing his head against the wall and PO Mota and PO Rosa order § 87(2)(b) to stop moving.

§ 87(2)(b) testified that he exited the subway station and PO Mota and PO Rosa followed him to the street. PO Mota and PO Rosa walked away to return to the subway station, at which point § 87(2)(b) asked the officers what their probable cause was for asking him to leave the station. § 87(2)(b) could not recall if he was yelling. PO Mota and PO Rosa then ran toward § 87(2)(b) and ordered him to place his hands behind his back. § 87(2)(b) complied and PO Rosa and PO Mota handcuffed him a few centimeters away from the wall of an apartment building. As he was handcuffed, § 87(2)(b) spoke about how officers treat homeless people and PO Mota and PO Rosa ordered him to stop spitting. § 87(2)(b) denied that he had spit at the officers. PO Mota then placed his hand on the right side of § 87(2)(b)'s head and pushed his head into the wall of building. PO Mota held § 87(2)(b)'s head against the wall for approximately 30 seconds. During this time, § 87(2)(b) felt PO Mota push him against his lower back.

§ 87(2)(b) denied that he sustained any injuries as a result of PO Mota's actions. § 87(2)(b) testified that he requested medical treatment solely for § 87(2)(b) and was transported to § 87(2)(b) Hospital. § 87(2)(b)'s medical records from Bellevue Hospital (Board Review 17) documented that he received a § 87(2)(b) evaluation and was released later that day after being diagnosed with § 87(2)(b). § 87(2)(b)'s medical records note that he described his arrest as annoying and denied that he had any pain issues at the time of his visit.

§ 87(2)(b)'s physical condition appears normal in his arrest photograph (Board Review 18) and no marks or abrasions are shown on his face or head.

PO Mota testified that he and PO Rosa escorted § 87(2)(b) to the street and told him that he would be arrested for trespassing if he re-entered the subway station. PO Mota and PO Rosa returned inside the subway station. Approximately one minute later, § 87(2)(b) reentered the subway station while yelling "fucking pigs!" PO Mota and PO Rosa placed § 87(2)(b) under arrest. PO Mota could not recall if he handcuffed § 87(2)(b) inside or outside of the subway station. PO Mota did not recall there being any issue with handcuffing § 87(2)(b). While waiting at street level for a transport vehicle, § 87(2)(b) began to spit. PO Mota held the hood of § 87(2)(b)'s sweater over his head to block his spit and denied using any additional physical force. PO Mota testified that § 87(2)(b) stood next to a wall and faced away from it. PO Mota could not recall if he pushed § 87(2)(b)'s head into the wall or if he pushed § 87(2)(b) by his lower back.

After reviewing PO Rosa's body-worn camera footage, PO Mota testified that he was shown frisking and searching § 87(2)(b) and had "one hand up" and "one hand down" in order to maintain control of him. PO Rosa could not recall where exactly his upper hand one and could not confirm if he was touching § 87(2)(b)'s head after seeing this video.

PO Rosa's testimony was consistent with PO Mota's account with the following additional details. PO Rosa testified that § 87(2)(b) was handcuffed without incident inside of the subway station and was then escorted to the street. PO Rosa testified that § 87(2)(b) stood a few inches away from the wall and denied that § 87(2)(b)'s body made contact with the wall at any point. PO Rosa denied seeing PO Mota have any physical contact with § 87(2)(b)'s head and denied seeing PO Mota push § 87(2)(b) by his lower back.

According to NYPD Patrol Guide, Procedure 221-01 (Board Review 19), officers will only use the reasonable force necessary to gain control or custody of a subject.

§ 87(2)(g)

Allegation C – Discourtesy: At the Transit District 3 stationhouse, Police Officer Jeffrey Mota acted discourteously toward § 87(2)(b)

Video footage (Board Review 12) recorded by a camera directly facing § 87(2)(b)'s holding cell at the Transit District 3 stationhouse depicts the following: At the 00:01 minute mark, § 87(2)(b) approaches the bars of his holding cell, moves his hands around the waistband of his pants, and stands still in a wide-legged stance consistent with that of a man urinating. § 87(2)(b) stands in this manner for approximately 15 seconds. § 87(2)(b) then again moves his hands around his waistband, adjusts his shirt, and returns to standing with his hands near his sides by the 00:25 minute mark. No urine puddle is visible on the floor. PO Mota appears at the 15:06 minute mark and picks up § 87(2)(b)'s jacket and belt up from the floor on the right side of his holding cell. While holding § 87(2)(b)'s belt and jacket with one hand, PO Mota picks up § 87(2)(b)'s shoes from the same area using his opposite hand. As he does so, PO Mota lowers § 87(2)(b)'s jacket onto the floor where § 87(2)(b) previously appeared to urinate before he begins to walk away. PO Mota then drops his cell phone, pauses to pick it up, and places § 87(2)(b)'s jacket onto the floor as he returns his phone back to his pocket. § 87(2)(b) stands at the bars of his holding cell and appears to address PO Mota while repeatedly gesturing downward at the floor in front of him. PO Mota then picks up § 87(2)(b)'s jacket and drags it along the floor in front of § 87(2)(b)'s holding cell, again in the same area that § 87(2)(b) stated he urinated in, and walks out of frame.

§ 87(2)(b) testified that upon arrival at the Transit District 3 stationhouse, he was placed into a holding cell. § 87(2)(b) was alone in the cell. § 87(2)(b) testified that he urinated through the holding cell bars and onto the stationhouse floor outside of his cell. PO Mota, the only officer in the holding cell area, grabbed § 87(2)(b)'s jacket and dragged it along the floor through his urine.

PO Mota corroborated that § 87(2)(b) urinated while lodged in a holding cell. PO Mota testified that § 87(2)(b) stood facing the outside of the holding cell, removed his penis from his pants, and urinated "all over the floor" outside of the cell. Regarding § 87(2)(b)'s clothing, PO Mota testified that § 87(2)(b)'s shoelaces and belt were removed prior to him being lodged in a holding cell, and placed on the floor beside his cell. PO Mota was unable to recall if § 87(2)(b) had a jacket. PO Mota testified that § 87(2)(b) urinated approximately six inches away from his clothing and noted that the stationhouse floors were uneven and his

urine could have flowed onto his clothing. PO Mota ultimately picked § 87(2)(b)'s clothing up from the floor to provide to the officers who were transporting him to Central Booking. PO Mota denied that he ever dragged any of § 87(2)(b)'s clothing through his urine.

After viewing the video footage from the Transit District 3 stationhouse, PO Mota explained that at the point he picked § 87(2)(b)'s clothing up from the floor, he had also dropped his cell phone and “only had two hands.” PO Mota noted that he did not think it made any difference if § 87(2)(b)'s clothing touched the floor as he walked away seeing as it was already on the floor. PO Mota denied that he intentionally dragged § 87(2)(b)'s clothing along the floor. PO Mota was unable to confirm where specifically § 87(2)(b)'s urine landed or at what point § 87(2)(b) urinated.

NYPD Patrol Guide, Procedure 200-02 (Board Review 20), states that the mission of the New York City Police Department is to treat every citizen with courtesy, professionalism, and respect.

It is undisputed that § 87(2)(b) urinated on the floor of the Transit District 3 stationhouse. § 87(2)(g)

Allegation D – Other Misconduct: There is evidence suggesting Police Officer Jeffrey Mota provided a false official statement in violation of Patrol Guide Procedure 203-08.

The CCRB found evidence suggesting that PO Mota provided a false official statement regarding this incident when he denied that he dragged § 87(2)(b)'s jacket through his urine. A spin-off case was sent to IAB under CCRB case number 201905751. The evidence is as follows:

In his CCRB interview, PO Mota stated that as he was processing § 87(2)(b)'s arrest at a table in front of his holding cell, he observed § 87(2)(b) urinate all over the stationhouse floor outside of his holding cell. PO Mota denied that he ever dragged any of § 87(2)(b)'s clothing through his urine as alleged. At the conclusion of his CCRB interview, PO Mota was presented video footage from the Transit District 3 stationhouse. The stationhouse footage shows § 87(2)(b) approach the bars of the holding cell, move his hands around his waistband, and stand in a wide-legged stance consistent with urination for approximately 15 seconds. The stationhouse footage does not depict urine leaving § 87(2)(b)'s body or a puddle form on the floor. Approximately 15 minutes after § 87(2)(b) appears to urinate, PO Mota grabs § 87(2)(b)'s shoes, belt, and jacket, located to the right of his cell on the stationhouse floor. PO Mota begins to walk away as § 87(2)(b) repeatedly gestures downward at the floor in front of him. As PO Mota walks out of frame, he drags § 87(2)(b)'s jacket along the floor in front of his holding cell in the same area that § 87(2)(b) stated he urinated in. After viewing the footage, PO Mota stated that he could not confirm when or specifically where § 87(2)(b) urinated and denied that he intentionally dragged § 87(2)(b)'s jacket on the ground.

NYPD Patrol Guide, Procedure 203-08 (Board Review 21), prohibits an officer from making a false official statement and states that an officer found to have made such a statement will be subject to disciplinary action. The statement must be proven to have been made, material, and intentionally false.

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
- PO Mota has been a member of service for 12 years and has been a subject in seven CCRB complaints and 21 allegations, none of which were substantiated. PO Mota’s CCRB history does not reflect any apparent pattern pertinent to this investigation.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- As of June 27, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (Board Review 23).
- § 87(2)(b) [Redacted]

Squad No.: #6

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date