

201502028
Eirk Worobey

On Saturday night, March 14, 2015, there was a shooting in Brooklyn, and officers were informed it was associated with the basement of a residence that was either hosting parties or operating as an informal club. The next night, March 15, Captain Erik Worobey and other officers from the 67th Precinct went to the location, entered the basement area, and confiscated cell phones that were present. Individuals that were present on the 15th left the scene.

In his CCRB interview, Captain Worobey stated that after learning that the shooting was connected to the informal club, he went to the building and knocked on the rear door, asking if anyone was inside, and only went around to the front and opened the door (which was unlocked) after hearing shuffling and noise inside, including voices yelling "hurry up, open the door, let me out." The surveillance video of the incident shows that Captain Worobey immediately went to the front door, and the people inside quickly fled.

The CCRB found that Captain Worobey had entered the premises improperly and had made a false statement when he stated he had knocked at the rear door before going through the front. The NYPD disciplined Captain Worobey by compelling him to forfeit 20 vacation days. He has subsequently been promoted to Deputy Inspector.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Leanne Fornelli	Team: Squad #8	CCRB Case #: 201502028	<input type="checkbox"/> Force	<input checked="" 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) Sunday, 03/15/2015 8:38 PM	Location of Incident: [REDACTED]	Precinct: 67	18 Mo. SOL 9/15/2016	EO SOL 9/15/2016	
Date/Time CV Reported Thu, 03/19/2015 4:53 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/19/2015 4:53 PM		

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

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM James Holder	18361	§ 87(2)(b)	067 PCT
2. Officers			Unknown
3. CPT Erik Worobey	00000	§ 87(2)(b)	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM James Chen	03779	§ 87(2)(b)	067 PCT
2. POM Marc Loyola	15528	§ 87(2)(b)	PBBS

Officer(s)	Allegation	Investigator Recommendation
A . CPT Erik Worobey	Abuse of Authority: Cpt. Erik Worobey entered and searched the basement of § 87(2)(b) in Brooklyn.	A . § 87(2)(g)
B . CPT Erik Worobey	Abuse of Authority: At § 87(2)(b) Cpt. Erik Worobey searched the cellphones of individuals.	B . § 87(2)(g)
C . CPT Erik Worobey	Abuse of Authority: At § 87(2)(b) Cpt. Erik Worobey seized individuals' property.	C . § 87(2)(g)
D . Officers	Abuse of Authority: § 87(2)(b) officers refused to provide their names and shield numbers to § 87(2)(b).	D . § 87(2)(g)
E . POM James Holder	Abuse of Authority: At the 67th Precinct stationhouse, PO James Holder did not process § 87(2)(b), § 87(2)(b)'s and individuals' complaint regarding officers.	E . § 87(2)(b)
F . POM James Holder	Discourtesy: At the 67th Precinct stationhouse, PO James Holder spoke discourteously to § 87(2)(b), § 87(2)(b) and individuals.	F . § 87(2)(b)
G . POM James Holder	Abuse of Authority: At the 67th Precinct stationhouse, PO James Holder threatened to arrest § 87(2)(b), § 87(2)(b) and individuals.	G . § 87(2)(b)

Officer(s)	Allegation	Investigator Recommendation
H . CPT Erik Worobey	Other: There is evidence suggesting that Cpt. Erik Worobey provided a false official statement in violation of PG 203-08.	H . § 87(2)(g) [REDACTED]

Case Summary

On March 15, 2015, at 8:38 p.m. (time established from surveillance video from the location; Board Review (BR) 1), officers from the 67th Precinct arrived to § 87(2)(b)'s residence, § 87(2)(b) in Brooklyn. The following was alleged: At § 87(2)(b) in Brooklyn, Cpt. Erik Worobey entered and searched the basement of § 87(2)(b)'s property (**Allegation A**), searched the cellphones of individuals (**Allegation B**) and seized individuals' property (**Allegation C**). Also at this location, officers refused to provide their badge numbers to § 87(2)(b)'s cousin, § 87(2)(b) (**Allegation D**). At the 67th Precinct stationhouse, PO James Holder of the 67th Precinct refused to process § 87(2)(b)'s, § 87(2)(b)'s and individuals' complaint regarding officers (**Allegation E**), spoke discourteously to them (**Allegation F**) and threatened to arrest them (**Allegation G**). There is evidence suggesting that Cpt. Worobey provided a false official statement regarding the circumstances of this incident (**Allegation H**). No arrest was effected and no summons was issued as a result of this incident. Video footage (no audio) of the incident at § 87(2)(b) was captured on surveillance video (BR 1) and is discussed below.

This case was delayed from being submitted by the 90-day benchmark due to the multiple witnesses and victims to be contacted before the officers could be interviewed and due to the undersigned investigator's unplanned sick leave in September.

Mediation, Civil and Criminal Histories

- The allegation of damage to § 87(2)(b)'s property rendered this case ineligible for mediation.
- This report has been submitted pending the results of a FOIL request, sent on October 5, 2015, for any notice of claim filed in regard to the incident (BR 2).
- As of October 5, 2015, a search of Office of Court Administration records revealed no criminal convictions for either § 87(2)(b) or § 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by and involving § 87(2)(b) (BR 3).
- § 87(2)(b)'s CCRB history (BR 4) includes the following: § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- Cpt. Worobey has been a member of service (MOS) for twelve years and has 33 CCRB allegations pled against him in 15 other cases (BR 5). CCRB 201501263 and 201502922 collectively contain two allegations of abuse of authority (premises entered and/or searched) which the Board substantiated and recommended charges for, and the NYPD disposition and penalty are pending as of this writing. CCRB 200815448 and CCRB 201300686 collectively contain two allegations of abuse of authority (premises entered and/or searched) which were both closed as complainant uncooperative.
- PO Holder has been an MOS for three years and has one CCRB allegation pled against him in one other case (BR 6). § 87(2)(g)
§ 87(2)(g)

Potential Issue

§ 87(2)(b) and § 87(2)(b) are victims in this case. Contact attempts via telephone, mail and email (when applicable) were exhausted as per agency standards for each of them. On October 5, 2015, an online search of the New York City Department of Corrections Inmate Lookup Service revealed that they were not incarcerated. As of this writing, none of them have contacted the undersigned investigator. There were additional victims for whom § 87(2)(b) had no names or contact information for (explained below). Without further information, these individuals could not be identified and contacted.

Findings and Recommendations

Explanation of Subject Officer Identification

- Cpt. Worobey (BR 7) acknowledged that it was his decision to enter and search the residence, and voucher the cellphones found there. Thus, Allegations A and C have only been pled against Cpt. Worobey, and no other officer.
- § 87(2)(b) (BR 8) said that when he learned that officers had entered his residence, he called § 87(2)(b) as the officers were leaving and told him to collect their names and badge numbers. § 87(2)(b) said that he heard over the phone the officers refuse to provide this information. As § 87(2)(b) was not present to see which officers did this and § 87(2)(b) did not participate with the investigation, the subject officers of this allegation could not be identified. Allegation C has therefore been pled against officers.

Allegation A – Abuse of Authority: Cpt. Erik Worobey entered and searched the basement of § 87(2)(b) in Brooklyn

§ 87(2)(b) (BR 8) said that he was eating dinner at a restaurant when he received a call from one of his tenants, § 87(2)(b) who said that officers were breaking into the basement of the residence. The residence is owned by § 87(2)(b)'s father and § 87(2)(b) is listed as a manager. No one lives in the basement and § 87(2)(b) uses the area as a “man space.” § 87(2)(b) began driving home, during which time he called his cousin, § 87(2)(b) who he thought was present. § 87(2)(b) was not present, but § 87(2)(b)'s friends, who were later identified as including § 87(2)(b) and § 87(2)(b) were in the basement. By the time § 87(2)(b) arrived to the building, the officers had left. § 87(2)(b) observed that damage had been done to the door through which the officers entered and which is located in hallway of the building.

In § 87(2)(b)'s phone statement (BR 9), she said that she spoke to Cpt. Worobey and his partner, identified as PO James Chen of the 67th Precinct, when they entered the building. One of them asked what goes on in the basement and she said that she did not know, as she does not go down there. Cpt. Worobey mentioned the shooting the day before, and § 87(2)(b) said that she heard the gunshots. Cpt. Worobey asked if the owner of the building was there, and § 87(2)(b) said that the owner lived in Florida. The officers proceeded toward the basement door, at which time she went into her apartment and locked the door. She thought the officers broke the door down because she heard banging and when she cracked it open once, she saw an officer hammering something into the door.

Cpt. Worobey (BR 7), who was the commanding officer of the precinct on the date of the incident, did not view the video footage of this incident, as it was received after his CCRB interview was conducted. He said that the night before the incident, he responded to multiple 911

calls of a shooting from § 87(2)(b). The victim of the shooting, § 87(2)(b), stated that he was in the basement of § 87(2)(b) at a party when an individual who he only knows as § 87(2)(b) produced a shotgun and fired multiple times as § 87(2)(b) was leaving. Cpt. Worobey went around the corner to the residence where many parents had gathered and were saying that they wanted to pick up their teenager. They referred to the location as a club, party and fete (Caribbean word for party house). Cpt. Worobey observed cameras outside the location, and thought that there could be a nightclub within. Detectives arrived and evacuated everyone safely from the building. Cpt. Worobey received no information about who the owner of the premises was. A history search was conducted on the location, revealing that the building had a violent history that included many calls and police responses, the last incident occurring in 2009. Cpt. Worobey had never personally made arrests at the location.

Cpt. Worobey said that the next day, on the date of the incident in question, he went to the scene with PO Chen to see if there was any further activity and prevent another retaliatory shooting. He intended to meet with the owners and residents to determine what occurred the night before and put these individuals in touch with the assigned detective, Det. Yaqube Algabyali of the 67th Precinct Detective Squad. First, he knocked on the exterior basement door next to the stairs leading up to the front door of the building. He heard scuffling of objects being moved and overturned, people running, and male and female voices yelling in distress. He could not determine how many people were inside. He repeatedly knocked, and did not enter. When there was no response, he and PO Chen went to the rear of the location where they encountered a storm door. Cpt. Worobey pulled on the door and could feel it being pushed out from the other side, but it would not open because it was locked. He heard people inside say, "Hurry up. Open the door. Open the door. Let me out. Let me out." Cpt. Worobey yelled to them, "It's locked," and that he could not open the door. After a few minutes, the officers returned to the front of the building. They walked through the front door, which was unlocked. In the hallway was another door to the basement. Cpt. Worobey could not recall the condition of the door, or whether or not it was damaged. He opened the door with a knife by sliding it into the door as one would a credit card, as the door was only locked and not bolted. No damage was done to the door as a result of this. The knife was the only tool he used to open the door. He went into the basement and yelled, "It's the police. We're here to help you." Cpt. Worobey did not have a search warrant for the location, and only entered for the sole purpose of helping the people inside.

Cpt. Worobey said that as he went down the dimly lit stairwell and into the basement, he did not draw his gun for safety reasons, as it is much easier to draw a gun than to re-holster it. He did not know if PO Chen, who was behind him, drew his gun. He could not recall if he used his flashlight. When he arrived downstairs, he made a turn and saw people's feet as they exited the storm door. He did not pursue them or instruct that this be done, as his main concern was to ensure that no one had been shot again. He conducted a protective sweep and the location did not seem to be a residence, but a nightclub, as there was a bar with a cooler, and tables and chairs. Leading to the storm door was a couch, a small television and screens with surveillance footage on which Cpt. Worobey watched himself in real time. On the table, there were many cellphones and a marijuana cigarette rolled in a dollar bill. After Cpt. Worobey determined that there was no one hiding in the location, he made a call for backup for officers to assist him in vouchering the property found. Cpt. Worobey did not search the cellphones or instruct that this be done.

PO Chen (BR 10) said that Cpt. Worobey informed him of the shooting that occurred the day before, for which PO Chen was not present, and said they were going to do a vertical patrol of the incident location which entails a check for safety from the roof to the bottom of the

building. PO Chen did not know of Cpt. Worobey was interested in any specific apartment within the building. When the officers arrived, they walked through the front door of the building. PO Chen could not recall if Cpt. Worobey first went anywhere else outside the residence before entering the front door. He could not recall if he and Cpt. Worobey separated at any time. PO Chen never went to the rear or the side of the building. He did not know about the storm door at the rear of the building until he encountered it from the inside of the basement. He did not go to the storm door before going through the front door.

PO Chen said that inside the building, Cpt. Worobey first went to the door to the basement which was located to the right upon entering the building. At that time, PO Chen did not know that the door led to the basement and did not know where it led. He could not recall there being any damage on the door. There was no number or letter on the door and he could not recall if there was a buzzer. Cpt. Worobey said nothing to indicate why he chose that door in particular, and said nothing about the door being an entrance to an illegal nightclub. PO Chen had no previous knowledge of the space being used as an illegal nightclub. He did not know if there was a search warrant obtained for the residence.

PO Chen said that Cpt. Worobey knocked on the door, at which time PO Chen stood directly next and to the left of him. Cpt. Worobey said nothing when he knocked. PO Chen heard no noises from within the door while it was closed. Cpt. Worobey tried to open the door and it was locked. PO Chen could not recall if he also tried to open the door. After a few seconds, Cpt. Worobey asked PO Chen to pick the lock of the door with his knife. PO Chen unlocked the door by sliding his knife through the crack, which took him one to two minutes. As Cpt. Worobey pulled open the door and immediately entered, PO Chen did not check the door for damage, and did not know if any was done as a result of him unlocking the door with the knife. PO Chen was unaware of any damage being done to the door during this process.

PO Chen said that Cpt. Worobey led the way down the stairwell into the basement. Cpt. Worobey provided no reason as to why the officers were entering the basement, and PO Chen was only following him because he was the supervisor and for officer safety. At this time, PO Chen heard a lot of noises that sounded like people moving around, leaving and running out the back entrance. He did not hear sounds of distress or anything indicative of someone being trapped within the basement. He did not see Cpt. Worobey pulling on any door within the basement. PO Chen did not say anything to announce himself and could not recall Cpt. Worobey doing this.

PO Chen said the area downstairs looked like a nightclub because there was a stage and speakers. The officers did not encounter anyone at any time in the basement. The officers made two left turns to arrive at a sliding door, from where the noises were heard. The sliding door opened to an area with couches, surveillance video and cellphones in plain view. Cpt. Worobey picked up the cellphones and looked through them. PO Chen did not know if Cpt. Worobey pressed any buttons to do this, but he saw that the screens were illuminated. PO Chen could not recall anything else he saw, and did not see or smell drugs. He could not recall if he saw any personal effects, such as jackets or purses. He did not see anyone leaving and the people inside could have left through the storm door, which was at the rear of this area. After the cellphones were vouchered, the officers left the location together.

The surveillance footage of the incident ( SampleVDE01.mp4 ; BR 1) shows eight views of different areas around the residence. At the 00:19 minute mark, a marked SUV pulls up outside the residence, first seen in view 3 and then view 2, slightly further down the street. At 00:38, in view 2, Cpt. Worobey, followed by PO Chen, exit the vehicle and walk up to the front door of the

residence without going to any other door outside the residence first. At 00:50, in view 4, Cpt. Worobey followed by PO Chen enters the front door of the building which appears to have been unlocked. From 00:50 to 1:10, in view 4, Cpt. Worobey stands in the hallway, partially out of view, and it cannot be seen what he is doing with his hands. Cpt. Worobey disappears from view from 1:10 and PO Chen disappears from view at 1:21. The video contains no footage of property being damaged and it does not show the officers opening the door to the basement.

At 03:23, the officers reappear in view 6, showing the main area of the basement. Upon viewing the video, PO Chen said that when the officers were out of view, he was picking the lock to the door. The officers walk toward a door to the left of the frame in view 6. At 03:32, the five individuals sitting in the area behind the sliding door in view 5 quickly exit through a door identified by PO Chen as the storm door in the rear of the area. At 03:36, in view 8, the first of the individuals is seen leaving the building via the storm door which he exits with no issue, followed by the others. Neither Cpt. Worobey nor PO Chen is ever seen in view 8 outside the storm door. At 03:40, in view 7, the first of the individuals is seen running down an alley alongside the building followed by the others.

At 03:58, Cpt. Worobey opens the sliding door in view 5, at which time the last individuals are walking down the alley in view 7, out of view of Cpt. Worobey from inside the basement. From 03:58 to 05:17, in view 5, the officers look around the area behind the sliding door with their flashlights. At 05:20, PO Chen walks out of the area in view 5 and eventually reenters the main area in view 6 at 06:15. He said that he was securing the rest of the basement during this time. As he does this, Cpt. Worobey interacts with the screen of a cellphone and it is unclear from where he retrieved it. At 05:47, Cpt. Worobey puts down the cellphone on the table and picks up another. He interacts with the screen of the second cellphone before setting it down on the table at 05:53. He walks to the back of this area and at 06:09, he brings back a third cellphone. At 06:17, he begins to stack the cellphones on the table. At 6:32, he picks up a fourth cellphone from an unseen surface at the front of the area, interacts with the screen, and sets it down on the table at 06:41. From 07:30 to 07:57, Cpt. Worobey picks up a jacket and looks through the pockets. PO Chen's memory of this was prompted when he viewed the video and he did not have an independent recollection of this. The search of the jacket was interrupted at 07:40 when Cpt. Worobey picked up a cellphone from the table. He interacts with the screen and then puts it to his ear at 07:45, at which time he continues looking through the jacket with his free hand. At 08:06, after he had walked away from the jacket, he takes the cellphone from his ear and interacts with the screen before replacing the phone on the table at 08:11.

The video then shows the officers continuing to look around the basement. At 10:37, in view 2, the officers are seen exiting the building via a door to the side of the main staircase leading up to the front door before reentering the basement. This is the first time the officers use this door. At 11:39, in view 6, Cpt. Worobey turns on the lights in the main area of the basement. Chairs are stacked to the left of frame and no bar or speakers can be seen. PO Chen said that the speakers were in the back of this area, out of view of the camera. Nothing in the camera's view makes it readily apparent that the space was a nightclub. At 12:55, in view 2, the officers exit the building via the door next to the front door and stand while talking.

At 14:00, in view 3, two additional backup officers arrive. At 14:13, Cpt. Worobey leads the officers into the main area of the basement, seen in view 6. The officers cluster around Cpt. Worobey, who appears to be speaking. At 15:06, as seen in view 5, Cpt. Worobey leads them into the area behind the sliding door and appears to be pointing out the surveillance footage to them. He then leads them to the back, where the storm door is located. At 15:53, he leads them out of

the room and into the main area, seen in view 6. At 16:17, all the officers leave via the door next to the front door, which can be seen in views 1 and 2. At 17:39, individuals reenter the basement and seemingly look for belongings until the video ends at 19:15.

DD5's from Detective Borough Brooklyn show that on March 14, 2015, a shooting was reported in the basement of [REDACTED] § 87(2)(b) [REDACTED] (BR 11).

The rule that warrantless searches are generally unreasonable applies to commercial premises as well as homes, and the *Fourth Amendment* prohibition against unreasonable searches protects against warrantless intrusions during criminal investigations, Marshall, Secretary of Labor et al. v. Barlow's, Inc., 436 U.S. 307 (1978) (BR 12).

§ 87(2)(g) [REDACTED] the surveillance video footage that shows that upon the officers' arrival, they went straight through the front door and entered the basement via the interior basement door, without going to any other door. § 87(2)(g) [REDACTED]

Allegation B – Abuse of Authority: At [REDACTED] § 87(2)(b) [REDACTED] Cpt. Erik Worobey searched the cellphones of individuals.

Neither § 87(2)(b) [REDACTED] (BR 8) nor any civilian was present when Cpt. Worobey and PO Chen searched the residence.

Cpt. Worobey (BR 7) said that he did not search any cellphones that were found within the residence. When asked if someone else searched them, he said this was not done to his knowledge and he gave no instructions for them to be searched.

PO Chen (BR 10) said that Cpt. Worobey went through the cellphones because PO Chen saw the screens illuminated. PO Chen did not know if Cpt. Worobey pressed any buttons on the cellphones. Cpt. Worobey did not say what information he was looking for in the cellphones. PO Chen thought Cpt. Worobey went through the cellphones to discover to whom they belonged.

The surveillance footage of the incident (BR 1) in view 5 shows the following: At the 05:14, 05:48 and the 6:31 minute marks, Cpt. Worobey briefly interacts with 3 of the 6 cellphones that are found. It is unclear the extent to which he accesses them. At the 07:44 minute mark, Cpt. Worobey picks up one of the cellphones and holds it to his ear until the 08:08 minute mark, when he sets it down.

While the investigation determined from the evidence of the video footage that Cpt. Worobey tried to access the cellphones, the extent to which he was able to do so remains in question, as Cpt. Worobey denied doing this and PO Chen only saw the screens of the cellphones illuminated. § 87(2)(g) [REDACTED]

§ 87(2)(g)

Allegation C—Abuse of Authority: At § 87(2)(b) Cpt. Erik Worobey seized individuals' property.

It is undisputed that Cpt. Worobey took the cellphones he found at the initial incident location and vouchered them. Cpt. Worobey (BR 7) said that in general, when officers find property that is unaccounted for, the protocol is to voucher it as either found or safekeeping property, even if the property is found within a residence. As the location was not secured, anyone could have walked in and taken what was inside.

The surveillance footage of the incident (BR 1) in view 5 shows the following: At the 6:20 minute mark, Cpt. Worobey stacks the cellphones he finds on the table, which he takes out of the room at 11:05. At 7:23, he picks up a jacket from the sofa and searches it. This jacket remains at the location and is never removed by any officer.

The property voucher generated in regard to the incident (BR 12) lists 6 cellphones and their accessories as found property. The voucher notes that the items were found in the basement of § 87(2)(b).

Officers are to invoice any found property that they take into custody, Patrol Guide Procedure 218-01 (BR 13).

§ 87(2)(g)

[REDACTED]

Allegation D – Abuse of Authority: At § 87(2)(b) officers refused to provide their names and shield numbers to § 87(2)(b)

§ 87(2)(b) (BR 8) said that when he received the call that officers had entered his residence, he called his cousin, § 87(2)(b) was informed by § 87(2)(b) that the officers were leaving the premises and § 87(2)(b) told § 87(2)(b) to get the officers' names and badge numbers. § 87(2)(b) went down the block while on the phone with § 87(2)(b) and said that four to six officers, three of whom were identified via investigation as Cpt. Worobey, PO Chen, and PO Marc Loyola of Patrol Borough Brooklyn South, were entering a vehicle. § 87(2)(b) said, "Yo, I got the owner on the phone," and asked the officers for their names and

badge numbers. § 87(2)(b) heard the officers say, “No names.” § 87(2)(b) said, “Uh, aren’t you supposed to give me a badge number?” § 87(2)(b) heard the officers say, “No, we don’t have to. We can just do that.”

§ 87(2)(b) scheduled two appointments with the CCRB to provide testimony, and did not appear for either of them. He did not call ahead of time to cancel or reschedule. To date, § 87(2)(b) has not contacted the undersigned investigator.

Cpt. Worobey (BR 7) could not recall any interaction in which someone outside the residence stated that they had the owner on the phone and requested his identifying information. He denied ever refusing to provide this information and did not witness any other officer do this. PO Chen (BR 10) said that no one approached the officers outside for identifying information or stated that they had the owner on the phone.

§ 87(2)(g)

Allegation E – Abuse of Authority: At the 67th Precinct stationhouse, PO James Holder did not process § 87(2)(b) s. § 87(2)(b) s and individuals' complaint regarding officers.

§ 87(2)(b) (BR 8) said that he, § 87(2)(b) and four other individuals whose names he did not know went to the 67th Precinct stationhouse after the officers left his residence. § 87(2)(b) and the other individuals had property missing. An officer identified as PO Holder addressed the group. He told them that they needed to bring receipts proving ownership of the property in order to have it returned. § 87(2)(b) and the others argued that the property was stolen from them and they should not need receipts to retrieve it. PO Holder eventually said that if the group did not have receipts, they needed to leave because they were making a lot of noise. § 87(2)(b) said that by that time, some individuals in the group were yelling. § 87(2)(b) asked PO Holder to make a report and he said, “No, you can’t make no report either.”

PO Holder (BR 14) said that he had just ended his tour when § 87(2)(b) and the other individuals arrived at the stationhouse to retrieve their property. PO Holder went to speak to Cpt. Worobey, who was in the administrative office. Cpt. Worobey told PO Holder that all the individuals ran from the location and in order to retrieve their cellphones, they needed proof that it was theirs such as a receipt, phone bill or other documentation to ensure it was being given to the rightful owners. Cpt. Worobey did not go to speak with the individuals and PO Holder did not know why. PO Holder went to explain to § 87(2)(b) and the others what Cpt. Worobey had said. One of the individuals in the group screamed, “This is BS. I want my phone. I want to make a complaint.” PO Holder pointed to the wall with the CCRB’s information and told them that they could use that to make a complaint. The individual stated that he did not want to do this, and wanted to speak to a sergeant. As the stationhouse was busy, the desk sergeant was not present, which is why PO Holder directed the group to the information on the wall. PO Holder tried to retrieve Cpt. Worobey, but he had left the building by this time and could not be found. Usually, a sergeant can take complaints, but an officer may not do this. He also wanted the group to leave the stationhouse and file the complaint by telephone or online to prevent the situation from escalating because they were behaving loudly and discourteously.

For complaints made in-person at a patrol precinct against a uniformed member of service, an officer must interview the complainant and give them a Civilian Complaint Report to complete and sign, Patrol Guide Procedure 207-31 (BR 15).

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Discourtesy: At the 67th Precinct stationhouse, PO James Holder spoke discourteously to § 87(2)(b) and individuals.

Allegation G – Abuse of Authority: At the 67th Precinct stationhouse, PO James Holder threatened to arrest § 87(2)(b) and individuals.

§ 87(2)(b) (BR 8) said that after PO Holder would not take a report, he stated that if the group did not have receipts, they needed to leave because they were making a lot of noise. § 87(2)(b) said that by that time, some individuals in the group were yelling. PO Holder said two to three times, “Get the fuck out of here, or you’re going to be arrested.” When it became clear that the situation would not be resolved, the group left the stationhouse. The other victims in this case either did not participate in the investigation or could not be reached to provide a statement.

PO Holder (BR 14) said that the group was acting loudly and discourteously, and refused to leave the stationhouse. They eventually became so loud that PO Holder said, “Listen, you have to leave. You have to get out of here.” The group refused, and PO Holder told them that if they did not leave, they would be arrested. The group could have been arrested for trespassing and disorderly conduct, which is why PO Holder informed them of this. PO Holder possibly cursed at the individuals, but he could not recall for certain. He could not recall saying, “Get the fuck out of here.” The group eventually left the stationhouse.

Members of service are to be courteous and respectful in their interactions with the public, Patrol Guide Procedure 203-09 (BR 16).

§ 87(2)(g)

Allegation H – Other: There is evidence suggesting that Cpt. Erik Worobey provided a false official statement in violation of PG 203-08.

As discussed in Allegation B, Cpt. Worobey (BR 7) said that when he and PO Chen arrived to the initial incident location, he knocked on the exterior basement door next to the stairs leading up to the front door of the building. He heard scuffling of objects being moved and overturned, people running, and male and female voices yelling in distress. He could not determine how many people were inside. He repeatedly knocked, and did not enter. When there was no response, he and PO Chen went to the rear of the location where they encountered a storm door. Cpt. Worobey pulled on the door and could feel it being pushed out from the other side, but it would not open because it was locked. He heard people inside say, "Hurry up. Open the door. Open the door. Let me out. Let me out." Cpt. Worobey yelled to them, "It's locked," and that he could not open the door. After a few minutes, the officers returned to the front of the building. They walked through the front door, which was unlocked. In the hallway was another door to the basement. After Cpt. Worobey used the knife to open the door, he went into the basement and yelled, "It's the police. We're here to help you." Cpt. Worobey did not have a search warrant for the location, and only entered for the sole purpose of helping the people inside. Cpt. Worobey also denied searching the cellphones found inside the premises.

PO Chen (BR 10) said that when the officers arrived, they walked through the front door of the building. PO Chen could not recall if Cpt. Worobey first went anywhere else outside the residence before entering the front door. He could not recall if he and Cpt. Worobey separated at any time. PO Chen never went to the rear or the side of the building. He did not know about the storm door at the rear of the building until he encountered it from the inside of the basement. He did not go to the storm door before going through the front door. PO Chen said that Cpt. Worobey looked through the phones that he found within the premises.

The surveillance footage of the incident (BR 1) shows the following: At 00:38, in view 2, Cpt. Worobey, followed by PO Chen, exit their marked SUV and walk up to the front door of the residence without going to any other door outside the residence first. At 00:50, in view 4, Cpt. Worobey followed by PO Chen enters the front door of the building which appears to have been unlocked. From 00:50 to 1:10, in view 4, Cpt. Worobey stands in the hallway, partially out of view, and it cannot be seen what he is doing with his hands. Cpt. Worobey disappears from view from 1:10 and PO Chen disappears from view at 1:21. At 03:23, the officers reappear in view 6, showing the main area of the basement. At 03:32, the five individuals sitting in the area behind the sliding door in view 5 quickly exit through a door identified by PO Chen as the storm door in the rear of the area. At 03:36, in view 8, the first of the individuals is seen leaving the building via the storm door which he exits with no issue, followed by the others. Neither Cpt. Worobey nor PO Chen is ever seen in view 8 outside the storm door. At 03:40, in view 7, the first of the individuals is seen running down an alley alongside the building followed by the others. From 0:547 to 08:11, Cpt. Worobey is seen interacting with the screens of four different cellphones, and also holds one of them to his ear as if speaking on it.

Members of service are prohibited from making false official statements, Patrol Guide Procedure 203-08 (BR 17).

§ 87(2)(g)

Squad: 8

Investigator: _____ Leanne Fornelli _____
Signature Print Date

Squad Leader: _____ _____ _____
Title/Signature Print Date

Attorney: _____ _____ _____
Title/Signature Print Date