

201701731
Julius Leung

Sergeant Leung was a witness to an arrest on November 17, 2016. When the CCRB obtained a copy of his memo book from the Internal Affairs Bureau, it had a detailed account of the incident in it, including a description of the injuries sustained by a civilian. In his CCRB interview later, Sergeant Leung brought a memo book that had a single, shorter, entry in it and did not mention the injuries.

Under questioning, Sergeant Leung, first claimed that the entries in the book were accurate, then when showed the photocopied entries from IAB, first stated that “they” may have written in a “different book,” and then said that maybe he had lost his memo book. When asked about whether he had in fact lost a memo book, he came up with yet another explanation, that he had written the other entries in a different book to give a more complete account of the incident for an integrity control officer. When asked when he had done this, he stated he could not remember.

In the incident that Sergeant Leung witnessed, the CCRB eventually cleared the officers. The CCRB did find that Sergeant Leung had lied in his CCRB interview when he testified that he had not doctored his memo book.

The NYPD issued no punishment to Sergeant Leung.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Nora Chanko	Team: Squad #3	CCRB Case #: 201701731	<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 checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 11/17/2016 12:25 AM	Location of Incident: [REDACTED]	Precinct: 107	18 Mo. SOL 5/17/2018	EO SOL 5/17/2018	
Date/Time CV Reported	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Tue, 03/07/2017 11:08 AM		

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

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

Subject Officer(s)	Shield	TaxID	Command
1. SGT Kenneth Farrell	05265	§ 87(2)(b)	107 PCT
2. SGT Julius Leung	02810	§ 87(2)(b)	107 PCT
3. DTS Kevin Choi	5447	§ 87(2)(b)	107 PCT
4. Officers			107 PCT
5. An officer			107 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Vincent Danseglio	13866	§ 87(2)(b)	107 PCT
2. POM Joseph Bergersen	11069	§ 87(2)(b)	107 PCT
3. POM Jeesoo Pak	09861	§ 87(2)(b)	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A . SGT Kenneth Farrell	Force: Sergeant Kenneth Farrell pointed his gun at § 87(2)(b) [REDACTED].	A . Unfounded
B . SGT Kenneth Farrell	Off. Language: Sergeant Kenneth Farrell made remarks to § 87(2)(b) [REDACTED] based upon ethnicity.	B . Unfounded
C . SGT Kenneth Farrell	Off. Language: Sergeant Kenneth Farrell made remarks to § 87(2)(b) [REDACTED] based upon ethnicity.	C . Unfounded
D . DTS Kevin Choi	Off. Language: Detective Kevin Choi made remarks to § 87(2)(b) [REDACTED] based upon ethnicity.	D . Unfounded
E . DTS Kevin Choi	Off. Language: Detective Kevin Choi made remarks to § 87(2)(b) [REDACTED] son based upon ethnicity.	E . Unfounded
F . An officer	Off. Language: An officer made remarks to § 87(2)(b) [REDACTED] based upon ethnicity.	F . Unfounded
G . An officer	Off. Language: An officer made remarks to § 87(2)(b) [REDACTED] based upon ethnicity.	G . Unfounded
H . SGT Kenneth Farrell	Off. Language: Sergeant Kenneth Farrell made remarks to § 87(2)(b) [REDACTED] based on the perceived mental health of § 87(2)(b) [REDACTED].	H . Unfounded

Officer(s)	Allegation	Investigator Recommendation
I . DTS Kevin Choi	Off. Language: Detective Kevin Choi made remarks to § 87(2)(b) based on the perceived mental health of § 87(2)(b).	I . § 87(2)(g)
J . An officer	Off. Language: An officer made remarks to § 87(2)(b) based on the perceived mental health of § 87(2)(b).	J . § 87(2)(g)
K . Officers	Force: Officers pointed their guns at § 87(2)(b).	K . § 87(2)(g)
L . SGT Kenneth Farrell	Force: Sergeant Kenneth Farrell used a Taser against § 87(2)(b).	L . § 87(2)(g)
M . SGT Kenneth Farrell	Force: Sergeant Kenneth Farrell used a Taser against § 87(2)(b).	M . § 87(2)(g)
N . DTS Kevin Choi	Force: Detective Kevin Choi used physical force against § 87(2)(b).	N . § 87(2)(g)
O . DTS Kevin Choi	Discourtesy: Detective Kevin Choi spoke discourteously to § 87(2)(b).	O . § 87(2)(g)
§ 87(2)(g)	§ 87(2)(b)	§ 87(2)(g)
Q . SGT Julius Leung	Other: There is evidence suggesting Sergeant Julius Leung provided a false official statement in violation of PG 203-08.	Q . § 87(2)(g)

Case Summary

§ 87(2)(b) filed this complaint via an e-mail which was received by IAB on March 1, 2017. This complaint was received by the CCRB on March 7, 2017, via IAB Log 2017-7892.

At approximately 12:25 a.m. on November 17, 2016, § 87(2)(b) and her boyfriend, § 87(2)(b) were having a dispute on the southwest corner of 75th Road and Parsons Boulevard in Queens. Sgt. Kenneth Farrell and Det. Kevin Choi of the 107th Precinct arrived and Sgt. Farrell allegedly pointed his gun at § 87(2)(b) (**Allegation A: Force**, § 87(2)(g)). Sgt. Farrell, Det. Choi, and an unidentified officer allegedly made offensive remarks based on ethnicity towards § 87(2)(b) and § 87(2)(b) and based on the perceived mental health of § 87(2)(b) (**Allegations B through J: Offensive Language**, § 87(2)(g)). Officers allegedly pointed their guns at § 87(2)(b) (**Allegation K: Force**, § 87(2)(g)). Sgt. Farrell tased § 87(2)(b) twice (**Allegation L: Force**, § 87(2)(g); **Allegation M: Force**, § 87(2)(g)). Det. Choi allegedly used physical force against § 87(2)(b) and spoke discourteously towards her (**Allegation N: Force**, § 87(2)(g); **Allegation O: Discourtesy**, § 87(2)(g)). PO Vincent D'Anseglio, PO Joseph Bergersen, and Sgt. Julius Leung, also of the 107th Precinct, arrived. § 87(2)(b) and § 87(2)(b) were placed under arrest. § 87(2)(b) was arrested for assault in the second degree, aggravated contempt, specifically violating an order of protection and intentionally or recklessly causing physical injury, and for assault with intent to cause physical injury. § 87(2)(b) was arrested for aggravated contempt, specifically violating an order of protection and intentionally or recklessly causing physical injury, assault with intent to cause physical injury, resisting arrest, and menacing in the third degree (12 Board Review). § 87(2)(b) and § 87(2)(b) were removed to separate hospitals. PO Jeesoo Pak, of the 107th Precinct at the time of the incident (currently assigned to the 100th Precinct), guarded § 87(2)(b) at the hospital. § 87(2)(b) there is evidence suggesting that Sgt. Leung provided a false official statement (§ 87(4-b), § 87(2)(g)); **Allegation Q: False official statement**, § 87(2)(g)).

No video footage was obtained regarding this incident.

Findings and Recommendations

Allegation (A) Force: Sergeant Kenneth Farrell pointed his gun at § 87(2)(b)

Allegation (K) Force: Officers pointed their guns at § 87(2)(b)

In her sworn statement, § 87(2)(b) stated that she was assaulted by a friend, § 87(2)(b), which caused visible injuries to her face. § 87(2)(b) went to the 107th Precinct stationhouse, but an officer refused to file a report § 87(4-b), § 87(2)(g). § 87(2)(b) left the precinct stationhouse and called her sister, § 87(2)(b), and they walked to a bus stop on 75th Road and Parsons Boulevard, a few blocks from her and § 87(2)(b)'s house. A person named § 87(2)(b) saw § 87(2)(b)'s injuries and told § 87(2)(b) and he came to the bus stop wearing only shorts and socks. § 87(2)(b) and § 87(2)(b) had an argument and yelled at each other, and § 87(2)(b) punched through the glass at the bus stop. § 87(2)(b) and § 87(2)(b) walked to another bus stop on 77th Road and Parsons Boulevard, and § 87(2)(b) followed them and said he was not going to yell anymore.

Three marked police vehicles and one EMS vehicle arrived. All of the officers remained in their vehicles and rolled the windows down. PO D'Anseglio asked § 87(2)(b) and § 87(2)(b) if everything was alright, and they said yes. The officers rolled their windows back up but remained on the scene, and three additional police vehicles and one additional EMS vehicle arrived. Sgt. Farrell exited a marked SUV, and pointed his weapon at § 87(2)(b) and gave him a command either to move or not to move. Det. Choi got out of the driver's seat of the same marked SUV and told Sgt. Farrell to put his gun away. Sgt. Farrell put his gun away. Sgt. Farrell made offensive remarks to § 87(2)(b) and § 87(2)(b) (discussed in the allegations below) after which § 87(2)(b) told the officers that they had no reason to stop him, and he began to walk away. Sgt. Farrell took a Taser out, and all of the other officers who were in their vehicles, exited and pointed their guns at § 87(2)(b) (All of the other officers who responded to this incident denied being present for this portion of the incident; therefore, this allegation is pleaded against officers. Because § 87(2)(b) was tased, no allegation was pleaded regarding Sgt. Farrell pointing his Taser at § 87(2)(b)).

In her phone statement to the CCRB, § 87(2)(b) stated that she obtained her injuries after § 87(2)(b) followed and assaulted her after she left the 107th Precinct stationhouse. She stated that when officers arrived, they exited their vehicles and approached § 87(2)(b) and asked her if she was okay. She did not allege that officers pointed their guns.

In his phone statement, § 87(2)(b) said that he was in his house when § 87(2)(b) told him that he saw someone assaulting § 87(2)(b) (05 Board Review). § 87(2)(b) left his house and arrived to find § 87(2)(b) bleeding from her mouth. § 87(2)(b) was also present. § 87(2)(b) and § 87(2)(b) spoke at a loud volume, but he was not threatening her. Five to six police vehicles arrived and about 10 white uniformed officers exited the vehicles, including Sgt. Farrell. Officers gave § 87(2)(b) commands to put his hands up and get on the ground, among other things. § 87(2)(b) got on his knees and put his hands in the air. Officers spoke to § 87(2)(b) and she said § 87(2)(b) had not done anything to her. All 10 officers pulled out their weapons and pointed them at § 87(2)(b).

During his video teleconference (VTC), § 87(2)(b) did not allege that officers drew or pointed their weapons until he was asked about the allegation he made during his prior statement. He then said he thought that the officers who stayed by the police vehicles took their guns out but he did not allege that they pointed them at him.

EMT § 87(2)(b) stated that officers were already present upon his arrival and that no officers pointed their guns while he was present. EMS Lieutenant § 87(2)(b) stated that he was not present during this portion of the incident, but said that when he arrived, no officers had their weapons out of their holsters.

Sgt. Farrell stated that he was on patrol with Det. Choi when an assault in progress involving a knife came over the radio. Sgt. Farrell was close to the scene and arrived approximately one minute later. When Sgt. Farrell arrived, § 87(2)(b) was "going after" § 87(2)(b) he was either grabbing her shoulders or attempting to punch her. Sgt. Farrell and Det. Choi got out of the car and § 87(2)(b) and § 87(2)(b) separated. § 87(2)(b) stood with his hands behind his back. Sgt.

Farrell instructed § 87(2)(b) to show his hands multiple times but he did not comply, even when Sgt. Farrell warned § 87(2)(b) that he would tase him if he did not make his hands visible. Sgt. Farrell did not draw or point his gun, and was not aware of any other officers doing so.

Det. Choi's statement was largely consistent with Sgt. Farrell's. Det. Choi said that he had his hand on his gun, but did not remove it from its holster at the location. Det. Choi said that neither Sgt. Farrell nor any other officers drew their guns or pointed them at anyone.

All of the other officers who arrived on scene denied being present for this portion of the incident and denied drawing or pointing their weapons.

In Domestic Incident Report (DIR) § 87(2)(b), prepared regarding this incident, § 87(2)(b) notes that she was standing at the bus stop when § 87(2)(b) ran out of nowhere and started punching her in the head and the face, causing her to sustain a laceration to her lip (13 Board Review).

§ 87(2)(g)

According to § 87(2)(b)'s statement in the DIR, she was assaulted by § 87(2)(b) at the bus stop and not by another individual earlier that day. § 87(2)(g)

§ 87(2)(b) did not allege that guns were drawn or pointed at all during her first statement to the investigation, and § 87(2)(b) did not allege it during his second statement until he was specifically asked and at that point he only alleged that guns were drawn, not pointed. § 87(2)(b) did not allege that Sgt. Farrell pointed his gun at him before the other officers exited their vehicles and pointed their guns. § 87(2)(g)

All of the officers denied pointing their weapons or seeing another officer do so.

§ 87(2)(g)

Allegation (B) Offensive Language: Sergeant Kenneth Farrell made remarks to § 87(2)(b) based upon ethnicity.

Allegation (C) Offensive Language: Sergeant Kenneth Farrell made remarks to § 87(2)(b) based upon ethnicity.

Allegation (D) Offensive Language: Detective Kevin Choi made remarks to § 87(2)(b) based upon ethnicity.

Allegation (E) Offensive Language: Detective Kevin Choi made remarks to § 87(2)(b) based upon ethnicity.

Allegation (F) Offensive Language: An officer made remarks to § 87(2)(b) based upon ethnicity.

Allegation (G) Offensive Language: An officer made remarks to § 87(2)(b) based upon ethnicity.

Allegation (H) Offensive Language: Sergeant Kenneth Farrell made remarks to § 87(2)(b) based on the perceived mental health of § 87(2)(b)

Allegation (I) Offensive Language: Detective Kevin Choi made remarks to § 87(2)(b) based on the perceived mental health of § 87(2)(b)

Allegation (J) Offensive Language: An officer made remarks to § 87(2)(b) based on the perceived mental health of § 87(2)(b)

§ 87(2)(b) stated in her sworn statement that after Sgt. Farrell put his gun away, Sgt. Farrell, Det. Choi, and a third officer wearing a white uniformed shirt, said that § 87(2)(b) and § 87(2)(b) were “monkeys” and they needed to go back to their country. § 87(2)(b) denied being present for the incident; therefore, an allegation was not pleaded with her as a victim (Board Review 08.) Sgt. Farrell, Det. Choi, and the third officer told § 87(2)(b) that no one was going to believe her because she was “retarded.” All three officers made these statements at the same time.

§ 87(2)(g) In her phone statement, § 87(2)(b) said that § 87(2)(b) was with her at the bus stop (though § 87(2)(b) initially provided her last name as § 87(2)(b) it was later determined to be § 87(2)(b) (02 Board Review). § 87(2)(b) said that officers called her, § 87(2)(b) and § 87(2)(b) “niggers” and “bitches.” (These allegations were not pleaded as § 87(2)(b) recanted these allegations during her sworn statement and § 87(2)(b) denied being present during the incident (Board Review 09).) § 87(2)(b) did not allege that any officers used any other offensive language.

§ 87(2)(g) In the statement obtained during his VTC, § 87(2)(b) stated that an officer asked § 87(2)(b) if § 87(2)(b) had assaulted her, and when she denied it, an officer said, “Oh, we don’t give a fuck,” (06 Board Review). Sgt. Farrell and two other officers said, “We’re tired of her fucking calling,” “We’re tired of her fucking retarded ass keep calling the police on people,” and, “Since you’re here, fuck it, you’re going to jail.” Sgt. Farrell also said § 87(2)(b) was “fucking retarded” and stupid. After Sgt. Farrell tased § 87(2)(b) Sgt. Farrell said, “I’m tired of you niggers and she’s a fucking retarded bitch.” (Because § 87(2)(b) did not provide a verified statement and § 87(2)(b) did not make these allegations, these allegations were not pleaded (07 Board Review).) § 87(2)(b) said that § 87(2)(b) was present when he arrived at the bus stop, but he did not see her after the police arrived.

§ 87(2)(b) did not allege, in his phone statement, that any officers used offensive language towards him, § 87(2)(b) or § 87(2)(b)

EMT § 87(2)(b) transported § 87(2)(b) and he noted that she was “frantic and disturbed,” but he did not recall her being upset about any language and did not recall any civilians complain of language used towards them (10 Board Review). EMT § 87(2)(b) did not hear any officers use the alleged language or any offensive language based on ethnicity or mental health status.

EMS Lieutenant § 87(2)(b) stated that he was not present during this portion of the incident, but said that while he was present, officers “absolutely” did not use any offensive language based on ethnicity or mental health status, and neither § 87(2)(b) nor § 87(2)(b) complained about those actions (11 Board Review). EMS Lieutenant § 87(2)(b) further stated that § 87(2)(b) and § 87(2)(b)

§ 87(2)(b) were uncooperative and verbally abusive towards everyone while he was present, and that they were cursing and using offensive language based on the races of the officers and EMS personnel present.

Sgt. Farrell denied having any contact or interaction with § 87(2)(b) and denied making the alleged language and was not aware of anyone else doing so.

§ 87(2)(g) Det. Choi did not recall anything being said to § 87(2)(b) before he was tased, other than the commands he and Sgt. Farrell issued. Det. Choi did not interact with § 87(2)(b) at the scene and denied making the alleged statements and denied that anyone else did so.

All of the other officers interviewed denied being present for this portion of the incident, and were not aware of any officers using the alleged offensive language nor were they aware of either civilian complaining of this.

The event regarding this incident shows that no officers higher than the rank of sergeant arrived on scene (Board Review 15).

§ 87(2)(g)

Regarding this portion of the incident, § 87(2)(b) initially alleged during her phone statement that an officer used the word “nigger” and “bitches” and that these words were also used towards § 87(2)(b) who denied being present. She did not allege that any other offensive language was used. She later recanted her original allegations, and alleged that Sgt. Farrell, Det. Choi, and another officer made other offensive statements. In addition to this, § 87(2)(b) alleged that these offensive statements were also made to § 87(2)(b) who also denied being present during the incident. § 87(2)(b) never alleged that any of these offensive statements were made.

§ 87(2)(b) did not allege that any officer used the word “retarded” towards her or used any language based on her mental health in her phone statement. While § 87(2)(b) alleged that Sgt. Farrell used the word “retarded” in reference to § 87(2)(b) during his VTC; the context was different, and § 87(2)(b) did not allege that Det. Choi used that word as well. § 87(2)(b) did not make this allegation in his first statement to the CCRB.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (L) Force: Sergeant Kenneth Farrell used a Taser against § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) had been involved in a physical altercation prior to the officers' arrival.

In her sworn statement, § 87(2)(b) stated that when § 87(2)(b) began to walk away from the officers, Sgt. Farrell pointed his Taser at § 87(2)(b) and told him to get on his knees. § 87(2)(b) complied and raised his hands over his head, at which point § 87(2)(b) heard Sgt. Farrell tase § 87(2)(b). § 87(2)(b) had not been given any further instructions prior to this.

§ 87(2)(b) was consistent in her statement that § 87(2)(b) was tased while he was on his knees with his hands in the air in her phone statement and in the e-mail in which she filed the complaint (02 and 03 Board Review).

In § 87(2)(b)'s phone statement, he said that after getting on his knees and putting his hands in the air, as he had been instructed to do, Sgt. Farrell tased him (05 Board Review). § 87(2)(g)

§ 87(2)(b) added that he faced Sgt. Farrell so he could see that he did not have any weapons after he put his hands in the air but before he got down on his knees.

Sgt. Farrell stated that § 87(2)(b) was deemed to be under arrest for assault from the time he arrived on the scene. § 87(2)(b) and § 87(2)(b) were actively engaged in a physical altercation in which § 87(2)(b) appeared to be the aggressor. When Sgt. Farrell and Det. Choi got out of the car, § 87(2)(b) and § 87(2)(b) separated; § 87(2)(b) stood by the bus stop and § 87(2)(b) went over by the corner of the building. § 87(2)(b) put his hands behind his back. Sgt. Farrell asked § 87(2)(b) to show him his hands three or four times. The first time Sgt. Farrell gave this command he was about 13 or 14 feet away from § 87(2)(b). Sgt. Farrell moved closer, and § 87(2)(b) did not say anything and stood there with his hands behind his back. Sgt. Farrell said that he did not see any bulges or anything on § 87(2)(b)'s front indicative of hiding a weapon, but did not know what he was concealing behind his back. Sgt. Farrell said that § 87(2)(b) walked to within seven or eight feet of him, and still had his hands behind his back. Sgt. Farrell told § 87(2)(b) that he would Taser him if he did not show him his hands. § 87(2)(b) did not make any threatening statements to Sgt. Farrell or say anything at all prior to being tased. Sgt. Farrell announced, "Taser, Taser, Taser," and deployed the Taser into § 87(2)(b)'s chest from a distance of about seven to eight feet. Sgt. Farrell stated that he tased § 87(2)(b) because he was covered in blood, he was coming towards Sgt. Farrell, his hands were not visible, it was a job involving a knife, and he did not know what he was holding behind his back because he could not see his hands. The darts penetrated § 87(2)(b)'s skin and he fell to the ground.

Det. Choi stated that § 87(2)(b) was attempting to hit § 87(2)(b) when they arrived and when they exited their car, both he and Sgt. Farrell gave instructions to § 87(2)(b) to stop, show them his hands, and get down on the ground. § 87(2)(b) turned towards Det. Choi and Sgt. Farrell and walked towards them "really fast." At that point, Det. Choi could see the front of § 87(2)(b).

§ 87(2)(b)'s person, and did not observe him with a knife, but said that § 87(2)(b) would not show them his hands, which were down by his sides, so they "could not really see" what was in his hands. Det. Choi did not recall if § 87(2)(b) moved his hands from his sides as he approached them. Sgt. Farrell tased § 87(2)(b). Sgt. Farrell was approximately 10 feet from § 87(2)(b) when he tased him, and they had been on the scene for less than a minute. § 87(2)(b) went down to the ground, though Det. Choi did not remember exactly how he fell.

Patrol Guide Procedure 221-08 states that Conducted Electrical Weapons (CEWs) should only be used to prevent individuals from physically injuring themselves or others who are actually present, or against people who are actively resisting or exhibiting active aggression (23 Board Review). Active resisting includes physically evasive movements to defeat an officer's attempt at control, and active aggression is defined as a threat or overt act of assault, coupled with the ability to carry out that threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Factors to be considered in determining whether using a CEW is appropriate are: the nature and severity of the crime and circumstances, the immediacy of the perceived threat or harm to officers and civilians, number of subjects in comparison to the number of officers present, whether the subject is actively resisting or attempting to flee, and the actions taken by the subject.

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

Allegation (M) Force: Sergeant Kenneth Farrell used a Taser against § 87(2)(b)

It is undisputed that § 87(2)(b) was tased more than once.

§ 87(2)(b) stated that after § 87(2)(b) was tased, § 87(2)(b) said he was going to sue Sgt. Farrell for harassment and for tasing him, and an officer told § 87(2)(b) to get on the ground and put his hands in the air. Sgt. Farrell tased § 87(2)(b) a second time. The prongs again landed on § 87(2)(b)'s chest, and this time his body shook. § 87(2)(b) said that two seconds had elapsed since the first time Sgt. Farrell tased § 87(2)(b). Sgt. Farrell tased § 87(2)(b) a third time, and the prongs landed on § 87(2)(b)'s stomach and his body shook again. An officer told § 87(2)(b) to put his hands behind his back and he was handcuffed without difficulty.

In her phone statement, § 87(2)(b) said that she saw the prongs discharge from the Taser twice, but § 87(2)(b) told her that he was tased three times.

§ 87(2)(b) stated in his phone statement that after he was tased, he pulled the prongs out. He stated that he did not feel the effects of the first tasing. Sgt. Farrell turned a knob on the side of the Taser, and § 87(2)(b) said he “turned up the voltage.” Sgt. Farrell tased § 87(2)(b) again and this time he felt it, which was how § 87(2)(b) knew Sgt. Farrell had turned up the voltage. Sgt. Farrell then tased § 87(2)(b) a third time. Officers told § 87(2)(b) to get on the ground, and he said he was already on the ground. § 87(2)(b) alleged that officers used force to take him to the ground, but § 87(2)(b) did not describe any additional force used against § 87(2)(b) and § 87(2)(b) did not provide a verified statement. Therefore, no allegations were pleaded regarding this.)

§ 87(2)(g)
§ 87(2)(b) The second cycle was discharged less than 30 seconds later from a distance of two and a half to three feet. § 87(2)(b) added that the two officers behind him told Sgt. Farrell to do it again, so he pulled out the cartridge, put another in, and tased § 87(2)(b) a third time. The prongs landed in § 87(2)(b)'s thigh.

During his initial narrative, Sgt. Farrell said that after he was tased the first time, § 87(2)(b) attempted to continue fighting and “he got a second cycle of the Taser.” When questioned about the incident further and asked if § 87(2)(b) made any movements, Sgt. Farrell said that § 87(2)(b) tried to get back up, even though he told § 87(2)(b) to stay on the ground. Sgt. Farrell was still within seven to eight feet of § 87(2)(b). Sgt. Farrell did not recall § 87(2)(b) doing anything other than trying to stand back up. When asked what position § 87(2)(b) was in when the second cycle was used, Sgt. Farrell first stated that he was on the ground, then said that he was getting up off the ground, and finally specified that § 87(2)(b) was on his hands and knees. § 87(2)(b) was unable to get back up because Sgt. Farrell used a second cycle of the Taser, and § 87(2)(b) fell back down to the ground and was placed in handcuffs. Sgt. Farrell estimated that 30 seconds had elapsed between the first and second Taser cycles.

Det. Choi did not believe that § 87(2)(b) was tased more than once. He stated that after § 87(2)(b) was tased, he fell to the ground and Det. Choi immediately handcuffed him without difficulty while § 87(2)(b) was on his stomach.

As discussed above, PO D’Anseglio, PO Bergersen, and Sgt. Leung arrived to the scene after Sgt. Farrell tased § 87(2)(b).

The X-26 Data Sheet for Taser X99-753304, Sgt. Farrell’s Taser, notes that it was triggered on November 17, 2016, at 12:28:26 a.m. for five seconds, and again at 12:28:34 a.m. The Data Sheet showed that there was no third use of the taser against § 87(2)(b) as § 87(2)(b) and § 87(2)(b) alleged (18 Board Review).

Patrol Guide Procedure 221-08 states that Conducted Electrical Weapons (CEWs) should only be used to prevent individuals from physically injuring themselves or others, or against people who are actively resisting or exhibiting active aggression (23 Board Review).

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

Allegation (N) Force: Detective Kevin Choi used physical force against § 87(2)(b)

Allegation (O) Discourtesy: Detective Kevin Choi spoke discourteously to § 87(2)(b)

In her sworn statement, § 87(2)(b) stated that while § 87(2)(b) was being tased, she ran towards him to get in front of him and guard him. Det. Choi pulled or yanked her back, and slammed or threw her into a nearby gate, causing her back to make contact with the gate. Det. Choi said, “Don’t fucking move.” § 87(2)(b) also alleged that § 87(2)(b) jumped on Det. Choi and another officer then grabbed § 87(2)(b) denied being present for the incident; therefore, the allegation regarding § 87(2)(b) is not pleaded.) § 87(2)(b) stated that prior to the police arriving, she had a laceration on the top part of her right eye and her whole face was bloody because she had been assaulted by § 87(2)(b)

In a phone statement obtained prior to her sworn statement, § 87(2)(b) stated that she tried to “cover” § 87(2)(b) and said that the officers did not “let her” do so, but did not allege that any officers used force against her, or spoke discourteously to her (02 Board Review). In a statement obtained after her sworn statement, § 87(2)(b) initially said that she had a cut on her mouth, and her lip, nose, and the side of her face were swollen and bleeding, all of which were caused by the officers’ actions (32 Board Review). Later in that phone statement, § 87(2)(b) said that the cut and bruise on the left side of her face came from making contact with the gate, and the injuries to her nose and mouth were not caused by the officers.

§ 87(2)(b) did not allege that any force was used against § 87(2)(b) or that she moved towards him or attempted to move towards him while he was being tased (05 and 06 Board Review). § 87(2)(b) did say that an officer told § 87(2)(b) to “Shut the fuck up,” but as she did not allege this, no allegation was pleaded regarding this statement.)

Det. Choi denied that § 87(2)(b) made any movements towards § 87(2)(b) from when he arrived on scene, and did not see her move until she was taken into the ambulance. Det. Choi denied pulling § 87(2)(b) backwards or slamming her up against a gate, denied that anyone else did so, and denied touching her at all. Det. Choi denied saying, “Don’t fucking move,” using any discourteous language against any civilians at the scene, and denied speaking to § 87(2)(b) at all.

Sgt. Farrell denied that § 87(2)(b) moved closer to § 87(2)(b) from her position at the bus stop, and said she did not try to interfere from the time he arrived on scene to the time at which § 87(2)(b) was handcuffed. Sgt. Farrell was unaware of any officer needing to use physical force to restrain her, and did not observe any officer use force towards her. Sgt. Farrell was not aware of any officer telling § 87(2)(b) “Don’t fucking move.”

As discussed above, Sgt. Leung, PO Bergersen, and PO D’Anseglio arrived after § 87(2)(b) had been tased and were not present during this portion of the incident. § 87(2)(b) did not complain about any force that had been used against her or about any police action taken towards her or § 87(2)(b) that PO D’Anseglio was aware of.

PO Pak stated that while at the hospital, § 87(2)(b) did not complain about any force used towards her by the officers, any injuries caused by the officers, or any discourteous language used towards her by the officers.

The Arrest Reports, Complaint Reports, Domestic Incident Reports, Aided Reports, and Medical Treatment of Prisoner Report all note that § 87(2)(b) said that her injuries were caused by § 87(2)(b) punching her (12, 13, 14, and 24 Board Review). § 87(2)(b) s medical records note that she stated that she sustained injuries to her face after being punched multiple times in the face by her boyfriend (16 Board Review).

§ 87(2)(g)
[Redacted text block]

§ 87(4-b), § 87(2)(g)
[Redacted text block]

§ 87(4-b), § 87(2)(g)

Allegation (Q) Other misconduct: There is evidence suggesting Sergeant Julius Leung provided a false official statement in violation of PG 203-08.

The CCRB found evidence suggesting that Sgt. Leung provided a false official statement regarding this investigation. CCRB case 201706469 was created and referred to IAB as a spin-off in regards. The evidence is as follows:

The undersigned investigator requested a copy of Sgt. Leung’s memo book entries on April 6, 2017, and a copy containing three entries related to the incident was provided by the IAB/CCRB Liaison on April 24, 2017 (27 Board Review). On August 4, 2017, Sgt. Leung appeared for his CCRB interview and brought in a different copy of his memo book entries, which contained only one entry related to the incident (28 Board Review). Sgt. Leung read the entry into the record, which did not note § 87(2)(b) s injuries or that he escorted EMS to the hospital. Sgt. Leung was presented with the copy provided by the IAB/CCRB Liaison, and confirmed that they were both his memo book. Sgt. Leung was asked to explain the differences between the copies, and first said “they” might have wrote in a “different book.” Sgt. Leung then said that he might have misplaced a book that he could not find. The last explanation Sgt. Leung provided was that he thought he wanted to provide a more detailed entry when the Integrity Control Officer (ICO) asked for his memo book entry for the date, so he wrote “some of the stuff onto this book.” One of Sgt. Leung’s representatives asked him if he wrote it into a new book, and Sgt. Leung said he wrote it on a new page. Later in the interview, Sgt. Leung said that he wrote it in a different book. Sgt. Leung did not recall when he did this.

Patrol Guide Procedure 203-08 prohibits officers from intentionally making a false official statement, which includes lying in an official NYPD document or report (29 Board Review). Patrol Guide Procedure 212-08 states that chronological entries are to be made regarding assignments (26 Board Review).

§ 87(2)(g)

§ 87(2)(g) Sgt. Leung brought the less detailed memo book entries into the CCRB and provided conflicting explanations for the differences between his entries each time he was asked on the record, which included that someone else may have written the entries and that he lost his memo book. He also changed his answer regarding whether the second set of entries were on a different page or in a different book. Sgt. Leung’s final justification, that he made the second set of entries because he wanted to provide more detail about the incident when asked by the ICO (who is tasked with conducting investigations and ensuring the integrity of officers in the command), § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b) has been involved in two additional CCRB cases, one of which is open, and one of which, case 201704910, was discussed above and is pending board review (30 Board Review).
- Sgt. Farrell has been a member of the NYPD for 11 years and has been a subject in three other cases resulting in six other allegations being pleaded against him. None of the allegations were substantiated, and Sgt. Farrell was not cited for other misconduct. § 87(2)(g)
- Det. Choi has been a member of the NYPD for 11 years and has been a subject in five other CCRB cases resulting in 13 allegations pleaded against him, none of which have been substantiated. § 87(4-b), § 87(2)(g)
- Sgt. Leung has been a member of the NYPD for 12 years and has not been a subject in any other CCRB complaints.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation due to the arrests resulting from the incident.
- § 87(2)(b) For her criminal case regarding this incident, § 87(2)(b) pleaded guilty to disorderly conduct.
- § 87(2)(b) For his criminal case regarding this incident, § 87(2)(b) pleaded guilty to disorderly conduct.
- On January 25, 2018, a FOIL request confirmed that no Notices of Claim had been filed by § 87(2)(b) or § 87(2)(b) regarding the incident (31 Board Review).

Squad No.: 3

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date