

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ariel Courage	Team: Squad #06	CCRB Case #: 201412754	☐ Force ☐ Discourt. ☐ U.S. ☒ Abuse ☐ O.L. ☐ Injury
Incident Date(s) Saturday, 12/27/2014 6:30 PM	Location of Incident: § 87(2)(b)	18 Mo. SOL 6/27/2016	Precinct: 47
Date/Time CV Reported Mon, 12/29/2014 1:21 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 12/29/2014 1:21 PM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LCD Leonard Servedio	00000	886503	WARRSEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT2 Richard Kuhnappel	04765	911295	WARRSEC
2. SDS Daniel Gervasio	04650	915783	WARRSEC
3. DT1 John Kelly	01199	910189	WARRSEC
4. DT1 James Lusk	04127	901870	C C A S

Officer(s)	Allegation	Investigator Recommendation
A . LCD Leonard Servedio	Abuse: LCD Leonard Servedio entered and searched § 87(2)(b) in the Bronx.	A . Unsubstantiated

Case Summary

On December 29, 2014, § 87(2)(b) called the CCRB to file a complaint. On December 27, 2014, at approximately 6:30 p.m., § 87(2)(b) was at home, § 87(2)(b) in the Bronx, taking a shower, when her mother, § 87(2)(b) came to the bathroom and told her officers had entered the apartment (**Allegation A**). § 87(2)(b) went to the living room, where she saw a group of officers, identified by the investigation as LCD Leonard Servedio, SDS Daniel Gervasio, Det. Richard Kohnapfel, Det. John Kelly, and Det. James Lusk, all of the Warrant Section Regional Fugitive Task Force. Det. Kohnapfel informed § 87(2)(b) that they were looking for an individual who she did not know, and displayed to her a picture of him. After entering each room inside the apartment, the officers left. There were no arrests made or summonses issued.

§ 87(2)(g)

Mediation, Civil, and Criminal Histories

§ 87(2)(b) rejected mediation § 87(2)(b). As of May 22, 2015, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim regarding this incident (Board Review 01). [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Officer and Civilian CCRB Histories

- LCD Servedio has been a member of service for 30 years and has had two prior CCRB cases, one of which contained substantiated allegations.
 - Case number 9301181 contained three allegations: force, abuse (other) and discourtesy. All of these allegations had recommendations of substantiated. The Board recommended Command Discipline for the force and discourtesy allegation and made no recommendation for the abuse (other) allegation. There was no NYPD disposition available.
- This is the first CCRB complaint filed by § 87(2)(b) and § 87(2)(b)

Explanation of Subject Officers

§ 87(2)(g)

Allegations Not Pleaded

- § 87(2)(g)

Allegation A –Abuse of Authority: LCD Leonard Servedio entered and searched § 87(2)(b), in the Bronx.

It is not disputed that LCD Servedio supervised a group of officers who entered and searched § 87(2)(b) in the Bronx.

Procedural Law Section 530.70(2) (Board Review 14). Officers with a bench warrant for an individual may enter premises where they reasonably believe the subject is present. The reasonableness of this belief is based upon the amount of information available to the officer at the time of entry, as well as the age of this information. People v. Smith, 806 N.Y.S. 2d 447 (2005) (Board Review 15) An arrest or bench warrant is not sufficient to search the home of a third party, unless exigent circumstances or consent are present. Steagald v. United States, 451 U.S. 204 (1981) (Board Review 16)

An individual's consent to enter their residence may be established by conduct as well as words. An individual engaging an officer near the entry to their residence, then entering the residence without verbally or physically attempting to impede an officer's immediate, subsequent entry into the residence constitutes implied consent to the officer's entry. People v. Smith, 239 A.D.2d 219; 658 N.Y.S.2d 259 (1997) Board Review 17)

§ 87(2)(g)

it is recommended that
Allegation A be closed as **unsubstantiated**.

Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date