

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #4	CCRB Case #: 201806270	<input checked="" type="checkbox"/> Force <input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 07/29/2018 11:00 PM	Location of Incident: [REDACTED]		Precinct: 44	18 Mo. SOL 1/29/2020	EO SOL 1/29/2020
Date/Time CV Reported Tue, 07/31/2018 5:48 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/01/2018 5:48 PM		

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. POM Kenny Ortiz	20334	959021	044 PCT
2. POM Reynaldo Pena	17871	959056	044 PCT
3. SGT Michael Bowman	00818	939932	044 PCT
4. POM Jeffrey Pichardo	18495	959073	044 PCT
5. POM Richard Castellano	25087	957429	044 PCT
6. An officer			044 PCT
7. Officers			044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jeuri Paulino	11935	954220	044 PCT
2. POM Jason Torres	28651	939591	044 PCT
3. POF Kathyria Castillo	21358	959540	044 PCT
4. POM Joseph Deramo	20280	958492	044 PCT
5. POF Madison Lindeman	30074	965271	044 PCT
6. SGT Sergio Delamota	03954	943137	P S B
7. POM Safayath Jamil	13348	960722	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Kenny Ortiz	Force: In front of § 87(2)(b) in the Bronx, Police Officer Kenny Ortiz used physical force against § 87(2)(b).	A . § 87(2)(g) [REDACTED]
B . POM Jeffrey Pichardo	Discourtesy: Inside of the 44th Precinct stationhouse, Police Officer Jeffrey Pichardo spoke discourteously to § 87(2)(b).	B . § 87(2)(g) [REDACTED]
C . POM Richard Castellano	Force: In front of the 44th Precinct stationhouse, Police Officer Richard Castellano used physical force against § 87(2)(b).	C . § 87(2)(g) [REDACTED]
D . Officers	Force: In front of the 44th Precinct stationhouse, officers used physical force against § 87(2)(b).	D . § 87(2)(g) [REDACTED]

Officer(s)	Allegation	Investigator Recommendation
E . An officer	Force: In front of the 44th Precinct stationhouse, an officer used physical force against § 87(2)(b) .	E . § 87(2)(g)
F . An officer	Force: In front of the 44th Precinct stationhouse, an officer used physical force against § 87(2)(b) .	F . § 87(2)(g)
§ 87(4-b), § 87(2)(g)		
H . SGT Michael Bowman	Other: There is evidence suggesting Sergeant Michael Bowman provided a false official statement in violation of PG 203-08.	H . § 87(2)(g)

Case Summary

On July 30, 2018, § 87(2)(b) , an employee at § 87(2)(b) , filed this complaint with IAB (log no. 2018-30519) on behalf of § 87(2)(b) after § 87(2)(b) arrived at the hospital with injuries to his head and face and reported they were from the police (**28 Board Review**). § 87(2)(b) was not witness to this incident. On August 1, 2018, this complaint was received by the CCRB. On August 2, 2018, § 87(2)(b) (**01 Board Review**) and § 87(2)(b) (**02 Board Review**) both filed complaints with the CCRB via the call processing system regarding two parts of the same incident originally filed by § 87(2)(b)

On July 29, 2018, at approximately 11:00 PM, § 87(2)(b) was attempting to enter § 87(2)(b) in the Bronx. A large group of civilians and police officers were present because the Dominican Day Parade had taken place earlier in the day. A large group of officers, including Police Officer Kenny Ortiz, Police Officer Kathyria Castillo, Police Officer Safayath Jamil, and Police Officer Joseph Deramo, all of the 44th Precinct, told § 87(2)(b) that he could not enter the location. § 87(2)(b) continued to attempt to enter the location, and PO Ortiz pushed him (**Allegation A: Force, § 87(2)(g)**). § 87(2)(b) was transported to the 44th Precinct stationhouse.

On July 29, 2018, at approximately 11:50 PM, § 87(2)(b) and § 87(2)(b) went to the 44th Precinct stationhouse to inquire about § 87(2)(b) . A large group of officers told § 87(2)(b) and § 87(2)(b) to leave the stationhouse, including Police Officer Jeffrey Pichardo. PO Pichardo told § 87(2)(b) to get the “fuck” out of the stationhouse (**Allegation B: Discourtesy, § 87(2)(g)**). § 87(2)(b) exited the stationhouse and a large group of officers, including Police Officer Richard Castellano and Police Officer Reynaldo Pena, attempted to usher him away from the stationhouse. PO Castellano punched § 87(2)(b) in his ribcage (**Allegation C: Force, § 87(2)(g)**). PO Castellano, PO Pena, and other unidentified officers brought § 87(2)(b) to the ground (**Allegation D: Force, § 87(2)(g)**). An officer allegedly punched § 87(2)(b) over his right eye (**Allegation E: Force, § 87(2)(g)**), and stomped on his right shoulder (**Allegation F: Force, § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

There is evidence suggesting Sergeant Michael Bowman provided a false official statement in violation of Patrol Guide Procedure 203-08 (**Allegation H: Other Misconduct**).

§ 87(2)(b) (**33 Board Review**) and § 87(2)(b) (**30 Board Review**) were both issued summons for disorderly conduct- failure to disperse as a result of this incident.

The investigation obtained body worn camera footage (**06 Board Review-09 Board Review**) and stationhouse security footage (**11 Board Review-13 Board Review**) of this incident. See allegations below for corresponding footage.

Findings and Recommendations

Allegation (A) Force: In front of § 87(2)(b) in the Bronx, Police Officer Kenny Ortiz used physical force against § 87(2)(b)

It is undisputed that § 87(2)(b) was attempting to enter § 87(2)(b) in the Bronx and that officers were not allowing anyone inside of the location. It is also undisputed that PO Ortiz pushed § 87(2)(b) to the ground.

§ 87(2)(b) (03 Board Review) stated that he was standing outside of § 87(2)(b) and a large group of officers were yelling for people to disperse from the area. § 87(2)(b) stepped towards the curb in front of the location and asked if he could stand where he was so that he could re-enter the building, because he lived there. PO Castillo told § 87(2)(b) that he could not stand there and grabbed his arm. § 87(2)(b) pulled his arm away from PO Castillo. A group of approximately five officers approached § 87(2)(b) and pushed § 87(2)(b) to the ground by pushing him over the leg of one of the officers, so that he tripped and fell to the ground.

§ 87(2)(b)'s medical records (35 Board Review) state that he complained of pain to the left side of his body. The records show that § 87(2)(b) stated he was thrown to the ground by the NYPD and fell on the left side of his body and coughed up blood as a result. The records also state that § 87(2)(b) had a preexisting condition of cystic fibrosis.

PO Castillo (20 Board Review) stated that she observed multiple officers telling § 87(2)(b) to leave the location and that § 87(2)(b) continued to walk towards the location. § 87(2)(b) then leaned against a car and continued to ignore commands to leave. PO Castillo then approached § 87(2)(b) and told him to leave. § 87(2)(b) ignored PO Castillo, so PO Castillo pushed him. § 87(2)(b) was facing PO Castillo when she pushed him. PO Castillo pushed § 87(2)(b) by one of his shoulders. PO Castillo did not recall if § 87(2)(b) fell to the ground as a result of her push. § 87(2)(b) never attempted to punch PO Castillo. PO Castillo did not have any further contact with § 87(2)(b). Immediately after PO Castillo punched § 87(2)(b) a different male approached her and told her not to push his friend. This male swung his arm towards PO Castillo, as if he was trying to punch her. PO Castillo and other officers brought this male to the ground.

PO Ortiz (15 Board Review) stated that he observed PO Castillo push § 87(2)(b). Immediately after PO Castillo pushed him, § 87(2)(b) bladed his body towards PO Castillo and held his fists in front of his body in an aggressive posture. § 87(2)(b) did not make any further movements towards PO Castillo and did not attempt to strike PO Castillo. PO Ortiz thought that § 87(2)(b) posed a threat to PO Castillo because of his aggressive posture, so he approached § 87(2)(b) from behind and shoved him to the ground by his back. § 87(2)(b) fell to the ground and landed in the street, between two parked cars.

PO Deramo (18 Board Review) stated that he was standing with his back towards PO Castillo and he heard her begin to talk loudly at a high pitch. When PO Deramo turned around he saw PO Castillo and an individual on the ground. PO Deramo did not know how either party came to be on the ground. PO Deramo did not observe any individual attempt to punch PO Castillo. PO Deramo did not observe PO Ortiz push anyone.

PO Jamil (22 Board Review) stated that § 87(2)(b) was not the individual who attempted to punch PO Castillo. PO Jamil did not observe PO Ortiz push anyone.

Footage from PO Ortiz's body worn camera (08 Board Review) shows PO Ortiz approach § 87(2)(b).

§ 87(2)(b) from behind and push him by his back to the ground at 5:10. The footage does not capture PO Castillo pushing § 87(2)(b). Footage from PO Truglio's camera (**07 Board Review**) is largely consistent with PO Ortiz's, but is from slightly further away from § 87(2)(b). Footage from PO Brady's camera (**38 Board Review**) shows PO Castillo push § 87(2)(b) at 4:36. § 87(2)(b) does not fall to the ground. PO Brady's footage also shows the second male pushed by PO Castillo. PO Brady begins assisting in the apprehension of the second male at 4:50. PO Castillo (**20 Board Review**) stated that her camera was broken during her struggle with § 87(2)(b) so she did not have any footage of the incident. None of the footage definitively shows whether § 87(2)(b) bladed his body towards PO Castillo.

§ 87(2)(g)



Allegation (B) Discourtesy: Inside of the 44th Precinct stationhouse, Police Officer Jeffrey Pichardo spoke discourteously to § 87(2)(b).

§ 87(2)(b) (**04 Board Review**) stated that he went to the 44th Precinct stationhouse along with two friends, § 87(2)(b) and § 87(2)(b) to check on § 87(2)(b). When § 87(2)(b) arrived at the stationhouse he saw § 87(2)(b)'s mother, § 87(2)(b), and his other friend, § 87(2)(b) (last name unknown). § 87(2)(b) told § 87(2)(b) that she had been at the stationhouse for approximately thirty minutes trying to get information about § 87(2)(b). She was not speaking to any officers because she does not speak English. § 87(2)(b) was trying to get the officers in the stationhouses attention. § 87(2)(b) and § 87(2)(b) may have also been trying to get officers attention, but § 87(2)(b) did not recall specifically what they were saying. After approximately ten minutes, a group of approximately fifteen officers approached the group and told them to leave the stationhouse. PO Pichardo told § 87(2)(b) and the rest of the group to, "Shut the fuck up," and, "Get the fuck out." § 87(2)(b) felt that PO Pichardo was speaking generally and not at any one particular person.

The investigation did not obtain statements from § 87(2)(b) § 87(2)(b) or § 87(2)(b) (**40 Board Review**).

PO Pichardo (**16 Board Review**) stated that he arrived to work and went in the rear of the stationhouse to the male locker rooms to change. While he was walking to the front of the stationhouse for roll call he heard a loud commotion. PO Pichardo learned from other officers that there was a group of civilians present asking for information about a friend who had been arrested. One officer was trying to speak to the group but they were not listening. The group was loud and boisterous and one of the members in the group said, "If I pulled out a gun right now and pointed it at you, you would pay attention to me." PO Pichardo then approached the group and said, "Get the fuck out." PO Pichardo said this to try and get their attention, and to convince them to leave the stationhouse. PO Pichardo did not know which member of the group made the threat. PO Pichardo did not know which officer was speaking to the group.

PO Ortiz (**15 Board Review**), PO Pena (**14 Board Review**), PO Deramo (**18 Board Review**), PO Castellano (**21 Board Review**), Sgt. De La Mota (**19 Board Review**), and Sgt. Bowman (**17 Board Review**) all denied saying, "Shut the fuck up," or, "Get the fuck out" to any of the civilians in the stationhouse and did not hear any other officers do so.

The investigation obtained stationhouse security footage of this portion of this incident, but the footage does not include audio. The footage (**11 Board Review**) shows that § 87(2)(b) entered

the stationhouse at 30:32 and 16 seconds later at 30:48 an officer approached the group and began to motion for them to leave. § 87(2)(b) exits the stationhouse at 31:06.

§ 87(2)(g)

Allegation (C) Force: In front of the 44th Precinct stationhouse, Police Officer Richard Castellano used physical force against § 87(2)(b)

PO Castellano (21 Board Review) stated that he punched § 87(2)(b) in his right ribcage. § 87(2)(b) (04 Board Review) did not make this allegation.

§ 87(2)(b) (04 Board Review) stated that he walked out of the stationhouse along with § 87(2)(b) and § 87(2)(b) began walking backwards, facing towards the group of officers who had kicked them out of the stationhouse. § 87(2)(b) stopped walking and started speaking with one officer. § 87(2)(b) turned around, away from the stationhouse, and continued to walk away. § 87(2)(b) was tackled to the ground from behind by a group of officers, as discussed in the allegation below.

PO Castellano (21 Board Review) stated that he observed an officer attempting to handcuff § 87(2)(b). PO Castellano did not recall who the officer was. § 87(2)(b) was being uncompliant. The officer was trying to pull § 87(2)(b)'s arms behind his back, and § 87(2)(b) was pulling his arms away from the officer to prevent them from doing so. § 87(2)(b) then "cocked" one of his arms back, as if he was preparing to punch the officer. PO Castellano considered this to be a precursor to arrest because § 87(2)(b) was resisting arrest and potentially about to assault a police officer. PO Castellano approached § 87(2)(b) to assist in apprehending him and "grabbed" him to pull him away from the officer. PO Castellano tried to pull § 87(2)(b)'s arms behind his back, but § 87(2)(b) continued to hold his arms in front of his body. § 87(2)(b) then stomped on PO Castellano's left foot and kicked him in the right shin. PO Castellano was not injured as a result. PO Castellano punched § 87(2)(b) "several" times in his right ribcage. PO Castellano used this force because § 87(2)(b) was continuing to resist arrest and had stomped on him and kicked him and posed a physical threat to him. § 87(2)(b) did not stop resisting as a result of this force, so PO Castellano brought § 87(2)(b) to the ground (as discussed in the allegation below).

PO Castellano did not activate his body worn camera. The investigation obtained stationhouse surveillance footage of this incident, but this portion of the incident happened at the end of the block and the camera does not clearly capture the interaction.

§ 87(2)(g)

Allegation (D) Force: In front of the 44th Precinct stationhouse, officers used physical force against § 87(2)(b) [REDACTED]

Allegation (E) Force: In front of the 44th Precinct stationhouse, an officer used physical force against § 87(2)(b) [REDACTED]

Allegation (F) Force: In front of the 44th Precinct stationhouse, an officer used physical force against § 87(2)(b) [REDACTED]

§ 87(2)(b) [REDACTED] (04 Board Review) stated that he walked out of the stationhouse along with § 87(2)(b) [REDACTED] and § 87(2)(b) [REDACTED] began walking backwards, facing towards the group of officers who had kicked them out of the stationhouse. § 87(2)(b) [REDACTED] stopped walking and started speaking with one officer. § 87(2)(b) [REDACTED] turned around, away from the stationhouse, and continued to walk away. § 87(2)(b) [REDACTED] was tackled to the ground from behind. § 87(2)(b) [REDACTED] was not making any motions on the ground and was not attempting to get up. § 87(2)(b) [REDACTED] then felt a knee in his back and was punched approximately two to three times above his right eye and stomped approximately two to three times in his back. § 87(2)(b) [REDACTED] did not see the officers because he was on the ground face down. § 87(2)(b) [REDACTED] was then handcuffed and walked inside.

§ 87(2)(b) [REDACTED] s medical records (34 Board Review) state that he was diagnosed with abrasions and that he had facial pain, bruising, and swelling with no fractures. The records state that he was assaulted by “unspecified means.”

PO Castellano (21 Board Review) stated that he brought § 87(2)(b) [REDACTED] to the ground because § 87(2)(b) [REDACTED] continued to resist after PO Castellano punched him in the ribcage in an effort to gain his compliance. PO Castellano stated that he “pulled” § 87(2)(b) [REDACTED] to the ground but did not recall specifically where he was making contact with him when he pulled him to the ground. PO Castellano did not recall if other officers were making contact with § 87(2)(b) [REDACTED] when he pulled him to the ground. PO Castellano fell to the ground along with § 87(2)(b) [REDACTED] PO Castellano did not recall how he or § 87(2)(b) [REDACTED] were positioned on the ground. PO Castellano did not punch § 87(2)(b) [REDACTED] in the face or stomp on his back, nor did he see any other officers do so. The only force PO Castellano used against § 87(2)(b) [REDACTED] on the ground was the force used in pulling § 87(2)(b) [REDACTED] s arms behind his back to handcuff him. PO Castellano observed a laceration above § 87(2)(b) [REDACTED] s right eye after he was handcuffed. PO Castellano did not know how § 87(2)(b) [REDACTED] sustained this injury. PO Castellano walked § 87(2)(b) [REDACTED] back inside of the stationhouse. Another officer assisted him in walking § 87(2)(b) [REDACTED] but he did not recall who the officer was. PO Castellano was shown surveillance footage (IA 70). PO Castellano did not know the name of the officer walking § 87(2)(b) [REDACTED] with him.

The TRI prepared by PO Castellano (29 Board Review) shows that PO Castellano used a forcible takedown and hand strikes for defense of self and other members of service. The TRI shows that § 87(2)(b) [REDACTED] was flailing his arms, kicking his legs, and twisting his body. The TRI also shows that § 87(2)(b) [REDACTED] had a “preexisting injury.” PO Castellano did not know if he wrote that § 87(2)(b) [REDACTED] had a preexisting injury or if Sgt. Bowman, the reviewing supervisor, wrote it. On the scratch copy of the TRI it says that § 87(2)(b) [REDACTED] had a “preexisting injury.” On the computer version, it says that § 87(2)(b) [REDACTED] had a “preexisting injury to his forehead.” PO Castellano stated that he believed this discrepancy was a clerical error, because he did not observe the injury to § 87(2)(b) [REDACTED] s forehead until after § 87(2)(b) [REDACTED] was handcuffed.

PO Pena (14 Board Review) stated that he was inside of the stationhouse when he heard yelling coming from the front entrance. PO Pena walked towards the yelling, and observed multiple officers telling a group of civilians to leave the stationhouse. A large group of officers “herded” the

group of civilians outside and continued to usher them down the block away from the stationhouse. PO Pena heard an officer behind him say that the civilians were under arrest. PO Pena had not had any interaction with any of the civilians. PO Pena observed § 87(2)(b) standing in the street surrounded by two or three officers, who were struggling to arrest him. PO Pena did not recall who the officers were. PO Pena approached to assist. § 87(2)(b) was refusing to put his hands behind his back. When PO Pena reached the group, the officers had a handcuff on one of § 87(2)(b)'s wrists, but did not have control of his other arm. PO Pena tried to grab the other arm. PO Pena did not know which arm it was. § 87(2)(b) was brought to the ground as PO Pena grabbed his arm. PO Pena also fell to the ground. PO Pena did not know how specifically § 87(2)(b) was brought to the ground. PO Pena did not punch § 87(2)(b) or stomp on his back, nor did he see any other officer do so. § 87(2)(b) was kicking his legs. PO Pena did not recall if any of these kicks landed on any officers. § 87(2)(b) had a preexisting injury to his wrist, which was apparent to PO Pena because it was in a brace. After § 87(2)(b) was handcuffed, PO Pena observed a laceration to § 87(2)(b)'s forehead. PO Pena did not know how § 87(2)(b) sustained this injury.

The medical treatment of prisoner report (MTPR) prepared by PO Pena (**32 Board Review**) states that § 87(2)(b) had preexisting injuries to his head and arm prior to arrest.

The TRI prepared by PO Pena (**31 Board Review**) shows that PO Pena used a forcible takedown against § 87(2)(b) and held § 87(2)(b)'s legs down in defense of self and other members of service and to overcome resistance or aggression. The TRI states that § 87(2)(b) wrestled and grappled, flailed his arms, and kicked. The TRI also indicates that § 87(2)(b) sustained minor lacerations and abrasions and that § 87(2)(b) had a preexisting injury near his left eye.

PO Deramo (**18 Board Review**) stated that he was doing administrative work inside of the stationhouse when he heard a commotion coming from the main entrance. PO Deramo walked out and saw a group of civilians screaming. Multiple officers were telling the individuals to leave the stationhouse, and the civilians walked outside but continued to yell. PO Deramo walked outside to assist in getting the civilians to leave. When the civilians reached the corner, PO Deramo heard an officer say, "They're under." PO Deramo saw § 87(2)(b) interacting with three officers, but he did not recall who the officers were. § 87(2)(b) would not give the officers his hands. PO Deramo approached the officers to assist. As PO Deramo reached for § 87(2)(b)'s hands, § 87(2)(b) fell to the ground. PO Deramo did not know how § 87(2)(b) came to be on the ground, but he may have been tripped. PO Deramo did not punch § 87(2)(b) or stomp on him, and did not see any other officer do so. PO Deramo did not recall if § 87(2)(b) had any injuries. PO Deramo assisted in walking § 87(2)(b) inside of the stationhouse but did not have any further interactions with him.

PO Ortiz (**15 Board Review**) was in the complaint room preparing a summons for § 87(2)(b) when he heard yelling coming from the front of the stationhouse. PO Ortiz walked towards the yelling the people who had been yelling were already outside of the stationhouse. PO Ortiz observed a group of approximately four civilians standing outside of the front door, verbally refusing to leave. A large group of officers ushered the civilians down the block and PO Ortiz followed after them. The civilians were arrested. PO Ortiz did not assist in arresting any of them. PO Ortiz was shown a photograph of § 87(2)(b) and recognized him as one of the individuals arrested. PO Ortiz did not see any officer punch § 87(2)(b) or stomp on him. PO Ortiz thought that he recalled seeing § 87(2)(b) with a bandage over his eye.

The IAB report (**23 Board Review**), prepared by Sergeant Jason Isaia of Patrol Borough Bronx, exonerated the forcible takedown by PO Pena and stated that the injury to § 87(2)(b) was

properly documented under the MTPR and TRI. The report also exonerates the force used by PO Castellano and states that PO Castellano utilized a forcible takedown. The report does not discuss the allegations made by § 87(2)(b) of getting punched in the face or stomped in the back.

PO Ortiz's body worn camera (**09 Board Review**) shows that § 87(2)(b) is pushed against a vehicle at :20. At :37 § 87(2)(b) falls to the ground. § 87(2)(b) is largely not visible on the frame because he is surrounded by officers. § 87(2)(b) is stood up by officers at 1:23 and walked inside by PO Castellano, joined by PO Deramo at 1:53.

Stationhouse surveillance footage from the front lobby (**11 Board Review**) shows § 87(2)(b) enter the stationhouse at 30:32. § 87(2)(b) has a brace on his left wrist and no other visible injury. At 30:48, an unidentified officer approaches the gated area and points towards the exit. The officer repeatedly motions towards the exit. At 30:59, the officer walks through the gate and continues to motion towards the exit. There is a large group of officers in the vicinity because it is a tour change. At 31:06, the officers begin to converge on the group of civilians and physically escort them outside and exit the screen. A large group of officers file out after and also exit the screen. At 35:00, § 87(2)(b) is walked back inside by PO Deramo on the right and PO Castellano on the left. At 35:05, a bleeding laceration over § 87(2)(b) s left eye is visible.

Stationhouse surveillance footage from the front entrance (**13 Board Review**) shows § 87(2)(b) enter the stationhouse at 30:24. § 87(2)(b) does not have an injury to the left side of his face. At 31:16, § 87(2)(b) exits the stationhouse and exits the frame at 31:37. At 34:46, § 87(2)(b) is walked back inside by PO Deramo and PO Castellano. At 34:57, a laceration is visible over his left eye.

Stationhouse surveillance footage from the north wall and roof of the stationhouse (**12 Board Review**) shows § 87(2)(b) enter the stationhouse at 30:20. He is wearing a black t-shirt and white shorts. § 87(2)(b) exits the stationhouse at 31:20, and is partly blocked from view by an open window. From 31:20 to 31:30 § 87(2)(b) walks away from his stationhouse with his back to the large group of officers. At 31:33, § 87(2)(b) turns back around and is seen motioning with his hands, apparently talking. He is standing in between two police vehicles on the sidewalk. He remains in this spot until 31:47. An officer points for § 87(2)(b) to continue walking away from the stationhouse and he does so. He continues walking away from the stationhouse until 32:06, when he stops walking just after stepping into the street. View of him is obscured by a bright police light. At 33:10 a large group of officers begin to convene around § 87(2)(b) and the other civilians. View of him is blocked. At 33:14, § 87(2)(b) is pushed from behind by an unidentified officer and is brought to the ground by a group of unidentified officers. He is no longer visible. At 33:46, officers begin to walk civilians inside. At 34:45, § 87(2)(b) is walked back inside by PO Castellano. At 34:52, PO Deramo assists PO Castellano in walking § 87(2)(b). They enter the stationhouse at 34:56.

§ 87(2)(b) was unable to provide descriptions of the officers who apprehended him or ascribe specific actions to specific officers because he was face down on the ground and because of the large number of officers around him. PO Castellano and PO Pena acknowledged utilizing a forcible takedown against § 87(2)(b) but also stated that other officers were involved. PO Castellano and PO Pena did not know who these officers were. This incident involved a large number of officers, given that its occurrence coincided with a tour change, and happened on the day of the Dominican Pride Parade, to which extra details of officers were assigned and who convened at the 44th Precinct stationhouse. § 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation (H) Other Misconduct- There is evidence suggesting Sergeant Michael Bowman provided a false official statement in violation of Patrol Guide Procedure 203-08.

The CCRB found evidence that Sgt. Bowman provided a false official statement while supervising the creation of, and entering, § 87(2)(b) (29 Board Review).

It has been established via video footage that § 87(2)(b) did not have any preexisting head injury.

PO Castellano prepared the handwritten copy of the TRI (**29 Board Review**). On this copy, PO Castellano writes that § 87(2)(b) had a preexisting injury, but does not detail what the injury was, or where it was located. Sgt. Bowman supervised and electronically entered the TRI. On the electronic copy, Sgt. Bowman wrote that § 87(2)(b) had a preexisting injury to his forehead.

PO Pena also prepared a handwritten TRI (**31 Board Review**) and documented minor lacerations/abrasions sustained by § 87(2)(b). The handwritten copy does not document how the injury was sustained and it does not reference a pre-existing injury. Sgt. Bowman also supervised and electronically entered this TRI and noted a “pre-existing injury near left eye, minor laceration.”

During his CCRB interview, PO Castellano stated that the injury to § 87(2)(b)’s head was not preexisting, and that he first saw the injury after § 87(2)(b) had been apprehended (**21 Board Review**). PO Castellano stated that the discrepancy between the handwritten and electronic version of the reports may have been a clerical error. PO Castellano also stated that he created the handwritten copy, but that Sgt. Bowman had created and entered the electronic version (**21 Board Review**). Sgt. Bowman stated that he did not recall the incident, and did not recall the incident after being shown paperwork and video evidence (**17 Board Review**).

Patrol Guide Procedure 203-08 states that an officer is prohibited from making a false official statement and 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)



Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (**24 Board Review**).
- This is the first CCRB complaint to which § 87(2)(b) has been party (**25 Board Review**).
- PO Pichardo has been a member of service for four years and has been a subject in one case with two allegations with no substantiations. § 87(2)(g)

- PO Castellano has been a member of service for four years and has been a subject in two previous cases and three allegations with no substantiations.
 - PO Castellano has two previous physical force allegations.
- PO Pena has been a member of service for four years and has been a subject in four cases with seventeen allegations and no substantiations.
 - PO Pena has seven previous physical force allegations.
- PO Ortiz has been a member of service for four years and has been a subject in six cases with six allegations.
 - Case 201804152 involved a substantiation allegation of courtesy. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
 - Case 201900058 involved a substantiated allegation of refusal to provide medical treatment. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
 - PO Ortiz has one previous physical force allegation.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (**26 Board Review**).
- According to the Office of Court Administration, § 87(2)(b) has no history of

convictions in New York City (**27 Board Review**).

- As of November 14, 2019, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (**39 Board Review**).

Squad No.: _____

Investigator: _____

Signature

Print Title & Name

Date

Squad Leader: _____

Signature

Print Title & Name

Date

Reviewer: _____

Signature

Print Title & Name

Date