

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|---------------------------|---|------------------------------------|--|
| Investigator: Olga Bentin | Team: Squad #4 | CCRB Case #: 201903316 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input checked="" type="checkbox"/> Injury |
| Incident Date(s) Wednesday, 04/17/2019 9:00 AM | Location of Incident: [REDACTED] | Precinct: 61 | 18 Mo. SOL 10/17/2020 | EO SOL 6/3/2021 | |
| Date/Time CV Reported Wed, 04/17/2019 3:24 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Wed, 04/17/2019 3:24 PM | | |

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

| Subject Officer(s) | Shield | TaxID | Command |
|----------------------------|--------|--------|---------|
| 1. POM Wilfred Guzman | 20424 | 953941 | PSA 1 |
| 2. POM Jonathan Rothenberg | 23648 | 946198 | PSA 1 |
| 3. POM James Marte | 00842 | 961918 | PSA 1 |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|--------------------------------|-----------|--------|----------|
| 1. POF Melissa Penadelossantos | 02317 | 965825 | PSA 1 |
| 2. POF Jelecia Payne | 22223 | 962669 | PSA 1 |
| 3. DI Tania Kinsella | 00000 | 933044 | PSA 1 |
| 4. SGT Richard Fiumano | 01811 | 948971 | PSA 1 |
| 5. SGT Dan Ast | 02921 | 936151 | PSA 1 |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------------------|---|-----------------------------|
| A.POM Wilfred Guzman | Abuse: In front of § 87(2)(b) in Brooklyn, Police Officer Wilfred Guzman detained § 87(2)(b) | [REDACTED] |
| B.POM Jonathan Rothenberg | Force: In front of § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b) | [REDACTED] |
| C.POM Jonathan Rothenberg | Force: In front of PSA1 stationhouse in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b) | [REDACTED] |
| D.POM Jonathan Rothenberg | Force: At PSA1 stationhouse in Brooklyn, Police Officer Jonathan Rothenberg tightly handcuffed § 87(2)(b) | [REDACTED] |
| E.POM James Marte | Force: At PSA1 stationhouse in Brooklyn, Police Officer James Marte tightly handcuffed § 87(2)(b) | [REDACTED] |

Case Summary

On April 17, 2019, § 87(2)(b) contacted the CCRB by phone and filed this complaint. On the same date, § 87(2)(b) also contacted the IAB Command Center and filed a duplicate of this complaint; the complaint was received at the CCRB on May 1, 2019.

On April 17, 2019, at approximately 9 a.m., § 87(2)(b) got in a physical altercation with a NYCHA maintenance worker at § 87(2)(b) in Brooklyn. The maintenance worker called 911 and complained about § 87(2)(b). PO Wilfred Guzman, PO Melissa Penadelossantos, PO Jonathan Rothenberg, PO James Marte, and Sgt. Richard Fiumano, all from Police Service Area 1, responded to the 911 call. PO Guzman took § 87(2)(b) into custody (**Allegation A: Abuse of Authority, § 87(2)(g)**). PO Rothenberg allegedly shoved § 87(2)(b) into a police van (**Allegation B: Force, § 87(2)(g)**).

§ 87(2)(b) was transported to the PSA 1 stationhouse. At the stationhouse, PO Rothenberg allegedly grabbed § 87(2)(b) by her right arm and pulled her out of the van (**Allegation C: Force, § 87(2)(g)**). PO Rothenberg then squeezed § 87(2)(b)'s handcuffs (**Allegation D: Force, § 87(2)(g)**). PO Rothenberg brought § 87(2)(b) to the front desk and continued to squeeze § 87(2)(b)'s handcuffs (**Allegation D continued**). § 87(2)(b) dropped to the floor due to the pain. PO Marte approached, and he and PO Rothenberg lifted § 87(2)(b) off the floor and both squeezed § 87(2)(b)'s handcuffs tighter (**Allegation D continued and Allegation E: Force, § 87(2)(g)**).

§ 87(2)(b) was transported to § 87(2)(b) in Brooklyn to undergo medical and psychiatric evaluation. § 87(2)(b) was not arrested or summonsed.

The investigation was provided with seven BWC recordings of this incident, several surveillance video recordings from NYCHA, and a video from the PSA 1 stationhouse. Relevant portions are discussed in greater details below.

Findings and Recommendations

Allegation (A): Abuse of Authority: In front of § 87(2)(b) in Brooklyn, Police Officer Wilfred Guzman detained § 87(2)(b)

Allegation (B) Force: In front of § 87(2)(b) in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)

It is undisputed that PO Guzman detained § 87(2)(b).

The investigation has established the following facts. On April 17, 2019, § 87(2)(b) was exiting the elevator on the ground floor at § 87(2)(b) in Brooklyn, where she resides. § 87(2)(b) was on her way to see her pain management specialist. § 87(2)(b) carried two bags and in her right hand and a cane in her left hand. Upon exiting the elevator, § 87(2)(b) exited the elevator and swung both bags up in an attempt to place them on her right shoulder. In the process, § 87(2)(b) hit the NYCHA maintenance worker.

§ 87(2)(b) (BR 01) denied hitting the maintenance worker intentionally. The maintenance worker swung back and tried to hit § 87(2)(b)'s bags. He then told § 87(2)(b) that he was going to call the police. § 87(2)(b) told the male that she was going to call the police as well. § 87(2)(b) exited the building and walked towards a cab that she had previously called. A marked police van drove towards the building. § 87(2)(b) waved and stopped the van. PO Wilfred Guzman and PO Melisa Penadelossantos exited the van and approached § 87(2)(b). § 87(2)(b) told the officers that she had accidentally hit the maintenance worker with her bags when she tried to place them on her shoulder. § 87(2)(b) stated she wanted to mediate the incident. PO Guzman agreed to offer mediation to the

maintenance worker and asked § 87(2)(b) to wait while he went to speak to the maintenance worker. Another marked van pulled up. PO Jonathan Rothenberg and PO James Marte exited the van and approached § 87(2)(b). She recognized both officers because they previously arrested her. PO Penadelossantos asked § 87(2)(b) to provide her identification, and she complied.

§ 87(2)(b) added that, seconds later, PO Guzman returned and said to § 87(2)(b) “Put your hands behind your back.” § 87(2)(b) did not comply and told PO Guzman that she was “damaged,” and that she had injuries to her spine. PO Guzman told § 87(2)(b) that she was not damaged and again asked her to place her hands behind her back. § 87(2)(b) was about to do so, when PO Guzman grabbed § 87(2)(b)’s right hand and brought it behind her back. PO Rothenberg that grabbed § 87(2)(b)’s left hand and brought it behind her back. PO Guzman then handcuffed § 87(2)(b). PO Rothenberg then took § 87(2)(b) by her left upper arm, while PO Marte took § 87(2)(b) by her right upper arm, and together they walked her to their marked van. PO Rothenberg asked § 87(2)(b) to get in the marked van. § 87(2)(b) told PO Rothenberg that it was too high, and that she could not lift her leg to reach the step. PO Rothenberg then grabbed § 87(2)(b) by her right upper arm to help her enter the van. § 87(2)(b) managed to get up the step and almost got in the van, when PO Rothenberg shoved her inside. § 87(2)(b) was not injured as a result. § 87(2)(b) was transported to the PSA 1 stationhouse. At the stationhouse, § 87(2)(b) requested to go to the hospital because she had difficulty breathing due to a medical condition. EMS arrived, evaluated § 87(2)(b) and removed her to the hospital.

According to the EVENT materials (BR 04), the maintenance worker from the § 87(2)(b) called 911 and reported that a black female came out of the elevator and hit him in the head with a bag while he was standing in the lobby of § 87(2)(b). He did not allege any injuries. He said that the female wore a head band or a floral scarf over her head, glasses, and had a “Rockawear” shopping bag in her hand. § 87(2)(b) also called 911 and said that she was exiting the elevator when a man hit her. She did not provide any further information or description of the man.

PO Guzman’s BWC recording (BR 06) begins with him and PO Penadelossantos arriving at the scene. At 09:38:34 minutes, PO Guzman speaks to the maintenance worker, who is accompanied by two females. The maintenance worker tells PO Guzman that he was standing in the lobby when § 87(2)(b) exited the elevator and hit him with a “Rockwear” bag and then accused him of hitting her. The maintenance worker volunteers to show surveillance cameras footage to PO Guzman. The maintenance workers states that he wants to press charges against § 87(2)(b). Between 09:39:08 and 09:41:20 minutes, PO Guzman walks over to § 87(2)(b) who is speaking to PO Penadelossantos, and tells her that they will to check the video to find out what is going on. PO Guzman then walks away and calls for a supervisor. At 09:42:00 minutes, PO Marte and PO Rothenberg arrive at the scene. Between 09:44:53 and 09:46:05 minutes, the video captures Sgt. Fiumano speaking to the maintenance worker, who states that § 87(2)(b) hit him with the bag. PO Guzman returns to § 87(2)(b) and asks her to turn around. § 87(2)(b) responds, “Nah, I am not getting arrested.” PO Guzman, along with PO Penadelossantos, PO Marte, and PO Rothenberg, attempt to place § 87(2)(b) in handcuffs. The video ends abruptly.

PO Rothenberg’s BWC recording (BR 08), at 09:45:17 minutes, shows PO Rothenberg and Sgt. Fiumano speaking to the maintenance worker and two females. PO Rothenberg asks Sgt.

Fiumano, “So, it is 92?” (which stands for arrest). Sgt. Fiumano responds, “Yeah, absolutely. I want to see the camera too, but you can 92 it for now.”

PO Penadelossantos’ BWC recording (BR 07) depicts the same interaction as discussed in PO Guzman’s BWC, with the following additional information. Between 09:38:42 and 09:39:50 minutes, § 87(2)(b) tells PO Penadelossantos that she was exiting the elevator, swung her bag, and accidentally hit the maintenance worker. She denies assaulting the male on purpose. PO Penadelossantos asks § 87(2)(b) if the male hit her. § 87(2)(b) states that he swung, but did not hit her. § 87(2)(b) denies being injured. At 09:47:43 minutes, § 87(2)(b) is rear cuffed with two sets of cuffs. PO Guzman holds § 87(2)(b)’s right upper arm and PO Marte holds her left upper arm. PO Rothenberg stands behind § 87(2)(b) and does not make with her. Between 09:48:17 and 09:49:19 minutes, PO Guzman and PO Marte escort § 87(2)(b) to the van. PO Penadelossantos opens the van’s side door, and PO Marte asks § 87(2)(b) to step inside. § 87(2)(b) complies and steps inside the van. PO Guzman assists § 87(2)(b) by holding her by the left upper arm. The video does not capture any officer pushing § 87(2)(b) into the van. PO Rothenberg is not seen making contact with § 87(2)(b). Between 10:02:24 and 10:06:01 minutes, § 87(2)(b) is inside the stationhouse. She requests to go to the hospital. Capt. Tania Kinsella approaches § 87(2)(b) and asks her to explain what happened. § 87(2)(b) requests to go to the hospital again and explains that she was on her way to the hospital to undergo surgery right before the incident. § 87(2)(b) then complains that PO Guzman, PO Rothenberg, and PO Marte assaulted her and that her cuffs are tight. Capt. Kinsella tells § 87(2)(b) that she is behaving irrationally and asks her to calm down.

§ 87(2)(g)

§ 87(2)(b) PO Guzman stated that he and PO Penadelossantos responded to a 911 call of an assault at § 87(2)(b) that he spoke to the NYCHA maintenance worker, and that the maintenance worker wanted to press charges against § 87(2)(b). Based on the information that was provided to him at the scene, PO Guzman placed § 87(2)(b) under arrest for assault. The arrest was verified by Sgt. Fiumano. PO Guzman denied that PO Rothenberg shoved § 87(2)(b) into the van and he denied doing so himself. § 87(2)(b) was brought to the stationhouse and she became irate and behaved irrationally. A supervisor, whom he was unable to identify, determined that § 87(2)(b) was emotionally disturbed and ordered that she be removed to the hospital to undergo a psychiatric evaluation, in lieu of an arrest. PO Guzman did not dispute his supervisor’s decision. PO Guzman agreed that § 87(2)(b) was emotionally disturbed and required psychiatric evaluation.

PO Rothenberg (BR 11) and PO Marte (BR 12) provided generally consistent testimonies with that of the BWC recordings. They both testified that § 87(2)(b) was arrested for assaulting the maintenance worker and that the arrest was verified by Sgt. Fiumano. However, it was later decided that § 87(2)(b) was emotionally disturbed and she was removed to the hospital and released. PO Rothenberg did not know which supervisor make this decision and decided not to process § 87(2)(b)’s arrest. PO Rothenberg (BR 11) did not remember how § 87(2)(b) was placed in the van, but he denied shoving her. PO Marte (BR 12) stated that § 87(2)(b) got in the van without any incident, and denied that PO Rothenberg shoved her inside the van or used any force against her.

A stop may be conducted only when a police officer has an individualized reasonable suspicion that the person stopped has committed, is committing, or is about to commit a crime. A person may be detained only if a properly conducted Level 1 or Level 2 encounter yields

information to support a reasonable suspicion that the person committed, was committing, or was about to commit a felony or Penal Law misdemeanor. NYPD Patrol Guide Procedure 212-11 (Board Review 6); People v. DeBour, 40 N.Y.2d 210 (1976) (Board Review 14) An officer may make an arrest of an individual without a warrant for a crime (within presence or not) and reasonable cause exists that the arrested person committed the crime. The arrest must be verified by a supervisor. NYPD Patrol Guide Procedure 208-01 and 208-02 (BR 21 and 22)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Force: In front of the PSA 1 stationhouse in Brooklyn, Police Officer Jonathan Rothenberg used physical force against § 87(2)(b)

Allegation (D) Force: At the PSA 1 stationhouse in Brooklyn, Police Officer Jonathan Rothenberg tightly handcuffed § 87(2)(b)

Allegation (E) Force: At the PSA 1 stationhouse in Brooklyn, Police Officer James Marte tightly handcuffed § 87(2)(b)

The investigation determined that PO Rothenberg did not make physical contact with § 87(2)(b) when she was removed from the marked van. It remains disputed whether PO Rothenberg and PO Marte used the alleged force against § 87(2)(b)

§ 87(2)(b) (BR 01) stated that upon arrival at the PSA 1 stationhouse, she asked PO Marte and PO Rothenberg for PO Penadelossantos to escort her. They ignored her request. PO Rothenberg grabbed § 87(2)(b)'s right upper arm and pulled her out of the van, and repeatedly told her to shut up. While walking § 87(2)(b) inside the stationhouse, PO Rothenberg kept squeezing § 87(2)(b)'s handcuffs, making them tighter and causing pain to her wrists. Rothenberg brought § 87(2)(b) before a large desk. Sgt. Ast was seated behind the desk. Sgt. Ast asked PO Rothenberg and PO Marte to bring § 87(2)(b) a chair so she could sit down. § 87(2)(b) sat on the chair for several minutes, and then requested medical attention, because she had trouble breathing due to a pre-existing medical condition. § 87(2)(b) got up from the chair and approached the desk to speak to Sgt. Ast. § 87(2)(b) told Sgt. Ast that the entire incident transpired over the bag, and that she did nothing wrong.

§ 87(2)(b) added that, during this conversation, PO Rothenberg approached § 87(2)(b) from behind and squeezed her handcuffs, causing pain to her wrists. § 87(2)(b) knelt on the floor due to the pain and yelled, "You are hurting me." § 87(2)(b) denied resisting PO Rothenberg in any manner, and told him to get off her and not to touch her. Sgt. Ast told PO Rothenberg to release § 87(2)(b) but he ignored his order. PO Rothenberg continued to squeeze § 87(2)(b)'s handcuffs, and both of her hands, but applied most pressure to her left hand. § 87(2)(b) yelled, "Police brutality" and complained that PO Rothenberg was violating her civil rights. At some point, PO Marte approached PO Rothenberg and assisted him in lifting § 87(2)(b) off the floor. PO Marte also squeezed § 87(2)(b)'s handcuffs while lifting her up. EMS arrived and § 87(2)(b) complained that

she had trouble breathing and could not feel her left hand. EMS advised § 87(2)(b) to go to the hospital and she was removed to § 87(2)(b)

§ 87(2)(b) was § 87(2)(b) § 87(2)(b) She was discharged from the hospital in the early morning of § 87(2)(b) . § 87(2)(b) § 87(2)(b)

§ 87(2)(b) appeared to her CCRB interview, two days after the incident, with a finger splint over her left ring finger (BR 02).

§ 87(2)(b)'s medical records from § 87(2)(b) (BR 03) document that on § 87(2)(b), she was accompanied to the hospital by police due to an alleged assault and aggressive behavior. § 87(2)(b) was very aggressive and verbally abusive towards the hospital staff, and complained of back and arm pain. § 87(2)(b) was evaluated by a physician assistant, who noted that § 87(2)(b) was brought to the hospital as an EDP. According to the officers, § 87(2)(b) tried to assault another person by throwing a bag and punching him and the officers brought her to the hospital for an evaluation. § 87(2)(b) only complained of pain to both wrists, secondary to handcuffs, and requested x-rays. § 87(2)(b)

§ 87(2)(b) was discharged from the hospital on § 87(2)(b).

On § 87(2)(b), § 87(2)(b) walked into the § 87(2)(b) Emergency Room with complaints of injuries due to a fall and an abrasion on her left elbow and swelling of her left-hand ring finger. She made no other complaints. § 87(2)(b) § 87(2)(b)

§ 87(2)(b) was discharged for self-care on § 87(2)(b)

PO Penadelossantos' BWC recording (BR 07), at 10:00:24 minutes, shows § 87(2)(b) and the officers arrive at the PSA 1 stationhouse. § 87(2)(b) is rear cuffed and sitting in the middle seat of the van. At 10:00:26 minutes, PO Rothenberg opens the van's side door. § 87(2)(b) says, "I do not want that man touching me." PO Rothenberg says to § 87(2)(b) "Step out of the van, please." § 87(2)(b) replies, "I will step out, but you do not touch me." At 10:00:36 minutes, § 87(2)(b) gets up from the seat and PO Penadelossantos assists her in exiting the van by holding § 87(2)(b)'s right bicep. PO Rothenberg does not make any contact with § 87(2)(b). At 10:01:00 minutes, PO Penadelossantos and PO Rothenberg walk § 87(2)(b) to the stationhouse. § 87(2)(b) yells, "Police brutality! Police brutality!" At 10:01:12 minutes, the video captures PO Rothenberg holding § 87(2)(b)'s left upper arm and PO Penadelossantos holding her right upper arm. § 87(2)(b) yells at PO Rothenberg and tells him to get off her and not to touch her. At 10:01:41 minutes, PO Penadelossantos places her BWC camera on the desk so that it is facing § 87(2)(b). § 87(2)(b) yells that the officers were trying to kill her. PO Rothenberg asks § 87(2)(b) to stop moving. At 10:02:01 minutes, PO Marte approaches PO Penadelossantos and takes § 87(2)(b) by her right upper arm. PO Penadelossantos releases § 87(2)(b) and then searches her in front of the desk.

§ 87(2)(b) bends forward and yells at PO Rothenberg, "Get off me. Get off me, Rothenberg. You are squeezing my hand." The video captures PO Rothenberg holding § 87(2)(b)

§ 87(2)(b) by the mid-section of her left hand. PO Rothenberg asks § 87(2)(b) to stop moving. § 87(2)(b) moves in an upright position and faces the camera. It is unclear if PO Rothenberg continues to hold § 87(2)(b) by the mid-section of her hand. At 10:02:24 minutes, § 87(2)(b) requests to go to the hospital. At 10:02:41 minutes, § 87(2)(b) turns her head in PO Rothenberg's direction and tells him to get off her. PO Rothenberg asks § 87(2)(b) to stand straight. She yells at PO Rothenberg, then bends forwards, and yells, "A... a ...a." At 10:02:43 minutes, PO Rothenberg, with his right hand, takes § 87(2)(b) by her left wrist and moves her left hand further behind her back. § 87(2)(b) drops to the floor and disappears from the camera's view for several seconds. She re-emerges when PO Rothenberg releases her. PO Rothenberg, with both hands, takes § 87(2)(b) by her left upper arm, and tries to lift her up. § 87(2)(b) is rear-cuffed with two sets of cuffs. PO Penadelossantos appears to hold § 87(2)(b) by her right upper arm. It is unclear if PO Marte is still holding § 87(2)(b). At 10:05:54 minutes, PO Rothenberg releases § 87(2)(b). § 87(2)(b) remains laying on the floor. PO Penadelossantos is bent over § 87(2)(b) and yells, "A... a ...a." The video does not capture § 87(2)(b).

Between 10:03:00 and 10:04:09 minutes, PO Marte brings a chair for § 87(2)(b). At 10:03:11 minutes, a female plainclothes officer walks over to § 87(2)(b) and asks her to sit on the chair. § 87(2)(b) continues to yell incoherently. This officer asks the officers to call EMS. PO Rothenberg takes § 87(2)(b) by her left upper arm and PO Marte takes her by the other upper arm, and together they lift § 87(2)(b) up and sit her on the chair. PO Rothenberg and PO Marte release her and step to the side. § 87(2)(b) continues to yell and tell PO Rothenberg to get off her. § 87(2)(b) says that the officers tried to kill her and asks to remove her from the handcuffs, because they are hurting her wrists and complains that she is damaged. At some point, she gets up off the chair.

Between 10:06:10 and 10:07:57 minutes, Capt. Tania Kinsella approaches § 87(2)(b) and asks her to explain what happened. § 87(2)(b) requests to go to the hospital. She states that she was on her way to the hospital to undergo surgery prior to the incident. § 87(2)(b) then complains that PO Guzman, PO Rothenberg, and PO Marte assaulted her, and that her handcuffs are tight. Capt. Kinsella tells § 87(2)(b) that she is behaving irrationally and asks her to calm down and sit on the chair. She complies and complains that PO Marte and PO Rothenberg placed the cuffs tightly over her "damaged wrists." Between 10:09:22 and 10:16:35 minutes, Capt. Kinsella leaves. PO Penadelossantos and PO Rothenberg attempt to place leg shackles on § 87(2)(b) prior to transporting her to the hospital. § 87(2)(b) jumps off the chair, yells at PO Rothenberg not to touch her, and drops to her knees. PO Guzman lifts her up and places her on the chair. Between 10:16:56 and 10:25:35 minutes, EMS arrives and speaks to § 87(2)(b). EMS convinces § 87(2)(b) to get on to the stretcher and she eventually complies. PO Rothenberg then straps her to the stretcher.

Between 10:25:57 and 10:26:43 minutes, § 87(2)(b) moves her shoulders. The camera does not capture her hands or what she is doing with them. PO Rothenberg rushes back to § 87(2)(b) leans toward her left arm, and says, "She is taking... Stop, stop, stop." He then grabs § 87(2)(b) by the mid-section of her left hand and brings her left hand behind her back. § 87(2)(b) clutches her left hand in a fist and yells, "A... a... a." PO Rothenberg tells PO Marte and PO Guzman, who are standing nearby, to remove one set of handcuffs, because § 87(2)(b) is under no restraints. PO Rothenberg tells § 87(2)(b) to stop playing with the handcuffs. She yells out, "Aw, aw, aw." PO Marte walks to § 87(2)(b)'s right side covering PO Penadelossantos' BWC camera with his body. The camera does not capture what the

officers are doing. § 87(2)(b) yells, “My stitches. My stitches,” and, “They are hurting my stitches.” PO Rothenberg says to § 87(2)(b) “Let go of your wrists.” The video does not capture § 87(2)(b) or her wrists. § 87(2)(b) says, “Okay, okay. I am letting go. I am sorry.”

PO Rothenberg’s BWC recording (BR 16) depicts the same interaction as discussed in PO Penadelossantos’ BWC, with the following additional information. At 10:02:49 minutes, § 87(2)(b) turns her head toward PO Rothenberg and yells, “Can you get off me?” He asks § 87(2)(b) to stand straight. § 87(2)(b) bends forwards and yells, “A...a...a,” as she drops to the ground. It is unclear what causes § 87(2)(b) to drop. PO Rothenberg and PO Penadelossantos take § 87(2)(b) by her upper arms and ask her to get up. She continues to yell and does not stand up. PO Rothenberg tells PO Penadelossantos to release § 87(2)(b) and let her sit on the floor. PO Rothenberg also releases § 87(2)(b)’s left upper arm. At 10:03:33 minutes, PO Marte takes § 87(2)(b) by her right upper arm and PO Rothenberg takes her by the left upper arm, and together left her off the floor and sat on the chair. The video does not capture PO Rothenberg or PO Marte making contact with § 87(2)(b)’s wrists or cuffs. Between 10:25:43 and 10:25:45 minutes, § 87(2)(b) sits on the stretcher. PO Rothenberg takes the camera off the desk and affixes it to his chest. He checks the straps that go around § 87(2)(b)’s hips and walks to the side. § 87(2)(b) yells about police brutality. At 10:26:01 minutes, the video does not capture § 87(2)(b) but only a sound of a strap being unbuckled. PO Rothenberg rushes back to the stretcher and says, “She is taking...Stop, stop, stop.” PO Rothenberg grabs § 87(2)(b) by the mid-section of her left hand, and brings her left hand behind her back. § 87(2)(b) yells. The video does not capture § 87(2)(b)’s back, but not her hands. PO Rothenberg tells the officers, “Take the cuffs off and put it on single cuff, because now she is under no restraints.” Between 10:26:15 and 10:27:13 minutes, PO Marte, who is standing to the right of § 87(2)(b) and across PO Rothenberg, takes the keys off his belt and reaches behind § 87(2)(b)’s back. The video does not capture what he is doing. PO Rothenberg asks § 87(2)(b) to stop playing with the handcuffs. PO Guzman holds the stretcher. The video does not capture what PO Rothenberg or PO Marte are doing to the handcuffs. PO Rothenberg asks § 87(2)(b) to let go of her wrists. The video does not capture § 87(2)(b)’s wrists. She yells, “A...a...I did. Okay, I let go...I am sorry.” PO Rothenberg appears to unlock one set of handcuffs and PO Marte removes them.

PO Marte’s BWC recording captures the same incident as discussed in PO Penadelossantos’ BWC.

The stationhouse video footage depicts the same interaction as discussed in the above BWC recordings. It does not contain an audio component.

PO Rothenberg (BR 11) provided a generally consistent testimony with the above referenced BWC recordings and added the following information. § 87(2)(b) exited the marked van on her own upon arrival at the stationhouse. He denied pulling § 87(2)(b) out of the van and did not see any other officer do so. After § 87(2)(b) exited the van, PO Rothenberg took her by the left or right wrist, right above the handcuff, and walked her to the stationhouse. § 87(2)(b) yelled at PO Rothenberg and asked him not to touch her, but otherwise did not complain of any pain or injuries. PO Rothenberg denied squeezing or tightening § 87(2)(b)’s handcuffs while escorting her to the stationhouse. PO Rothenberg brought § 87(2)(b) to the front desk. § 87(2)(b) yelled at the officers and told them not to touch her. She then abruptly dropped to the floor, while PO Rothenberg was holding her by the left or right wrist, and continued to yell incoherently. PO Rothenberg denied squeezing § 87(2)(b)’s

handcuffs prior to her dropping to the floor, or manipulating them in any manner causing § 87(2)(b) to fall to the ground. PO Rothenberg lifted § 87(2)(b) off the floor and placed her on a chair. § 87(2)(b) continued to be verbally abusive toward PO Rothenberg. He did not recall if PO Marte assisted him. PO Rothenberg denied squeezing or tightening § 87(2)(b)'s handcuffs after lifting her up and he did not see PO Marte or any other officer do so.

Because § 87(2)(b) was irate and acting aggressively, it was determined that she was an EDP and required medical evaluation. EMS arrived and § 87(2)(b) was verbally abusive toward the EMTs as well. She was eventually placed on a stretcher and strapped. At some point, § 87(2)(b) unbuckled the straps that were placed over her hips. PO Rothenberg explained that § 87(2)(b) was initially cuffed with two sets of handcuffs, allowing her to move more. When PO Rothenberg saw she removed the restrains, he alerted the other officers, and then grabbed § 87(2)(b) by her left wrist, moved her hand behind her back, and held it there, while PO Marte or PO Guzman removed one set of handcuffs and re-handcuffed § 87(2)(b). PO Rothenberg denied using any other force against § 87(2)(b) or squeezing her handcuffs. PO Rothenberg was not aware whether § 87(2)(b) sustained any injuries as a result of this incident § 87(2)(b).

PO Marte's (BR 12) testimony was generally consistent with PO Rothenberg's and the video evidence, with the following additional information and exceptions. § 87(2)(b) exited the van on her own. PO Rothenberg did not pull her out. PO Marte assisted PO Rothenberg in escorting § 87(2)(b) to the stationhouse, by holding her left or right arm, while PO Rothenberg held the other arm. PO Marte denied squeezing or seeing PO Rothenberg squeezing § 87(2)(b)'s handcuffs while escorting her into the stationhouse. § 87(2)(b) complained that her handcuffs were tight at some point after being brought inside the stationhouse. PO Marte explained that the handcuffs are tight in general and that § 87(2)(b)'s handcuffs were double-locked to prevent them from becoming tighter. § 87(2)(b) yelled incoherently and dropped to the floor at the front desk. § 87(2)(b) dropped to the floor several times and, each time, he, PO Rothenberg, and/or PO Guzman lifted her up and placed her on a chair. PO Marte denied tightening or seeing PO Rothenberg tightening § 87(2)(b)'s handcuffs, causing her to fall, or doing so while lifting her off the floor. PO Marte initially did not recall if § 87(2)(b) attempted to remove her restraints when placed on a stretcher, but after watching a brief portion of PO Rothenberg's BWC, he recalled hearing PO Rothenberg say that § 87(2)(b) removed her restraints. PO Marte assisted PO Guzman and PO Rothenberg in securing § 87(2)(b) properly. PO Marte did not remember if they removed one set of handcuffs, or handcuffed her wrists to each side of the stretcher. PO Marte denied squeezing or seeing any officer squeezing § 87(2)(b)'s handcuffs in the process. PO Marte was not aware whether § 87(2)(b) was injured during this incident. PO Marte was not aware that § 87(2)(b) fractured her left ring finger and he denied causing this injury.

PO Guzman (BR 10) had a vague recollection of this incident. He did not remember who removed § 87(2)(b) from the van or walked her to the stationhouse. PO Guzman corroborated PO Rothenberg's and PO Marte's accounts regarding § 87(2)(b)'s irate and "hysterical" behavior at the stationhouse. He did not recall if § 87(2)(b) dropped to the floor. He did not see PO Rothenberg or PO Marte squeeze or manipulate § 87(2)(b)'s handcuffs while she was at the front desk.

PO Guzman acknowledged that he completed Threat, Resistance, and Injury Reports (BR 17) on behalf of himself, PO Rothenberg, PO Penadelossantos, and PO Marte. PO Guzman stated

no force was used against § 87(2)(b) by him, PO Marte, PO Penadelossantos, or PO Rothenberg, but she alleged that they “roughed her up,” and hurt her back and wrists. Thus, to document § 87(2)(b)'s allegations, he prepared the reports.

The Investigating Supervisor’s Assessment Report (BR 18) prepared by Capt. Kinsella states that § 87(2)(b) alleged that the officers “manhandled, assaulted, and choked” her. § 87(2)(b) stated that her handcuffs were too tight, and that she had pain to her wrists, back, and arms. She then became irrational and began to scream about police brutality. Capt. Kinsella reviewed several BWC recordings for this incident, and concluded that the officers did not use force against § 87(2)(b) other than handcuffing her. § 87(2)(b) was removed to § 87(2)(b) for exhibiting signs of being an EDP, and complaints of back and arm pain. § 87(2)(b) was treated and diagnosed with a swollen finger and then released from the Emergency Room. Capt. Kinsella found that all officers acted appropriately and within department guidelines, and recommended this case to be closed without further actions being taken.

The AIDED Report (BR 19) prepared by PO Jelecia Payne states that § 87(2)(b) was acting irate and uncooperative while at the stationhouse. EMS was called and § 87(2)(b) attempted to “kick” and get out of the restrains.

§ 87(2)(g)

§ 87(2)(b) § 87(2)(b) § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
-
-

- § 87(2)(b) [REDACTED]
- [REDACTED]
- [REDACTED]
- PO Jonathan Rothenberg has been a member-of-service for 11 years and has been a subject in seven CCRB complaints and 26 allegations, of which one was substantiated:
 - 201809819 involved a substantiated allegation of abuse of authority (entry of premises) against PO Rothenberg. The Board recommended Command Discipline A and the NYPD has not yet imposed discipline.
 - § 87(2)(g) [REDACTED]
- PO James Marte has been a member-of-service for two years and this is the first CCRB complaint to which he had been a subject.
- PO Wilfred Guzman has been a member-of-service for six years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- A FOIL request was sent to the NYC Comptroller on July 8, 2019, for any Notice of Claim filed in regard to this incident. The results of the request will be added to the case file upon receipt.
- § 87(2)(b) [REDACTED]

Squad No.: 4

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

Print Title & Name

Date