CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	Team:	CCRB Case #:	☑ Force ☑ Discourt. ☐ U.S.
Christopher Anderson	Squad #12	202002393	☑ Abuse ☐ O.L. ☐ Injury

Incident Date(s)	Location of Incident:	Precinct:	18 Mo. SOL	EO SOL
Thursday, 03/19/2020 9:50 PM, Saturday, 03/21/2020 4:00 PM	West Fordham Road and Sedgewick Avenue; 52nd Precinct stationhouse	52	9/19/2021	5/6/2022

Date/Time CV Reported	CV Reported At:	How CV Reported:	Date/Time Received at CCRB
Sat, 03/28/2020 1:27 AM	CCRB	On-line website	Sat, 03/28/2020 1:27 AM

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

Subject Officer(s)	Shield	TaxID	Command
1. POF Christina Moncion	11670	954455	052 PCT
2. POM Bryan Scheblein	26121	955457	052 PCT
3. POF Gina Mestre	11607	955191	052 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Joshua Garcia	4045	967518	052 PCT
2. SGT Craig Basler	00544	933636	052 PCT
3. POM Garry Tuma	20648	959317	052 PCT
4. POM Anthony Saline	12924	962081	052 PCT
5. POM William Gonzalez	00623	964531	052 PCT
6. POM Sonny Collado	03851	948796	052 PCT
7. SGT Frank Aliffi	00234	939856	052 PCT
8. POM Ryan Cotter	24878	962327	052 PCT
9. POM Jarren Smalls	01560	965876	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Christina Moncion	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Christina Moncion frisked § 87(2)(b)	[redacted]
B.POF Christina Moncion	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Christina Moncion searched § 87(2)(b)	[redacted]
C.POF Gina Mestre	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre frisked § 87(2)(b)	[redacted]
D.POF Gina Mestre	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre searched § 87(2)(b)	[redacted]
E.POF Gina Mestre	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre searched the vehicle in which § 87(2)(b) was an occupant.	[redacted]

Officer(s)	Allegation	Investigator Recommendation
F.POF Christina Moncion	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Christina Moncion searched the vehicle in which § 87(2)(b) was an occupant.	
G.POM Bryan Scheblein	Force: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein used physical force against § 87(2)(b)	
H.POM Bryan Scheblein	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein refused to provide his shield number to § 87(2)(b)	
I.POM Bryan Scheblein	Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein spoke discourteously to § 87(2)(b)	
J.POM Bryan Scheblein	Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein spoke discourteously to § 87(2)(b)	
K.POM Bryan Scheblein	Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein spoke discourteously to § 87(2)(b)	
L.POF Gina Mestre	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre interfered with § 87(2)(b) s use of a recording device.	
M.POF Gina Mestre	Abuse: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre damaged § 87(2)(b) s property.	
N.POF Gina Mestre	Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre spoke discourteously to § 87(2)(b)	
O. Officers	Abuse: On March 19, 2020, at the 52nd Precinct stationhouse, officers searched the vehicle in which § 87(2)(b) and § 87(2)(b) had been occupants.	
P.POM Bryan Scheblein	Abuse: On March 21, 2020, at the 52nd Precinct stationhouse, Police Officer Bryan Scheblein threatened to arrest § 87(2)(b)	

Case Summary

On March 28, 2020, § 87(2)(b) filed this complaint on the CCRB website on behalf of himself and his brother, § 87(2)(b)

On March 19, 2020, at approximately 9:50 p.m., numerous officers from the 52nd Precinct, including PO Bryan Scheblein, PO Christina Moncion, and PO Gina Mestre, stopped § 87(2)(b) s vehicle in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx. During the stop, PO Moncion frisked § 87(2)(b) (**Allegation A: Abuse of Authority,** § 87(2)(g) and searched him (**Allegation B: Abuse of Authority,** § 87(2)(g) . PO Mestre frisked (**Allegation C: Abuse of Authority,** § 87(2)(g) and searched § 87(2)(b) (**Allegation D: Abuse of Authority,** § 87(2)(g) . PO Mestre searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants (**Allegation E: Abuse of Authority,** § 87(2)(g) PO Moncion searched the vehicle in which § 87(2)(b) and were occupants (**Allegation F: Abuse of Authority,** § 87(2)(g)

PO Scheblein pushed § 87(2)(b) against the vehicle (**Allegation G: Force,** § 87(2)(g) , refused to provide his shield number to him (**Allegation H: Abuse of Authority,** § 87(2)(g) and used profanity towards him on three separate occasions (**Allegations I: Discourtesy,** § 87(2)(g) **(Allegation J: Discourtesy,** § 87(2)(g) **(Allegation K: Discourtesy,** § 87(2)(g) PO Mestre moved § 87(2)(b) s hand against the vehicle while he held § 87(2)(b) s cell phone, which was recording footage (**Allegation L: Abuse of Authority,** § 87(2)(g) causing the phone to be damaged (**Allegation M: Abuse of Authority,** § 87(2)(g) . PO Mestre used profanity towards § 87(2)(b) (**Allegation N: Discourtesy,** § 87(2)(g)

§ 87(2)(b) was arrested and taken to the 52nd Precinct stationhouse, where officers searched his vehicle (**Allegation O: Abuse of Authority,** § 87(2)(g) Officers subsequently released § 87(2)(b) from custody with two summonses for disorderly conduct and a vehicle stopping or standing violation (Board Review 01 and 02) as a result of this incident.

On March 21, 2020, at approximately 4:00 p.m., § 87(2)(b) went to the 52nd Precinct stationhouse, where he interacted with numerous officers. PO Scheblein threatened to arrest § 87(2)(b) (**Allegation P: Abuse of Authority,** § 87(2)(g)

Body-Worn Camera (BWC) footage recorded by officers in this case was received from the NYPD's Legal Bureau (Board Review 03) and transcribed (Board Review 04 through 13). Cell phone footage § 87(2)(b) recorded was provided to the CCRB by § 87(2)(b) (Board Review 14 and 15; summarized in Board Review 16 and 17).

Findings and Recommendations

Allegation (A) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Christina Moncion frisked § 87(2)(b)

Allegation (B) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Christina Moncion searched § 87(2)(b)

It is undisputed that at approximately 9:50 p.m. on March 19, 2020, officers stopped § 87(2)(b) s vehicle in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx. § 87(2)(b) was a passenger in § 87(2)(b) s vehicle. During the vehicle stop, PO Moncion frisked and searched § 87(2)(b) and subsequently searched his vehicle. PO Mestre also conducted a vehicle search and frisked § 87(2)(b)

§ 87(2)(b) stated to the CCRB (Board Review 18) that after noticing an unmarked vehicle with flashing lights behind him, he stopped his vehicle. Prior to the stop, his vehicle did not smell of marijuana. § 87(2)(b) did not smoke marijuana in the vehicle, and he did not think that § 87(2)(b) smoked marijuana whatsoever. § 87(2)(b) did not state whether he had committed any vehicle infractions prior to the vehicle stop. PO Moncion approached the vehicle, spoke to § 87(2)(b) and instructed him to exit the vehicle. He initially protested, but ultimately exited the vehicle. PO Moncion reached into § 87(2)(b) s front pants pocket and possibly a jacket pocket. § 87(2)(b) did not note that PO Moncion touched the exterior of these pockets prior to searching them. § 87(2)(b) exited the vehicle, and § 87(2)(b) did not recall the nature of interactions officers had with him. PO Moncion and PO Mestre searched every portion of the vehicle, including opening a bag containing food.

§ 87(2)(b) provided a statement to the CCRB (Board Review 32). § 87(2)(b) stated that he does not smoke marijuana in the vehicle, and noted that § 87(2)(b) does not do so either. § 87(2)(b) stated that after the vehicle was stopped, PO Mestre instructed him to exit the vehicle, and he complied. After he did this, PO Mestre patted § 87(2)(b) s body, reached into coat pockets on his right side, instructed § 87(2)(b) to remove the coat, patted down his upper body, reach into a right sweater pocket, and removed items from the sweater pocket. An officer he described as a black female officer with a slim build searched the vehicle. The vehicle contained bags of food and a backpack containing baseball equipment.

PO Moncion made one notation in her Memo Book regarding this incident (Board Review 39). The Memo Book entry notes: "Car stop – 96 [summons] by me § 87(2)(b)

PO Moncion provided testimony to the CCRB (Board Review 27). On the date of incident, PO Moncion was assigned to Anti-Crime, worked in plainclothes with PO Bryan Scheblein, and utilized an unmarked vehicle. In her testimony, she stated that she observed a double-parked vehicle at Fordham Road near Loring Street. The area where PO Moncion observed the vehicle was well-lit, and she observed § 87(2)(b) in the driver's seat. PO Moncion activated the police vehicle's lights. § 87(2)(b) s vehicle pulled out and turned left on Fordham Road. It took § 87(2)(b) one or two blocks, approximately one to two minutes, to stop his vehicle. Immediately after the vehicle stopped, PO Moncion observed the vehicle shaking, which appeared to her as though people were moving inside the vehicle. PO Moncion approached the vehicle, though she did not recall which side of the vehicle she approached. PO Moncion asked § 87(2)(b) several times for his documentation, and § 87(2)(b) refused to provide them. PO Moncion believed that § 87(2)(b) who was the driver, was acting very aggressively, and that

he was acting in a "fidgety" manner in that he was moving his hands and body and speaking in an elevated tone of voice. While speaking with § 87(2)(b) on the driver side of his vehicle, she detected the odor of marijuana. PO Moncion did not observe marijuana inside of the vehicle, which she noted was messy. She noted that she observed a baseball bat inside of the vehicle. Because of § 87(2)(b) s motions inside the vehicle, her observation of the bat, and her observation about the marijuana, PO Moncion was concerned from her safety. She then asked § 87(2)(b) to exit the vehicle. § 87(2)(b) complied immediately. PO Moncion instructed § 87(2)(b) to place his hands on the top of the vehicle. § 87(2)(b) complied, but was acting "fidgety," which she described as periodically removing his hands from the top of the vehicle and moving his body around. PO Moncion believed she conducted a pat-down of § 87(2)(b) as he stood at the door of his vehicle. She stated she or PO Scheblein would have conducted this pat-down, and that each officer who interacted with the occupant of their respective side of the vehicle would have been the officer to conduct a pat-down of that occupant. She did not recall if the pat-down she conducted discovered any weapons. The basis of conducting the pat-down was the odor of marijuana. PO Moncion found § 87(2)(b) s wallet in his coat pocket. PO Moncion then searched the entirety of vehicle; the search recovered no contraband.

The investigation interviewed PO Scheblein (Board Review 28). PO Scheblein reported that when officers first observed § 87(2)(b) s vehicle, it was double-parked at a fire hydrant as they drove north on Andrews towards Fordham Road. When they were almost past § 87(2)(b) s vehicle, it pulled out in front of the unmarked police vehicle. At the light at the intersection, the driver and passenger switched seats. PO Scheblein stated that he observed this since the police vehicle was directly behind § 87(2)(b) s vehicle. § 87(2)(b) s vehicle then made a left onto West Fordham Road, but the driver's response was delayed. PO Scheblein stated that delayed responses are usually due to people taking action to hide illegal items in their vehicle. The driver of the vehicle stopped at Cedar and West Fordham Road, which – in his opinion – was not a logical place to stop because it is on a downhill slope with multiple dead-end streets. This series of factors increased PO Scheblein's suspicions about the vehicle. PO Moncion and PO Ledesma approached the vehicle. § 87(2)(b) who was in the front passenger seat, did not immediately roll down his window despite PO Scheblein knocking several times. § 87(2)(b) was giving PO Moncion trouble, though he did not provide additional details about this. PO Scheblein called for assistance. PO Scheblein stated that he approached the drivers' side of the vehicle, asked § 87(2)(b) to exit, and when § 87(2)(b) exited, he used his hands to forcibly rotate § 87(2)(b) s body so that he was facing his vehicle. § 87(2)(b) refused or appeared to be unable to answer questions about the ownership of the vehicle, and also appeared to be engaging in activity to confuse or frustrate police officers. § 87(2)(b) repeatedly insisted that officers had injured him and that PO Scheblein had his wallet. PO Scheblein did not have § 87(2)(b) s wallet. This caused PO Scheblein to suspect that § 87(2)(b) had ingested mind-altering substances. PO Scheblein conducted a search of police databases to determine whether § 87(2)(b) had a history of mental illness or a history as an emotionally disturbed person. While PO Scheblein interacted with § 87(2)(b) PO Moncion searched § 87(2)(b) s vehicle. PO Scheblein did not attest to detecting the odor of marijuana.

The investigation interviewed PO Mestre (Board Review 29). On the date of incident, PO Mestre was assigned to Anti-Crime and was dressed in plainclothes. PO Mestre responded to a request for assistance, but did not recall the reason for the vehicle stop. Upon her arrival on scene, PO Mestre observed PO Moncion instructing § 87(2)(b) to exit his vehicle multiple times; instead, § 87(2)(b) leaned forward in his seat before exiting by gripping the frame of the vehicle door. Because PO Mestre did not know the cause for the vehicle stop, § 87(2)(b) did not comply with officer orders, he leaned in his seat, and he had a "nervous" demeanor, she frisked him. PO Mestre walked back to the passenger side of the vehicle and conducted a "quick search" of

the "grabbable areas" of the vehicle. PO Mestre conducted this search because § 87(2)(b) was "nervous and not compliant" and because he leaned forward while still inside the vehicle. She also conducted this search because she did not know whether other officers were aware of information that they could not vocalize during the incident, such as § 87(2)(b) possibly possessing a weapon or the stopped vehicle being stolen.

PO Moncion recorded BWC footage of this incident (Board Review 03; summarized in Board Review 05). The footage depicts PO Moncion approaching the front driver's side of § 87(2)(b) s vehicle, where § 87(2)(b) was seated. § 87(2)(b) repeatedly questions what he had done wrong and does not comply with PO Moncion's orders to provide his documentation and exit his vehicle. At 01m48s in the recording, PO Moncion is seen feeling the outside of § 87(2)(b) s sweatshirt pocket, and then reaching into the pocket. She removes a three-ounce container of hand sanitizer and a container similar to an eye dropper dispenser. § 87(2)(b) asked PO Moncion why she is searching him. PO Moncion responds, "Shut up," and tosses the item from § 87(2)(b) s pocket onto the driver's seat of § 87(2)(b) s car. At 04m24s, § 87(2)(b) asks whether he was under arrest, and PO Moncion replies, "Right now you're being detained." At 04m34s, PO Mestre is seen entering the vehicle via the front passenger's side. At approximately 05m07s in the recording, PO Moncion opens the front driver's side door and reaches in § 87(2)(b) s vehicle. She then moves items, and shining her flashlight. She states, "They switched literally right in front of us. The son was driving fast." PO Moncion did not make any contemporaneous statements to officers or civilians about detecting the odor of marijuana. At the 07m00s mark, PO Moncion asks PO Mestre about what areas of the vehicle she searched. PO Mestre answers and then kneels into the front passenger seat.

PO Scheblein's BWC footage (Board Review 03; summarized in Board Review 05) contains no mention of marijuana or the odor of marijuana. During a conversation with § 87(2)(b) PO Scheblein tells § 87(2)(b) that he is being detained because he was being physically combative with officers.

While PO Mestre's BWC (Board Review 03; summarized in Board Review 08) captures her actions while at the incident location, the footage does not capture any statements by officers about the presence of marijuana. None of the other BWC footage recorded by officers contains any such statements.

While PO Moncion stated that she sensed the odor of marijuana during this vehicle stop, the officers did not locate any marijuana as a result of their searches, § 87(2)(b) and § 87(2)(b) denied possessing marijuana inside of the vehicle, no other officer reported the presence of marijuana, and the BWC does not contain any contemporaneous statements about the presence of marijuana at the location. Finally, PO Moncion did not make any contemporaneous notations about her alleged observation of marijuana in her Memo Book. § 87(2)(g)

As per Patrol Guide Procedure 212-11 (Board Review 37), officers are permitted to frisk when they reasonably suspect that a person is armed and dangerous. If a frisk reveals an object that an officer reasonably suspects may be a weapon, officers are permitted to search only those interior portions of the stopped person's clothing to remove the weapon.

According to People v. Chestnut, 43 A.D.2d 260 (Board Review 19), officers may search a vehicle and frisk and search its occupants upon detecting the odor of marijuana inside the vehicle.

§ 87(2)(g)

PO Moncion provided no additional justifications for the frisk, though the investigation noted that in her interview, she also cited the following potentially relevant factors: § 87(2)(b) s "fidgety" behavior, his aggression, his failure to initially comply with officer instructions, and the presence of a baseball bat inside of his vehicle. However, none of these factors were an indication that § 87(2)(b) was armed or dangerous. While PO Moncion cited the presence of a baseball bat – an innocuous item that could be used as a weapon – at the time of the frisk and search the bat was not within § 87(2)(b) s grasp. § 87(2)(g) While BWC confirms that § 87(2)(b) was somewhat noncompliant, the noncompliance was not protracted and was limited to protesting the officers' actions. While PO Moncion described § 87(2)(b) as being fidgety and aggressive, she noted that his actions were limited to moving his hands while speaking and talking in an elevated tone of voice. None of these behaviors, however, are an indication that an individual is armed or dangerous.

§ 87(2)(g)

Allegation (C) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre frisked § 87(2)(b)
Allegation (D) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre searched § 87(2)(b)
In the BWC footage PO Mestre recorded (Board Review 08), at the 01m30s mark, she is depicted patting § 87(2)(b) s legs, reaching into his sweatshirt pocket, touching the inside and outside of his jacket, and then subsequently reaching into the vehicle interior and moving items inside it.

In her testimony to the CCRB, PO Mestre admitted that she frisked § 87(2)(b) when he exited the vehicle, and explained that she did so because she did not know the cause for the vehicle stop, because § 87(2)(b) did not initially comply with officer orders to exit the vehicle, because he leaned in his seat, and because he had a "nervous" demeanor. While PO Moncion stated that there was an odor of marijuana, PO Mestre did not state that she sensed the odor of marijuana or that any officer relayed such information to her. PO Mestre stated that she did not recall whether she inserted her hands into any of § 87(2)(b) s pockets.

The investigation determined that PO Mestre conducted a frisk because she stated that she did so, and because the frisk is documented on BWC footage. Although PO Mestre stated that she did not recall whether she searched § 87(2)(b) by placing her hands inside any of his pockets, the investigation determined that the search nonetheless occurred because it was documented on BWC footage.

§ 87(2)(g)

PO Mestre did not cite the presence of the odor of marijuana as a reason for frisking and searching § 87(2)(b) PO Mestre did not know the reason for the vehicle stop, and so there is no information from the vehicle stop that might have influenced her decision to frisk § 87(2)(b) Further, the reported reason for the vehicle stop was a parking violation, which could not provide a justifiable basis for a belief that § 87(2)(b) was armed. Likewise, the observations that a subject of a vehicle stop is nervous and initially noncompliant with officer instructions do not provide a reasonable indication that the civilian is armed. § 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre searched the vehicle in which § 87(2)(b) was an occupant.

Allegation (F) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Christina Moncion searched the vehicle in which § 87(2)(b) was an occupant.

As noted above, PO Mestre affirmed in her CCRB statement that she searched § 87(2)(b) s vehicle, and her search of the vehicle was captured in BWC footage. In her statement to the CCRB, PO Mestre stated that, upon responding to the incident location in regards to a request for assistance, she conducted "quick search" of the "grabbable areas" of the vehicle from the passenger's side of the vehicle. At the time of the vehicle search, neither § 87(2)(b) nor § 87(2)(b) was inside the vehicle. PO Mestre cited the following reasons for searching the vehicle: § 87(2)(b) s nervousness, lack of compliance, and movements while inside the vehicle. She stated that no officers informed explicitly or implicitly informed her of any suspicion that § 87(2)(b) was armed or in possession of contraband. As noted in the discussion of Allegations A-B, BWC footage confirms that PO Moncion searched § 87(2)(b) s vehicle.

§ 87(2)(g)

In People v. Johnson, 183 A.D.3d 1273 (2020), the court reaffirmed that under the automobile exception to the search warrant requirement, officers are permitted to search a vehicle when they have probable cause to believe that the vehicle contains a weapon or contraband. The court examined a case in which officers stopped a vehicle for a moving violation. After the vehicle was stopped, the defendant made furtive behavior towards the center console, bladed his body away from officers, refused to comply with officers' directives, and ran away from the vehicle. The court determined that even despite these behaviors, the officers were not justified in conducting a warrantless search of the vehicle because there was "no direct nexus between the initial traffic stop for a traffic violation and the search of the defendant's vehicle" or between the subsequent arrest and the vehicle search.

PO Mestre affirmed that she had no specific reason to believe that § 87(2)(b) was armed or

otherwise in possession of contraband aside from his nervousness and lack of compliance. § 87(2)(g)

Similarly, in addition to the odor of marijuana, PO Moncion cited the following factors present during the vehicle stop: § 87(2)(b) s aggressive and "fidgety" manner of moving his hands and body, and speaking in an elevated tone of voice. As noted under Johnson, the courts examined a similar police interaction stemming from a moving violation and found that a motorist's noncompliance, furtive movements, and even attempt to flee the vehicle stop did not provide the officers with probable cause to search the vehicle. While § 87(2)(b) may have acted in a fidgety manner, he did not attempt to flee the site of the vehicle stop § 87(2)(g) § 87(2)(g)

Allegation (G) Force: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein used physical force against § 87(2)(b)

§ 87(2)(b) did not allege this use of force, but it is depicted in the BWC footage PO Scheblein recorded.

PO Scheblein was interviewed at the CCRB on May 25, 2021 and January 28, 2022 (Board Review 20 and Board Review 28). During his first CCRB interview, PO Scheblein acknowledged using physical force against § 87(2)(b) He stated that after instructing § 87(2)(b) and § 87(2)(b) to return to their vehicle, § 87(2)(b) did so, and § 87(2)(b) walked past the driver side door. Because he did this, PO Scheblein thought he might flee the area and pushed him, chest-first, against the vehicle and handcuffed him.

At the 03m45s mark in the BWC footage PO Scheblein recorded, he can be seen pushing § 87(2)(b) against a vehicle.

§ 87(2)(g) § 87(2)(b) did not provide context regarding this allegation, BWC footage did not make the nature of the contact clear, and PO Scheblein acknowledged using force in what he portrayed as a justifiable manner, § 87(2)(g)

Allegation (H) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that he requested PO Scheblein's shield number and that he did not provide it.

In the BWC PO Scheblein recorded, at the 06m13s mark, he speaks to § 87(2)(b) and during the process, provides his name and shield number, stating, "Once again, my name is Scheblein, 26121."

§ 87(2)(g)

Allegation (I) Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein spoke discourteously to § 87(2)(b)

Allegation (J) Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein spoke discourteously to § 87(2)(b)

Allegation (K) Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Bryan Scheblein spoke discourteously to § 87(2)(b)

In the BWC footage PO Scheblein recorded, at the 04m00s, 05m20s, and 06m13s marks, respectively, he can be heard speaking with § 87(2)(b) who is outside of his vehicle and verbally protesting the actions the officers are taking. At least four officers are present. During this exchange, PO Scheblein states, "Then stop fucking resisting, my guy," "You're acting petty for petty shit right now," and, "Stop with the bullshit."

When presented with this footage in his second CCRB interview (Board Review 28), PO Scheblein stated that for each of these statements, he was attempting to de-escalate the interaction and communicate with § 87(2)(b)

The NYPD Patrol Guide Procedure 203-09 (Board Review 21) states that officers are to be professional while interacting with members of the public. Deputy Commissioner of Trials Case Number 2015-15012 (Board Review 33) states that officers may use discourteous language in stressful street encounters.

§ 87(2)(g)

Allegation (L) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre interfered with § 87(2)(b) **s use of a recording device.**

Allegation (M) Abuse of Authority: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre damaged § 87(2)(b) **s property.**

§ 87(2)(b) stated that, after starting to interact with PO Moncion regarding the vehicle stop, he gave his cell phone to § 87(2)(b) and instructed him to begin recording footage of the incident. After § 87(2)(b) and § 87(2)(b) exited the vehicle as per officer instructions, PO Mestre moved § 87(2)(b) s hand holding the phone against the roof of the vehicle in a manner that caused the phone screen to be damaged.

§ 87(2)(b) stated that as officers approached the vehicle, he began recording video footage on § 87(2)(b) s cell phone. PO Mestre instructed him to exit the vehicle. When he opened the door to do so, PO Mestre took the phone out of his hand and slammed it on the dashboard. § 87(2)(b) asked if he was permitted to record, which PO Mestre affirmed. § 87(2)(b) retrieved the phone and exited the vehicle. PO Mestre then took hold of the phone and slammed it on the vehicle roof, from where it fell to the ground.

In the BWC footage PO Mestre recorded, starting at the 00m57s mark, discussion between civilians and officers can be heard about a cell phone, with civilians stating that officers damaged it and officers denying this. Prior to this, § 87(2)(b) exited his vehicle, and officers pressed him against it. No officer action related to a cell phone, including handling or manipulating it, is clearly depicted in PO Mestre's or any other officer's BWC footage. At the 09m10s mark, PO Mestre says, "You can continue to record."

Both PO Mestre and PO Moncion stated that they did not recall whether § 87(2)(b) held a phone and whether they heard anyone making a complaint about damage to a phone.

§ 87(2)(b) sent a photograph, edited to direct attention to damaged areas of his phone, to the CCRB (Board Review 35). No identifying information about the time the photograph was taken was available.

Despite PO Mestre informing § 87(2)(b) that he was free to record footage, the investigation could not credit whether this was consistent with physical actions she may have taken to interfere with his recording. § 87(2)(g)

Allegation (N) Discourtesy: On March 19, 2020, in the vicinity of West Fordham Road and Sedgewick Avenue in the Bronx, Police Officer Gina Mestre spoke discourteously to § 87(2)(b)

In the BWC footage PO Mestre recorded, at the 00m55s mark, she can be heard stating, "I don't give a fuck whose phone it is. You're not listening. That's the fucking problem."

PO Mestre stated to the CCRB (Board Review 29) that profanity "slipped out" during this interaction because § 87(2)(b) and § 87(2)(b) were not compliant.

The NYPD Patrol Guide Procedure 203-09 (Board Review 21) states that officers are to be professional while interacting with members of the public.

§ 87(2)(g)

Allegation (O) Abuse of Authority: On March 19, 2020, at the 52nd Precinct stationhouse, officers searched the vehicle in which § 87(2)(b) and § 87(2)(b) had been occupants.

It is undisputed that on March 19, 2020, officers transported § 87(2)(b) s vehicle to the 53rd

Precinct stationhouse while processing the NYS Penal Law and NYS VTL summonses he was ultimately issued.

In his testimony to the CCRB, PO Scheblein stated that he thought the vehicle to possibly associated with the commission of an unspecified crime and that he and PO Moncion may have conducted an inventory search of it, recovering nothing.

In her CCRB testimony, PO Moncion acknowledged that officers conducted an inventory search of the vehicle but did not recall whether she conducted it, PO Scheblein conducted it, or they both did.

The NYPD Patrol Guide Procedure 218-13 states that officers are to ensure the safekeeping of civilian property by conducting an inventory search of vehicles and other property that enters their custody (Board Review 36).

Although the statements of PO Scheblein and PO Moncion indicate that officers conducted a search of the vehicle at the stationhouse, neither recalled who searched the vehicle at the stationhouse. Further, the investigation was unable to locate any police documentation to confirm that officers conducted this search or to identify the officers that performed the search.

§ 87(2)(g)

Allegation (P) Abuse of Authority: On March 21, 2020, at the 52nd Precinct stationhouse, Police Officer Bryan Scheblein threatened to arrest § 87(2)(b) § 87(2)(b) stated that on March 21, 2020, while at the 52nd Precinct stationhouse, he spoke with an unidentified officer outside it. § 87(2)(b) did not note to the CCRB whether any other civilians were with him or nearby. PO Scheblein and seven to nine additional unidentified officers exited the stationhouse. PO Scheblein spoke with § 87(2)(b) and an unidentified officer threatened to arrest him if he did not leave.

PO Scheblein acknowledged to the CCRB in his first interview (Board Review 20) that he threatened to arrest § 87(2)(b) He stated that he made this threat because § 87(2)(b) entered the 52nd Precinct stationhouse while wearing a device with a blinking red light on it, which PO Scheblein thought to be a BWC that was recording footage. PO Scheblein informed § 87(2)(b) that he could be arrested for recording footage inside a stationhouse.

No video footage related to this allegation was obtained by the investigation.

§ 87(2)(b) s and PO Scheblein's statements are consistent enough to establish for the investigation to credit that PO Scheblein was the officer who threatened § 87(2)(b) with arrest. § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 22).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 23).

- PO Moncion has been a member of service for eight and has been a subject in 17 CCRB complaints and 55 allegations, of which seven were substantiated:
  - § 87(2)(g) [redacted]
- PO Scheblein has been a member of service for eight years and has been a subject in 19 CCRB complaints and 68 allegations, of which eight were substantiated:
  - 201610413 involved substantiated allegations of Frisk. The Board recommended Command Discipline A, and the NYPD imposed Formalized Training.
  - 201904252 involved a substantiated allegation of Question. The Board recommended Formalized Training, and the NYPD imposed Formalized Training.
  - 201909592 involved substantiated allegations of Failure to provide RTKA card, Frisk, Search (of person), Stop, and Discourteous Word. The Board recommended Command Discipline B, and the NYPD imposed Command Discipline B.
- PO Mestre has been a member of service for eight years and has been a subject in 10 CCRB complaints and 41 allegations, of which two were substantiated:
  - 201706534 involved a substantiated allegation of Frisk. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A.
  - 201907695 involved a substantiated allegation of Vehicle search. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A.

Mediation, Civil, and Criminal Histories

- § 87(2)(b) [redacted] declined to mediate this complaint.
- § 87(2)(b) [redacted] filed a Notice of Claim with the City of New York claiming false arrest; assault; battery, unlawful imprisonment; fabrication of evidence; failure to intervene; illegal search; negligence; gross negligence; negligent screening, hiring, training, retention, and supervision; intentional infliction of emotional distress; negligent infliction of emotional distress; prima facie tort; conspiracy; violation of privacy; and violations and deprivations of the claimant's rights under the 4th and 14th Amendments of the United States Constitution and the New York State Constitution, including violation of N.Y.S. Constitution Article 1 §12 and seeking $500,000 as redress (Board Review 30). § 87(2)(b) [redacted]
- § 87(2)(b) [redacted] filed a Notice of Claim with the City of New York claiming false arrest; use of excessive force, assault; battery; unlawful imprisonment; deprivation of right to fair trial; fabrication of evidence; abuse of process; malicious prosecution; failure to intervene; illegal search; negligence; gross negligence; negligent screening, hiring, training, retention, and supervision; intentional infliction of emotional distress; negligent infliction of emotional distress; prima facie tort; conspiracy; violation of privacy; and violations and deprivations of the claimant's rights under the 4th and 14th Amendments of the United States Constitution and the New York State Constitution, including violation of N.Y.S. Constitution Article 1 §12 and seeking $500,000 as redress (Board Review 31). § 87(2)(b) [redacted]
- § 87(2)(b) [redacted]
- § 87(2)(b) [redacted]
- § 87(2)(b) [redacted]

Squad: 12

Investigator:	Chris Anderson	SI Chris Anderson	04/28/2022
	Signature	Print Title & Name	Date
Squad Leader:	Carlmais Johnson	IM Carlmais Johnson	May 11, 2022
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date