

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202005295	☒ Force	☒ Discourt.	☐ U.S.
			☒ Abuse	☐ O.L.	☐ Injury
Incident Date(s) Tuesday, 06/02/2020 8:24 PM, Tuesday, 06/02/2020 9:00 PM	Location of Incident: East 84th Street and Fifth Avenue; 19th Precinct stationhouse	Precinct: 19	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 07/28/2020 4:26 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 07/28/2020 4:26 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Fritz Hector	18644	940248	007 PCT
3. DT2 Michael Delgado	07800	928175	GVSD Z2
4. SGT Luis Martinez	05364	944776	GVSD Z2
5. DT3 Cristofer Schiavone	5361	943792	JB/R/TF
6. POF Yudelka Rodriguez	21190	963241	007 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Sisinni	17712	959249	007 PCT
2. POM Thomas Garry	15474	956668	007 PCT
3. POM Rahul Dass	06304	958475	007 PCT
4. POF Alexandria Kirkland-Clarke	25400	963095	007 PCT
5. SGT Patrick Lindie	05572	952999	MODS
6. POF Maribel Sarante	10211	931973	007 PCT
7. POF Carina Garcia	27268	968424	007 PCT
8. CPT Krystin Suarez	00000	944295	070 PCT
9. LT Steven Hecht	00000	938646	122 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Fritz Hector	Force: At East 84th Street and 5th Avenue in Manhattan, Police Officer Fritz Hector used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
B.POF Yudelka Rodriguez	Discourtesy: At East 84th Street and 5th Avenue in Manhattan, Police Officer Yudelka Rodriguez spoke discourteously to § 87(2)(b)	
C.POF Yudelka Rodriguez	Force: At East 84th Street and 5th Avenue in Manhattan, Police Officer Yudelka Rodriguez struck § 87(2)(b) with a baton.	
D. An officer	Force: At East 84th Street and 5th Avenue in Manhattan, an officer struck § 87(2)(b) with a baton.	
E. An officer	Force: At East 84th Street and 5th Avenue in Manhattan, an officer used physical force against § 87(2)(b) t § 87(2)(b)	
F. An officer	Force: At East 84th Street and 5th Avenue in Manhattan, an officer used physical force against an individual.	
G.SGT Luis Martinez	Discourtesy: At East 84th Street and 5th Avenue in Manhattan, Sergeant Luis Martinez spoke discourteously to § 87(2)(b)	
H. An officer	Discourtesy: At East 84th Street and 5th Avenue in Manhattan, an officer spoke discourteously to § 87(2)(b)	
I. An officer	Abuse: At East 84th Street and 5th Avenue in Manhattan, an officer threatened § 87(2)(b) with the use of force.	
J. An officer	Discourtesy: At the 19th Precinct stationhouse in Manhattan, an officer spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 28, 2020, § 87(2)(b) filed this complaint with the CCRB via email. On July 29, 2020, § 87(2)(b) filed a duplicate complaint with the CCRB via email. On August 3, 2020, § 87(2)(b) filed a duplicate complaint with the CCRB via email.

On June 2, 2020, § 87(2)(b) and § 87(2)(b) joined a large group of protesters at Bryant Park in Manhattan. § 87(2)(b) and § 87(2)(b) also participated in the protest. The protesters marched through Midtown Manhattan before marching north on Fifth Avenue. A large group of officers from multiple commands followed the group as they marched. The group included Police Officer Fritz Hector, Police Officer Yudelka Rodriguez, and Sergeant Patrick Lindie of the 7th Precinct, as well as Detective Michael Delgado, Detective Cristofer Schiavone and Sergeant Luis Martinez of the Gun Violence Suppression Division, Zone #2.

At approximately 8:24 p.m., the protesters passed through the intersection of East 84th Street and 5th Avenue, next to the Metropolitan Museum of Art. Police Officer Hector walked into the crowd and threw § 87(2)(b) to the ground (**Allegation A: Force – Physical force, § 87(2)(g)**). Police Officer Rodriguez told § 87(2)(b) “Get the fuck out” (**Allegation B: Discourtesy – Word, § 87(2)(g)**). She then struck § 87(2)(b) with a baton (**Allegation C: Force – Nightstick as club, § 87(2)(g)**). Another officer allegedly struck § 87(2)(b) with a baton as well (**Allegation D: Force – Nightstick as club, § 87(2)(g)**). An officer then allegedly forced § 87(2)(b) to the ground (**Allegation E: Force – Physical force, § 87(2)(g)**). Another officer pushed also pushed an unidentified protester to the ground (**Allegation F: Force – Physical force, § 87(2)(g)**).

Sergeant Martinez told § 87(2)(b) “Get the fuck back” (**Allegation G: Discourtesy – Word, § 87(2)(g)**). An officer allegedly told § 87(2)(b) “Get the fuck out of here” (**Allegation H: Discourtesy – Word, § 87(2)(g)**). Another officer allegedly threatened to use force against § 87(2)(b) (**Allegation I: Abuse of Authority – Threat of force, § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) were all placed in handcuffs and transported to the 19th Precinct stationhouse. While there, an officer allegedly told § 87(2)(b) “Shut the fuck up,” and, “Keep your ignorance out of this conversation” (**Allegation J: Discourtesy – Word, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were issued summonses for violating the 8:00 p.m. mayoral curfew and released from custody (Board Review #01-03).

§ 87(4-b), § 87(2)(g)

This complaint resulted from the 2020 police brutality protests. This incident was added to the agency’s list of sensitive cases due to media coverage (Board Review #04-05).

The complainants provided a cell phone video recorded by § 87(2)(b). It is attached in IA #20 and summarized in IA #50 (Board Review #06-07). § 87(2)(b) also provided three additional clips of cell phone footage that he recorded. They are attached in IA #76 and summarized in IA #77 (Board Review #08-09). The investigation also obtained one clip of BWC footage recorded by Police Officer Rodriguez, which is attached in IA #154 and summarized in IA #160 (Board Review #10-11). A subclip of this footage showing the portion relevant to this incident is attached in IA #162

(Board Review #12). No other video footage was found for this incident.

Findings and Recommendations

Allegation (A) Force: At East 84th Street and 5th Avenue in Manhattan, Police Officer Fritz Hector used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed by the CCRB on August 7, 2020. § 87(2)(b) and § 87(2)(b) were interviewed by the CCRB on August 10, 2020. On August 17, 2020, § 87(2)(b) provided a telephone statement to the CCRB (Board Review #13). On August 18, 2020, § 87(2)(b) provided a telephone statement to the CCRB (Board Review #14). On August 26, 2020, § 87(2)(b) provided a telephone statement to the CCRB (Board Review #15).

On September 8, 2020, Police Officer Hector was interviewed by the CCRB. On October 2, 2020, Detective Delgado was interviewed by the CCRB. On December 12, 2020, Detective Schiavone was interviewed by the CCRB. On January 21, 2021, Sergeant Martinez was interviewed by the CCRB. On March 9, 2021, Police Officer Rodriguez was interviewed by the CCRB. On May 26, 2021, Sergeant Lindie was interviewed by the CCRB. On August 9, 2021, Sergeant Richard Guerrieri of SRG 5 was interviewed by the CCRB.

§ 87(2)(b) and § 87(2)(b) filed Notices of Claim with the NYC Office of the Comptroller (Board Review #16). § 87(2)(g)

It is undisputed that an 8:00 p.m. curfew was put in place on June 2, 2020. That day, § 87(2)(b) was part of a large group of protesters marching north on 5th Avenue, along the eastern edge of Central Park. At approximately 8:24 p.m., they passed through the intersection of East 84th Street, near the Metropolitan Museum of Art. A group of uniformed officers, including Police Officer Hector, were following the protesters. § 87(2)(b) stood at the rear of the group of protesters. He and Police Officer Hector shouted at each other. § 87(2)(b) then moved back into the crowd. Police Officer Hector walked into the crowd and reached for § 87(2)(b). He was by himself at the time. Police Officer Hector grabbed § 87(2)(b) by his shirt and pulled him to the ground. Once he was down, Police Officer Hector placed § 87(2)(b) in handcuffs. Police Officer Hector later issued § 87(2)(b) a summons for violating the curfew.

§ 87(2)(b) stated that when he moved to the rear of the group of protesters, he noticed that the officers who were following them started getting closer. § 87(2)(b) called out to the officers and asked what they were going to do. Police Officer Hector shouted back, stating that there was a curfew in place. § 87(2)(b) shouted back, “Fuck your curfew, you fascist pig!” After he made this statement, he started to fear that the police might target him in retaliation. He moved back into the middle of the crowd to avoid the officers. Police Officer Hector followed § 87(2)(b) into the crowd. He walked up behind § 87(2)(b) grabbed him by the left shoulder, and threw him down to the ground. § 87(2)(b) did not have a chance to do or say anything before Police Officer Hector threw him down. § 87(2)(b) landed on his back. Several unidentified officers then joined Police Officer Hector in flipping § 87(2)(b) onto his stomach. The other officers held down § 87(2)(b)s limbs while Police Officer Hector placed a knee on his back. The officers then brought § 87(2)(b)s hands behind his back and restrained him in plastic flex cuffs. They then lifted him to his feet and moved him to a nearby sidewalk. The officers did not use any further force. § 87(2)(b) suffered bruising to his neck, both legs and both arms. He also stated that he suffered “marks” on his arms but could not describe what they looked like.

§ 87(2)(b) and § 87(2)(b) had not noticed or been aware of § 87(2)(b) prior to his arrest. § 87(2)(b) stated that prior to his arrest, she heard § 87(2)(b) call out to several of the trailing officers and tell them that they were making the protesters nervous. § 87(2)(b) spoke in a respectful tone. The officers did not respond. All four civilians stated that Police Officer Hector approached § 87(2)(b) from behind, grabbed him by his shirt and threw him to the ground. § 87(2)(b)'s shirt was torn off in the process. § 87(2)(b) and § 87(2)(b) initially stated that they saw officers strike § 87(2)(b) after Police Officer Hector pulled him to the ground. Later, though, they stated that several officers surrounded § 87(2)(b) once he was down and that they could not see if any officers hit him.

§ 87(2)(b) did not recall witnessing § 87(2)(b)'s arrest. She saw § 87(2)(b) and § 87(2)(b) being handcuffed but did not recall seeing anybody else being arrested. She may have seen a third individual being held on the ground by the police at some point but was uncertain of this.

Police Officer Hector stated that he followed the group of protesters that § 87(2)(b) marched with. After the curfew went into effect at 8:00 p.m., he walked up to several of them, including § 87(2)(b) and told them to disperse. § 87(2)(b) responded by displaying his middle finger and telling Police Officer Hector, "Fuck you." Several protesters around § 87(2)(b) started cheering. § 87(2)(b) then ran into the middle of the crowd of protesters. Police Officer Hector did not recall if he lost sight of § 87(2)(b) during this time. He believed that § 87(2)(b)'s shouting and rude gesture constituted disorderly conduct. He decided to enter the crowd and apprehend § 87(2)(b) for both disorderly conduct and his violation of the curfew. He did not know at the time whether he would arrest § 87(2)(b) or issue him a summons. He did not discuss this decision with any other officers. He did not recall how much time passed between when § 87(2)(b) shouted and when he entered the crowd. Police Officer Hector walked up behind § 87(2)(b) and grabbed for § 87(2)(b)'s shoulder. Because § 87(2)(b) and the other protesters were moving forward at the time, Police Officer Hector was only able to grab hold of § 87(2)(b)'s shirt. § 87(2)(b)'s forward momentum caused the shirt to tear. Police Officer Hector then grabbed one of § 87(2)(b)'s arms. He stated that § 87(2)(b) offered physical resistance at that point but was not able to describe the resistance beyond stating that § 87(2)(b) was "moving around" and "not giving" control of his arms. Police Officer Hector responded to this resistance by forcing § 87(2)(b) to the ground. He did not recall the specific means he used to get § 87(2)(b) to the ground. He stated that he did not consciously decide to bring § 87(2)(b) to the ground, instead characterizing this action as a "natural reaction." He initially stated that § 87(2)(b) landed face-down, but later stated that he did not recall how § 87(2)(b) was positioned. Police Officer Hector then brought § 87(2)(b)'s arms behind his back and handcuffed him. Several other officers, whom Police Officer Hector could not identify, assisted him in doing so. He did not use any further force against § 87(2)(b). He was not aware of § 87(2)(b) suffering any injuries during the incident.

Sergeant Lindie stated that as he walked up 5th Avenue, he noticed Police Officer Hector standing in the middle of the crowd of protesters. Police Officer Hector placed one of the protesters, identified as § 87(2)(b) in handcuffs and escorted him to the sidewalk. Sergeant Lindie did not know why Police Officer Hector handcuffed § 87(2)(b). He was not aware of any previous interactions between § 87(2)(b) and Police Officer Hector. He did not recall Police Officer Hector having any difficulty handcuffing § 87(2)(b). He also did not recall Police Officer Hector using physical force on § 87(2)(b) including forcing § 87(2)(b) to the ground. He was not aware of § 87(2)(b) suffering any injuries during the arrest.

Police Officer Rodriguez stated that prior to § 87(2)(b)'s arrest, she observed him shouting at several officers along with other protesters. She did not recall what he said. Later, Police Officer Hector approached § 87(2)(b) while he stood in a crowd of other protesters. Police Officer Hector

grabbed him by his shirt. § 87(2)(b) tried to move away, causing his shirt to tear. Several other bystanders who were standing about an arm's length away from § 87(2)(b) started shouting at Police Officer Hector. Police Officer Rodriguez and several unidentified officers told them to get back. She then continued walking up 5th Avenue. She did not see what, if any, physical contact Police Officer Hector made with § 87(2)(b) after grabbing his shirt. She did not know if he forced § 87(2)(b) to the ground.

Detective Delgado, Detective Schiavone and Sergeant Martinez denied noticing § 87(2)(b)'s arrest when it happened. All three officers stated that they were following the protesters along 5th Avenue when they noticed officers apprehending § 87(2)(b) and § 87(2)(b). They were not aware of anybody being arrested prior to § 87(2)(b) and § 87(2)(b). Later, when the three officers assisted in transporting § 87(2)(b) and § 87(2)(b) to the 19th Precinct stationhouse, they saw that other officers had apprehended a third individual, identified by the investigation as § 87(2)(b). None of these officers had witnessed § 87(2)(b)'s arrest and did not know why or how he was taken into custody. They did not know who had arrested him. They did not know if officers used force against § 87(2)(b). They were not aware of § 87(2)(b) suffering any injuries.

Sgt. Guerrieri denied that he was present during the incident. He denied witnessing § 87(2)(b)'s arrest.

§ 87(2)(b) recorded a cell phone video of the incident. It is attached in IA #20 (Board Review #06). The video shows a group of protesters marching north on 5th Avenue, next to the museum. A group of uniformed officers wearing helmets follow behind them. At the start of the recording, a uniformed officer, identified as Police Officer Hector, walks into the crowd, moving past several protesters. He is not heard saying anything. At 0:05 into the recording, he walks up behind a male wearing a black T-shirt, identified as § 87(2)(b). He reaches to § 87(2)(b) with his left hand, grabbing § 87(2)(b)'s left shoulder. He then pulls back, causing the shirt to rip off. The protesters around § 87(2)(b) then scatter, blocking the view of § 87(2)(b). At 0:13 into the recording, § 87(2)(b) is seen lying on the ground. Police Officer Hector and several unidentified officers are seen leaning down over him. Other protesters and officers stand between § 87(2)(b) and § 87(2)(b) blocking further view of him.

The only BWC footage obtained for this incident was obtained from PO Rodriguez. It is attached in IA #154 (Board Review #10). A subclip of the footage containing the portion showing this incident is attached in IA #162 (Board Review #12). § 87(2)(b)'s arrest is not clearly shown on the video.

NYPD Patrol Guide procedure 221-01 states that officers may use physical force in order to ensure the safety of themselves or another person or to bring § 87(2)(b) into custody. The use of force must be reasonable under the circumstances. Factors to consider when determining whether a particular use of force was reasonable include the actions taken by the subject, the immediacy of the perceived threat that the subject poses, whether the subject is actively resisting arrest or trying to evade arrest, and the presence of a hostile crowd (Board Review #18).

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(g)

§ 87(2)(g)

Police Officer Hector responded to § 87(2)(b)'s profanity by entering the crowd of protesters by himself, without support or assistance from the other officers. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(g)

Allegation (B) Discourtesy: At East 84th Street and 5th Avenue in Manhattan, Police Officer Yudelka Rodriguez spoke discourteously to § 87(2)(b)
Allegation (G) Discourtesy: At East 84th Street and 5th Avenue in Manhattan, Sergeant Luis Martinez spoke discourteously to individuals.

§ 87(2)(b) recorded a cell phone video of the incident, attached in IA #20 (Board Review #06). The video depicts Police Officer Hector's arrest of § 87(2)(b). Several of the protesters around § 87(2)(b) scatter, while several officers run in and surround § 87(2)(b). Several protesters walk towards § 87(2)(b) coming to within a few feet of him. Numerous people are heard shouting in the background. Officers stand between § 87(2)(b) and the protesters. § 87(2)(b) stands approximately fifteen to twenty feet away and continues to record. Several officers tell the protesters to back up. At 0:42 into the recording, a uniformed officer with sergeant's chevrons approaches § 87(2)(b). He shouts, "Back up. Back the fuck up." He then walks over to several other protesters and tells them to back up as well. No other profanity is heard on the video.

A subclip taken from Police Officer Rodriguez's BWC is attached in IA #162 (Board Review #12). The footage begins when § 87(2)(b) is arrested. While that arrest is not clearly shown, several civilians and officers are seen running around. At 0:04 into the recording, Police Officer Rodriguez turns towards a female, identified as § 87(2)(b) and tells her twice to "get the fuck out." Police Officer Rodriguez then pushes her back with a baton.

Neither § 87(2)(b) nor § 87(2)(b) mentioned an officer using profanity against any of the civilian bystanders during their arrests. § 87(2)(b) alleged that an officer used profanity towards her but made no mention of profanity being used against other protesters.

Police Officer Rodriguez stated that several bystanders stood around Police Officer Hector while he arrested § 87(2)(b). The protesters stood about an arm's length away from Police Officer Hector. They told Police Officer Hector to let § 87(2)(b) go. None of them took any physical action towards Police Officer Hector. Police Officer Rodriguez ordered these civilians to get away from Police Officer Hector. She denied that she used profanity while doing so.

Sergeant Martinez did not recall seeing § 87(2)(b)'s arrest, but did see Detective Delgado and Detective Schiavone assist several unidentified officers in arresting § 87(2)(b) and § 87(2)(b) at around the same time. He noticed that several protesters were standing about five feet away from those officers. The bystanders started shouting and cursing at the officers making the arrests. One of the protesters bladed their body towards the officers, which Sergeant Martinez interpreted as a "fighting stance." Sergeant Martinez stood between the officers and the protesters and told them to get back. He did not recall how he phrased these commands but stated that it was possible that he used profanity to show the protesters that he was serious.

When shown § 87(2)(b)'s video footage, Sergeant Martinez confirmed that he is the officer who states, "Back the fuck up."

NYPD Patrol Guide section 200-02 states that officers must treat citizens with courtesy, professionalism and respect, and that they must render services with courtesy and civility (Board Review #19).

Officers may use limited profanity when attempting to gain control of a dynamic situation. Officers may not use profanity when it is intended only to insult and belittle. PD v. Pichardo, DAO-DCT #2015-15012 (Board Review #20).

§ 87(2)(b), § 87(2)(g)

Allegation (C) Force: At East 84th Street and 5th Avenue in Manhattan, Police Officer Yudelka Rodriguez struck § 87(2)(b) with a baton.

It is undisputed that § 87(2)(b) and § 87(2)(b) were in the crowd with § 87(2)(b) at the time of his arrest. When Police Officer Hector forced § 87(2)(b) to the ground, several other officers surrounded him to try and keep the other protesters away from § 87(2)(b). Police Officer Rodriguez approached § 87(2)(b) and used her baton against her. This action knocked § 87(2)(b) to the ground. Other officers then handcuffed § 87(2)(b) and took her into custody.

§ 87(2)(b) and § 87(2)(b) both stated that when § 87(2)(b) saw Police Officer Hector push § 87(2)(b) to the ground, she ran towards § 87(2)(b) to help him up. Before she reached him, Police Officer Rodriguez struck § 87(2)(b) in the throat. § 87(2)(b) stated that the impact briefly took her breath away but did not otherwise impact her breathing. § 87(2)(b) also stated that Police Officer Rodriguez then struck her once on the left side of her torso, causing her to fall onto her back. § 87(2)(b) stated that § 87(2)(b) fell after the first blow to her throat. Once § 87(2)(b) was down, Police Officer Rodriguez struck her several more times on the left side of her torso. She did not recall how many times Police Officer Rodriguez struck her. These blows caused bruising on the left side of her torso. § 87(2)(b) stated that she responded by kicking her legs towards Police Officer Rodriguez. She did not make contact with Police Officer Rodriguez while doing so. § 87(2)(b) stated that § 87(2)(b) asked Police Officer Rodriguez what she was doing while on the ground. He

did not mention her making any physical movements. An unidentified officer told § 87(2)(b) to turn onto her stomach. Once she did, this officer placed her in plastic flex cuffs. The officers did not use any further force against her.

§ 87(2)(b) provided a photograph, attached in IA #41, in which she displays several bruises visible on the left side of her torso (Board Review #21). § 87(2)(b) stated that Police Officer Rodriguez caused the bruises by striking her on the left side of her torso with a baton. She stated that the photograph was taken approximately twelve hours after the incident.

§ 87(2)(b) stated that she first became aware of the arrests when she noticed several other protesters running. She then saw that § 87(2)(b) and § 87(2)(b) were lying face-down on the ground, surrounded by officers. She did not see how they came to be in that position. The officers were placing § 87(2)(b) and § 87(2)(b) into handcuffs. § 87(2)(b) was wriggling her body as the officers handcuffed her. § 87(2)(b) did not see if any of the officers were holding batons. She did not see any officers strike § 87(2)(b).

§ 87(2)(b) did not observe § 87(2)(b)'s arrest. He first became aware of them after he, § 87(2)(b) and § 87(2)(b) were seated together on the sidewalk after their respective arrests. § 87(2)(b) did not see if officers used any force against § 87(2)(b) during the arrest.

§ 87(2)(b) and § 87(2)(b) stated that their attention was focused on § 87(2)(b) during his arrest and that they did not notice § 87(2)(b)'s arrest when it happened. Both stated that § 87(2)(b) later told them that an officer had struck her with a baton. § 87(2)(b) further stated that § 87(2)(b) stated that she was knocked to the ground and that she reflexively “squirmed” her body while on the ground.

Police Officer Rodriguez stated that at some point during the march up 5th Avenue, a female protester, identified by the investigation as § 87(2)(b) approached PO Rodriguez and called her a “fucking bitch.” Police Officer Rodriguez did not recall interacting with § 87(2)(b) before that. At the time, Police Officer Rodriguez was holding her baton flat in front of her torso, gripping it with her hands on the ends of the baton. § 87(2)(b) grabbed the middle of the baton and tried to pull it away from Police Officer Rodriguez. Fearing that § 87(2)(b) would take the baton and strike her with it, Police Officer Rodriguez pulled back on it. Police Officer Rodriguez and § 87(2)(b) then lost their balance and fell to the ground. Police Officer Rodriguez landed on her back and the female landed on top of her. Police Officer Rodriguez’s helmet pushed down over her eyes, blocking her vision. § 87(2)(b) then struck Police Officer Rodriguez several times. She did not recall how many times § 87(2)(b) hit her or where on her body these blows landed. An unidentified officer then reached down and pulled § 87(2)(b) off Police Officer Rodriguez. She could not see if the officer used any force against § 87(2)(b) because of her helmet. § 87(2)(b) then ran away. Police Officer Rodriguez did not see § 87(2)(b) again and did not know what happened to her. She did not know if § 87(2)(b) was arrested or issued a summons. She did not know when her interaction with § 87(2)(b) took place relative to other events that evening, such as the start of the curfew and § 87(2)(b)'s arrest. Police Officer Rodriguez did note that the female that she is seen struggling with on her BWC footage is the only female that she made physical contact with that night.

Detective Schiavone stated that as the protesters passed through the East 80s along 5th Avenue, he noticed a male officer kneeling on the ground next to § 87(2)(b) who was lying face-down on the ground. The unidentified officer was holding her arms behind her back and applying handcuffs. § 87(2)(b) wriggled her body as the officer restrained her. Detective Schiavone did not recognize the officer handcuffing § 87(2)(b). He did not know why he was handcuffing her. He did not know

how § 87(2)(b) came to be on the ground. He denied seeing any officers use force against her. Detective Schiavone joined the unidentified officer in handcuffing § 87(2)(b). Once the two of them finished handcuffing her, the unidentified officer moved away. Detective Schiavone lost sight of the officer and did not see him again. He denied seeing any officer strike § 87(2)(b) with a baton. He was unaware of § 87(2)(b) suffering injuries. He made no mention of a female officer interacting with § 87(2)(b).

Detective Delgado stated that as he followed the protesters up 5th Avenue, he noticed three or four unidentified officers struggling with § 87(2)(b) in the middle of the street. § 87(2)(b) was standing immediately in front of § 87(2)(b). Detective Delgado moved to assist the officers in subduing § 87(2)(b). While he assisted them, other officers arrested § 87(2)(b). Detective Delgado's attention was focused on § 87(2)(b) so he did not see which officers arrested her or if they used force against her. He did not see any officers strike § 87(2)(b) with a baton. He did not know why § 87(2)(b) was arrested.

Sergeant Martinez stated that he first became aware of § 87(2)(b) and § 87(2)(b) when Detective Delgado, Detective Schiavone, and several unidentified officers approach the couple and grab them by their arms. The officers then pulled § 87(2)(b)'s and § 87(2)(b)'s arms behind their backs and place them in handcuffs. Sergeant Martinez did not know why these officers were handcuffing them. He did not see any officers force either civilian to the ground or strike them with batons.

Sergeant Lindie stated that he was unaware of any other civilians being arrested at the same time as § 87(2)(b). He was not aware of officers pushing any bystanders or striking them with batons during § 87(2)(b)'s arrest.

Police Officer Hector did not see what happened to the other protesters when he was handcuffing § 87(2)(b). He did not become aware of § 87(2)(b)'s or § 87(2)(b)'s arrests until after § 87(2)(b) was handcuffed and moved to a nearby sidewalk. He did not see how they were taken into custody. He was not aware of any officers striking § 87(2)(b) with a baton.

Sgt. Guerrieri denied that he was present during the incident. He denied witnessing § 87(2)(b)'s arrest.

The only BWC footage obtained for this incident was obtained from Police Officer Rodriguez. It is attached in IA #154 (Board Review #12). A subclip of the footage containing the portion showing this incident is attached in IA #162 (Board Review). The portion depicted in the subclip takes place in front of the museum. It is the only section of Police Officer Rodriguez's BWC where she is seen using physical force.

At the start of the subclip, several civilians and officers start running around. The camera is tilted upwards and only captures the tops of their heads, so it does not clearly show why they are running. At 0:12 into the recording, she turns and faces two civilians standing on the curb, a male and a female. The investigation identified them as § 87(2)(b) and § 87(2)(b) stands in front of § 87(2)(b). Police Officer Rodriguez holds a baton horizontally in front of her chest with her hands on the ends of the baton. She pushes the baton forward into § 87(2)(b)'s chest, which pushes her onto the ground on her back. The baton is not seen touching her throat or neck. Police Officer Rodriguez bends down over § 87(2)(b). The camera is pointed forward rather than down, so it does not show § 87(2)(b)'s body or what contact she makes with Police Officer Rodriguez. At 0:17 into the recording, Police Officer Rodriguez's baton is visible on the bottom of the screen. Both her and § 87(2)(b)'s hands are gripping the baton. A male officer wearing a helmet then approaches § 87(2)(b) and Police Officer Rodriguez from the left. He reaches towards § 87(2)(b). It is unclear what,

if any, contact he makes with her. At 0:21 into the recording, § 87(2)(b) shouts, “She’s the one who grabbed me in the throat.” The male officer is seen pulling on § 87(2)(b)’s right arm. A male voice states, “Stop fighting.” § 87(2)(b) states, “I’m not fighting.” Police Officer Rodriguez shouts, “Get down!” The male voice states, “Just turn around. Just turn around.” Another male voice shouts, “We need cuffs!” The male officer then leans down over § 87(2)(b)’s body. His contact with her is not seen on the video. At 0:55 into the recording, Police Officer Rodriguez steps away from § 87(2)(b) and turns to face a group of protesters who are chanting, “Let them go.” She is not seen making any further contact with § 87(2)(b).

§ 87(2)(b)’s arrest is not clearly depicted in the video § 87(2)(b) recorded by § 87(2)(b)’s arrest (Board Review #06).

No TRI reports were prepared for § 87(2)(b)’s arrest (Board Review #22).

NYPD Patrol Guide procedure 221-01 states that officers may use physical force in order to ensure the safety of themselves or another person or to bring § 87(2)(b) into custody. The use of force must be reasonable under the circumstances. Factors to consider when determining whether a particular use of force was reasonable include the actions taken by the subject, the immediacy of the perceived threat that the subject poses, whether the subject is actively resisting arrest or trying to evade arrest, and the presence of a hostile crowd (Board Review #18).

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Allegation (D) Force: At East 84th Street and 5th Avenue in Manhattan, an officer struck § 87(2)(b) with a baton.

It is undisputed that other officers assisted Police Officer Rodriguez in handcuffing § 87(2)(b) once § 87(2)(b) was knocked to the ground. § 87(2)(b) and § 87(2)(b) were later transported to the stationhouse by Detective Delgado and Detective Schiavone. Neither of them used physical force against § 87(2)(b) or § 87(2)(b).

§ 87(2)(b) stated that after Police Officer Rodriguez struck her with a baton and knocked her onto her back, a second officer joined her. § 87(2)(b) could not describe this officer. Both Police Officer Rodriguez and the unidentified officer struck § 87(2)(b) several more times on the left side of her torso while she lay on her back. She did not recall how many times each officer struck her. § 87(2)(b) kicked her legs out towards Police Officer Rodriguez while the officers hit her, but she did not make contact. After the two officers struck § 87(2)(b) a third officer, described as an approximately 5'9" tall white male, applied flex cuffs to § 87(2)(b). This officer did not strike her. § 87(2)(b) was moved to a nearby sidewalk, where she was seated with § 87(2)(b) and § 87(2)(b). § 87(2)(b) was also in flex cuffs. § 87(2)(b) did not see what had happened to § 87(2)(b).

§ 87(2)(b) only mentioned Police Officer Rodriguez striking § 87(2)(b) with a baton. He did not allege seeing any other officers striking § 87(2)(b) with a baton. He described the officer who lifted § 87(2)(b) only as a white male of average height.

§ 87(2)(b) stated that she saw § 87(2)(b) and § 87(2)(b) lying face-down on the ground, surrounded by officers. She did not see how they came to be in that position. The officers were placing § 87(2)(b) and § 87(2)(b) into handcuffs. § 87(2)(b) was wriggling her body as the officers handcuffed her. § 87(2)(b) did not see if any of the officers were holding batons. She did not see any officers strike § 87(2)(b).

§ 87(2)(b) did not observe § 87(2)(b)'s or § 87(2)(b)'s arrest. He first became aware of them after he, § 87(2)(b) and § 87(2)(b) were seated together on the sidewalk after their respective arrests. § 87(2)(b) did not see if officers used any force against § 87(2)(b) during her arrest.

§ 87(2)(b) and § 87(2)(b) stated that their attention was focused on § 87(2)(b) during his arrest and that they did not notice § 87(2)(b)'s arrest when it happened. Both stated that § 87(2)(b) later told them that an officer had struck her with a baton. § 87(2)(b) further stated that § 87(2)(b) alleged that she was knocked to the ground and that she reflexively "squirmed" her body while on the ground.

Police Officer Rodriguez stated that a female, identified by the investigation as § 87(2)(b) tried to grab her baton and pull it away from her at some point during the march up 5th Avenue. She and § 87(2)(b) then lost balance and fell to the ground, with Police Officer Rodriguez landing on her back and § 87(2)(b) landing on top. § 87(2)(b) then struck Police Officer Rodriguez several times. An unidentified officer then pulled § 87(2)(b) off Police Officer Rodriguez. She could not see this

officer clearly because her helmet had fallen over her eyes, but she could tell that he was male. Police Officer Rodriguez did not see what physical contact this officer made with § 87(2)(b) and did not know if he used any force against her, including striking her with a baton. § 87(2)(b) fled from the officers after the unidentified officer lifted her. Police Officer Rodriguez did not know what happened to § 87(2)(b) after that.

Detective Schiavone stated that as the protesters passed through the East 80s along 5th Avenue, he noticed a male officer kneeling on the ground next to § 87(2)(b) who was lying face-down on the ground. The unidentified officer was holding her arms behind her back and applying handcuffs. § 87(2)(b) wriggled her body as the officer restrained her. Detective Schiavone did not recognize the officer handcuffing § 87(2)(b). He did not know why he was handcuffing her. He did not know how § 87(2)(b) came to be on the ground. He denied seeing any officers use force against her. Detective Schiavone joined the unidentified officer in handcuffing § 87(2)(b). Once the two of them finished handcuffing her, the unidentified officer moved away. Detective Schiavone lost sight of the officer and did not see him again. He denied seeing any officer strike § 87(2)(b) with a baton. He was unaware of § 87(2)(b) suffering injuries.

Detective Delgado stated that as he followed the protesters up 5th Avenue, he noticed three or four unidentified officers struggling with § 87(2)(b) in the middle of the street. § 87(2)(b) was standing immediately in front of § 87(2)(b). Detective Delgado moved to assist the officers in subduing § 87(2)(b). While he assisted them, other officers arrested § 87(2)(b). Detective Delgado's attention was focused on § 87(2)(b) so he did not see which officers arrested her or if they used force against her. He did not see any officers strike § 87(2)(b) with a baton. He did not know why § 87(2)(b) was arrested.

Sergeant Martinez stated that he first became aware of § 87(2)(b) and § 87(2)(b) when Detective Delgado, Detective Schiavone, and several unidentified officers approach the couple and grab them by their arms. The officers then pulled § 87(2)(b)'s and § 87(2)(b)'s arms behind their backs and place them in handcuffs. Sergeant Martinez did not know why these officers were handcuffing them. He did not see any officers force either civilian to the ground or strike them with batons.

Sergeant Lindie stated that he was unaware of any other civilians being arrested at the same time as § 87(2)(b). He was not aware of officers pushing any bystanders or striking them with batons during § 87(2)(b)'s arrest.

Police Officer Hector denied witnessing § 87(2)(b)'s arrest, stating that he was occupied with § 87(2)(b) at the time. He did not see how she or § 87(2)(b) were taken into custody. He was not aware of any officers striking § 87(2)(b) with a baton.

The subclip taken from Police Officer Rodriguez's BWC footage is attached in IA #162 (Board Review #12). As discussed above, the footage shows Police Officer Rodriguez pushing § 87(2)(b) to the ground using her baton. The camera points upwards during the struggle, away from § 87(2)(b)'s body. A male officer in a uniform and a helmet kneels down next to § 87(2)(b) and Police Officer Rodriguez. His face is not seen on the video. At 0:21 into the recording, the male officer is seen pulling on § 87(2)(b)'s right arm. The male officer then leans down over § 87(2)(b)'s body. His contact with her is not seen on the video. At 0:55 into the recording, Police Officer Rodriguez steps away from § 87(2)(b). She then turns back to face her. The uniformed male officer is leaning down over § 87(2)(b)'s body, holding her arms behind her back. He is not seen using a baton against her at any point. The footage does not show any other officers besides Police Officer Rodriguez use a baton against § 87(2)(b).

No TRI reports were prepared for § 87(2)(b)'s arrest (Board Review #22).

§ 87(2)(b), § 87(2)(g)

Allegation (E) Force: At East 84th Street and 5th Avenue in Manhattan, an officer used physical force against Elliott § 87(2)(b)

Allegation (F) Force: At East 84th Street and 5th Avenue in Manhattan, an officer used physical force against § 87(2)(b)

Allegation (H) Discourtesy: At East 84th Street and 5th Avenue in Manhattan, an officer spoke discourteously to § 87(2)(b)

Allegation (I) Abuse of Authority: At East 84th Street and 5th Avenue in Manhattan, an officer threatened § 87(2)(b) with the use of force.

Known Facts and General Descriptions

It is undisputed that § 87(2)(b) was arrested along with § 87(2)(b) shortly after Police Officer Hector arrested § 87(2)(b). Detective Delgado and Detective Schiavone later transported § 87(2)(b) to the 19th Precinct stationhouse along with § 87(2)(b).

§ 87(2)(b) stated that when Police Officer Rodriguez first struck § 87(2)(b) with a baton, he tried to step between them to protect § 87(2)(b). Before he could, three unidentified officers came up behind him. § 87(2)(b) described all three as approximately 5'7" tall white males. One of the three officers grabbed one of § 87(2)(b)'s shoulders with both hands. § 87(2)(b) fearing that the officer was about to use force against him, raised both of his hands in surrender. The officer held § 87(2)(b)'s shoulder for about ten seconds. He then threw § 87(2)(b) to the ground by his shoulder. Once he was down, the three officers brought § 87(2)(b)'s arms behind his back and handcuffed him. § 87(2)(b) suffered bruising to his wrists, shoulders and knees as a result of this action. § 87(2)(b) did not mention officers using force against any other civilians besides himself and § 87(2)(b) and § 87(2)(b) both stated that Detective Delgado and Detective Schiavone, who transported them to the stationhouse, were not the officers who used force against them during their arrests.

§ 87(2)(b) and § 87(2)(b) both stated that officers gathered the three prisoners on a nearby sidewalk after their arrests. They both saw that § 87(2)(b) was in handcuffs. Neither of them had witnessed § 87(2)(b)'s apprehension and did not see how he came to be in handcuffs. They did not see if officers used any force against him. They made no mention of officers using force against

any other civilians besides themselves.

§ 87(2)(b) stated that she observed officers handcuffing § 87(2)(b) while he was lying on the ground. She did not see how he came to be in that position. § 87(2)(b) did not recall seeing any officers use physical force against any other civilians.

§ 87(2)(b) and § 87(2)(b) made no mention of officers using profanity towards or threaten any of the bystanders during their arrests. § 87(2)(b) did not hear any officers use profanity or make any threats towards any protesters.

§ 87(2)(b) stated that shortly after § 87(2)(b)'s arrest, a uniformed white male officer in his mid-30s to early 40s approached him. The officer was holding a baton. This officer told § 87(2)(b) that he was going to "get" him. Because the officer was holding a baton, he assumed that the officer was threatening to strike him. § 87(2)(b) moved away from the officer. He had no further interaction with the officer. § 87(2)(b) made no mention of any officers using profanity. He did not witness § 87(2)(b)'s arrest and did not see if officers used force against § 87(2)(b). He made no mention of officers using force against any civilians beyond § 87(2)(b) or § 87(2)(b).

§ 87(2)(b) also stated that an officer told § 87(2)(b) that he was going to "get" him. She described this officer as a white male in his 40s. She stated that the officer threatened § 87(2)(b) before § 87(2)(b)'s arrest, rather than after. § 87(2)(b) further stated that after § 87(2)(b)'s arrest, a uniformed black male officer in his 50s with a beard told her, "Get the fuck out of here." § 87(2)(b) did not see § 87(2)(b)'s arrest and did not see if officers used force against him. When she spoke to § 87(2)(b) later that night, however, § 87(2)(b) alleged that an officer hit him with a baton.

§ 87(2)(b)'s cell phone video of the incident, attached in IA #20, shows § 87(2)(b)'s arrest and its immediate aftermath (Board Review #06). At 0:12 into the recording, a uniformed officer pushes an unidentified female with dyed pink hair to the ground. The officer is wearing a helmet and their face is not clearly seen. The female is not mentioned or identified in any of the civilians' accounts of the incident. § 87(2)(b)'s footage does not depict § 87(2)(b)'s arrest. While the footage does depict Sergeant Martinez using profanity towards § 87(2)(b), it does not depict any officers using profanity towards other civilians, including any females. No officers are heard on the video threatening to use force against any civilians.

BWC

The only BWC footage obtained for this incident was obtained from PO Rodriguez. It is attached in IA #154 (Board Review #10). A subclip of the footage containing the portion showing this incident is attached in IA #162 (Board Review #12).

At 0:12 into the subclip, PO Rodriguez approaches two civilians, a male and a female, standing on the sidewalk on the southeast corner of the intersection of East 84th Street and 5th Avenue. The investigation identified them as § 87(2)(b) and § 87(2)(b). § 87(2)(b) stands behind § 87(2)(b) with his hands on her shoulders. PO Rodriguez pushes § 87(2)(b) to the ground. § 87(2)(b) appears to remain standing and does not go to the ground with her. At 1:08 into the subclip, Police Officer Rodriguez looks towards the sidewalk, where § 87(2)(b) and § 87(2)(b) are seen lying on the ground. Three officers are gathered around § 87(2)(b) who is lying on his back. The BWC footage does not show how § 87(2)(b) came to be in that position. The officers around him are wearing uniforms and helmets. One of the officers has sergeant's chevrons on his arm and the shield number "1567" on his helmet.

PO Rodriguez's BWC does not depict any officer using profanity or threatening to use force against a civilian.

NYPD Documents Reviewed

The interviewed officers stated that they were assigned to a special detail tasked with responding to the protests held on June 2, 2020. The detail was referred to as the "mobile field force." It was mustered at Randalls Island at the start of the day. The officers from the mobile field force were subsequently dispatched to various locations in Manhattan.

A listing of officers assigned to the mobile field force shows that there were hundreds of police officers from various commands, including precincts, PSAs and transit districts from all over the city, assigned to the mobile field force (Board Review #23). The mobile field force was divided into smaller details consisting of up to eight officers and at least one supervisor. One such detail included the 7th Precinct officers under Sergeant Lindie's supervision, including Police Officer Hector and Police Officer Rodriguez. The Gun Violence Suppression Division officers under Sergeant Martinez's supervision, including Detective Delgado and Detective Schiavone, are not listed on any of the details.

The details identify the officers who were assigned to it, but do not indicate where the details were posted in Manhattan or where they traveled during the day. Given that the rosters do not indicate where the listed officers were working and that some of the officers known to be involved in this incident were not on the roster, the investigation was unable to identify the officers who were present during the incident.

No TRIs were prepared for § 87(2)(b)'s arrest (Board Review #24).

Concurrent Investigations

There are no other concurrent investigations by other agencies.

Ranking Officers

The investigation identified two sergeants who were on-scene: Sergeant Martinez, who had been detailed to the mobile field force with Detective Delgado and Detective Schiavone of Gun Violence Suppression Division, Zone #2, as well as Sergeant Lindie, who supervised Police Officer Hector, Police Officer Rodriguez and the other 7th Precinct officers assigned to the mobile field force.

The various officers interviewed testified that there were higher-ranking officers present during the incident, including multiple officers with white-shirted uniforms. None of the officers were able to identify the white-shirted officers, including the one visible in the cell phone video depicting § 87(2)(b)'s arrest. Given the lack of documentation detailing the movements of individual officers within the mobile field force on June 2, 2020, it is unclear which other supervisors may have been present. The officers interviewed also made clear, however, that they acted on their own judgment during the incident and were not operating under the orders or instructions of any supervisors during the arrests, including Sergeant Martinez or Sergeant Lindie.

Officers Interviewed

None of the officers interviewed recalled officers using physical force against any of the bystanders during § 87(2)(b)'s, § 87(2)(b)'s and § 87(2)(b)'s arrests. They denied that they threatened to use force against any of the bystanders and denied hearing any other officers do so.

Detective Delgado stated that as the protesters approached the intersection with East 84th Street, he noticed three or four officers surrounding § 87(2)(b) in the middle of the street. He had not noticed § 87(2)(b) before that moment. Detective Delgado did not know who the officers were or what command they were from. He did not know why the officers were struggling with § 87(2)(b) and did not learn why at any later time. Detective Delgado initially stated that these officers were struggling with § 87(2)(b) on the ground. Later, however, he stated that the officers pushed § 87(2)(b) to the ground. § 87(2)(b) landed face-down. The officers then pulled § 87(2)(b)'s arms behind his back. § 87(2)(b) offered no resistance. The officers did not use any force beyond pushing § 87(2)(b) to the ground. Detective Delgado then knelt down and applied a pair of plastic flex cuffs to § 87(2)(b). Detective Delgado then helped § 87(2)(b) to his feet and walked him to the sidewalk. No other officers made contact with § 87(2)(b). He was unaware of any officers using profanity towards any civilians.

Detective Schiavone stated that he noticed officers struggling with § 87(2)(b) by the sidewalk and that he moved to assist those officers in restraining her. He did not notice anybody else being arrested at that time, including § 87(2)(b) or § 87(2)(b). After § 87(2)(b) was handcuffed, he noticed Detective Delgado standing with § 87(2)(b) who was in handcuffs. Detective Schiavone had not seen how § 87(2)(b) ended up in police custody and did not know if any officers used force against him.

Police Officer Rodriguez did not recall § 87(2)(b)'s arrest. She recalled struggling with § 87(2)(b) but did not recall if she was arrested at that time. She did not recall any other civilians being arrested at the same time as § 87(2)(b). She was not aware of officers using force against any other civilians while Police Officer Hector arrested § 87(2)(b). She was not aware of any officers using profanity during the incident.

Sergeant Martinez stated that he first noticed § 87(2)(b) and § 87(2)(b) when Detective Delgado, Detective Schiavone and several unidentified officers grabbed them by the arms and pulled their arms behind their backs. Sergeant Martinez did not know who the other officers were. He did not know why these officers grabbed § 87(2)(b) and § 87(2)(b). Sergeant Martinez denied seeing officers force either civilian to the ground or otherwise use force against them. As discussed above, Sergeant Martinez used profanity while addressing § 87(2)(b). He was not aware of any other officers using profanity during the incident.

Police Officer Hector denied observing § 87(2)(b)'s arrest, stating that he was occupied with § 87(2)(b) at the time. He was not aware of officers using force against any other protesters. He did not hear any officers use profanity.

Sergeant Lindie did not recall seeing any other civilians besides § 87(2)(b) being arrested. He was not aware of § 87(2)(b)'s or § 87(2)(b)'s arrests. He did not recall seeing any officers use force against any civilians besides § 87(2)(b). He was not aware of any officer threatening to use force against a bystander.

Sergeant Guerrieri denied that he was present during the incident. He denied hearing any officer use profanity or threaten a civilian with the use of force. Sergeant Guerrier's shield number is 1567, which matches the number listed on the sergeant's helmet seen in Police Officer Rodriguez's BWC

footage. Sergeant Guerrieri denied that he was the officer seen on the video. He explained that he was stationed in lower Manhattan at the time of the incident and did not visit Midtown Manhattan or the Upper East Side areas. He also noted that the officer seen in the video has a standard NYPD uniform with a shield and nameplate. Sergeant Guerrieri is a member of SRG, whose uniforms have patches on their chest in place of shields and nameplates. Sergeant Guerrieri further stated that SRG officers wear entirely black helmets that do not list shield numbers.

The officers were shown § 87(2)(b)'s video footage of § 87(2)(b)'s arrest, attached in IA #20 (Board Review #06). None of the officers were able to identify the officers who surrounded § 87(2)(b) after Police Officer Hector grabbed him, including the officer seen pushing the unidentified female with pink hair.

Disposition

The investigation was unable to identify the subject officers of these various allegations. It is undisputed that there were dozens of police officers and protesters present during the incident. The specific officers who were present during the incident could not be fully established. The officers who were interviewed were identified through the paperwork that they generated for § 87(2)(b)'s, § 87(2)(b)'s and § 87(2)(b)'s arrests. Each of these officers stated that they were assigned to the protest as part of the mobile field force. They were able to identify a few officers with whom they worked with directly. They also, however, stated that they worked with numerous other details which were composed of officers from other, unidentified commands.

The detail rosters, which listed the officers who were assigned to the mobile field force in Manhattan on June 2, 2020, do not identify where the individual details worked over the course of the day. The rosters are also not completely exhaustive, as they do not list Detective Schiavone, Detective Delgado or Sergeant Martinez, all three of whom were confirmed to be present. Given this incomplete documentation, the investigation could not clearly establish who was present.

Even if the investigation was able to clearly establish the officers who were present at the intersection, there is no clear way to determine which of the officers took which action. The discourtesy allegation against § 87(2)(b) and the threat of force allegation against § 87(2)(b) were not attested to by any other civilians. § 87(2)(b) and § 87(2)(b) provided limited descriptions that could have been attributed to numerous officers. None of the officers acknowledged making these statements or hearing other officers do so. The female with the pink hair who is seen on § 87(2)(b)'s video footage was never identified by the civilians. None of the civilians provided accounts of what happened to her during the incident.

The investigation was also unable to identify the officers who forced § 87(2)(b) to the ground. While Police Officer Rodriguez's BWC footage shows § 87(2)(b) lying on his back surrounded by uniformed officers, it does not show how he came to be in that position. It is unclear whether the officers on the video are the ones who pushed him down. Even if they were, though, the video does not show their faces. One of the officers' helmets has a shield number on it that corresponds to Sergeant Guerrieri of SRG 5. Sergeant Guerrieri, however, stated that he was assigned to lower Manhattan at the time of the incident. He also pointed out that his uniform, as an SRG officer, does not resemble the one seen on the BWC footage. It is therefore unclear who the officer on the video is. The only officer who confirmed that they made physical contact with § 87(2)(b) was Detective Delgado, who later transported § 87(2)(b) to the stationhouse. Both § 87(2)(b) and § 87(2)(b) however, made clear that their transporting officers were not the ones who used force during the incident. Neither Detective Delgado nor any of the other officers recalled which officers interacted with § 87(2)(b) prior to Detective Delgado.

Allegation (J) Discourtesy: At the 19th Precinct stationhouse in Manhattan, an officer spoke discourteously to § 87(2)(b)

It is undisputed that § 87(2)(b) and § 87(2)(b) were all transported to the 19th Precinct stationhouse after they were handcuffed. § 87(2)(b) was transported by Police Officer Hector and Police Officer Thomas Garry of the 7th Precinct, while § 87(2)(b) and § 87(2)(b) were transported by Detective Delgado and Detective Schiavone. When they arrived, they were lodged in a holding cell while Police Officer Hector and Detective Delgado prepared summonses for them for violating the mayoral curfew.

§ 87(2)(b) stated that after he, § 87(2)(b) and § 87(2)(b) were lodged in the holding cell, two officers stayed in the holding cell area with them. One was Police Officer Hector. § 87(2)(b) did not recognize the other officer and had not seen him on the street earlier in the incident. He described this officer as a white male with blond hair. No other officers were in the room. The blond officer started speaking to § 87(2)(b) told § 87(2)(b) not to speak to the officer. The officer became angry and told § 87(2)(b) “Shut the fuck up,” and, “Keep your ignorance out of this conversation.” § 87(2)(b) remained silent after that. § 87(2)(b) made no mention of an officer using profanity at the stationhouse in his Notice of Claim (Board Review #16).

§ 87(2)(b) and § 87(2)(b) stated that they waited in the holding cells with § 87(2)(b) and an unidentified officer. § 87(2)(b) described him as a bald, muscular male in his 40s. § 87(2)(b) described him as a white male with a tattoo on his arm. § 87(2)(b) spoke to the officer about the ongoing police brutality protests. Their conversation was civil. § 87(2)(b) told § 87(2)(b) not to speak to the bald officer. The officer told § 87(2)(b) that he was being ignorant. § 87(2)(b) and § 87(2)(b) both denied hearing the officer use any profanity while speaking to § 87(2)(b).

Police Officer Hector stated that he prepared § 87(2)(b)'s summonses on a computer located in the holding cell area while the three prisoners were lodged in the cell. He did not recall any officers speaking to the prisoners while they were lodged in the cells. He denied hearing any officer use profanity towards § 87(2)(b).

Detective Delgado and Detective Schiavone stated that after the prisoners were lodged in the holding cell, they stayed in an adjacent room where Detective Delgado prepared § 87(2)(b)'s and § 87(2)(b)'s summonses. Detective Delgado stated that he moved back-and-forth between the holding cell area and the adjacent room over the course of about an hour while preparing his summonses. He chatted with § 87(2)(b) a few times during these visits. There were other officers stationed in the holding cell area, but Detective Delgado did not know who they were. Detective Schiavone stated that he stayed in the adjacent room and did not interact with the prisoners. Neither detective was aware of another officer speaking to the prisoners. They did not recall hearing any officers speaking to the prisoners in the holding cell area. They denied hearing an officer use profanity towards § 87(2)(b).

Sergeant Martinez stated that he accompanied Detective Schiavone and Detective Delgado to the stationhouse, though he did not know if he rode with them. While at the stationhouse he remained behind the front desk. He did not wait with the civilians in the holding cell. He was not aware of

any officers speaking to the civilians or using profanity against § 87(2)(b)

Sergeant Lindie denied accompanying the prisoners to the stationhouse. At around 9:30 p.m., he picked up Police Officer Hector and Police Officer Garry at the stationhouse. § 87(2)(b) was in the holding cells at the time. Sergeant Lindie did not see any other civilians present. He was not aware of any officers using profanity towards § 87(2)(b) at the stationhouse.

Police Officer Rodriguez and Sgt. Guerrieri denied traveling to the 19th Precinct stationhouse on June 2, 2020.

§ 87(2)(b), § 87(2)(g)
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§ 87(2)(b), § 87(4-b), § 87(2)(g)
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§ 87(2)(b), § 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) has been a party (Board Review #31).
- Police Officer Hector has been a member of the service for fifteen years and has been named as a subject in two previous cases and two allegations, neither of which was substantiated. Police § 87(2)(g)
- Police Officer Rodriguez has been a member of the service for four years and this is the first CCRB complaint to which she has been a subject.
- Sergeant Martinez has been a member of the service for fourteen years and has been a subject in fourteen previous CCRB complaints and 39 allegations, one of which has been substantiated:
 - #201703884 involved a substantiated allegation of premises entered and/or searched against Sergeant Martinez. The Board recommended that he receive Command Discipline B. The NYPD imposed formalized training.
 - § 87(2)(g)
- Detective Delgado has been a member of the service for twenty years and has been a subject in five previous CCRB complaints and six allegations, none of which was substantiated. § 87(2)(g)
- Detective Schiavone has been a member of the service for fourteen years and has been a subject in five previous CCRB complaints and six allegations, none of which was substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

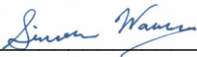
- This complaint was not suitable for mediation.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming physical injury, pain and suffering, deprivation of liberty, false arrest, First Amendment retaliation and malicious prosecution and seeking \$230,000 as redress (Board Review #16). A 50H hearing was held on § 87(2)(a) Gen. Mun. § 50-h(3). To date, a copy of the transcript has not been provided to the CCRB.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming physical injury, false

arrest, malicious prosecution and potential COVID-19 exposure and seeking \$260,000 as redress (Board Review #16). A 50H hearing was held on § 87(2)(a) Gen. Mun. § 50-h(3) To date, a copy of the transcript has not been provided to the CCRB.

- § 87(2)(b) filed a Notice of Claim with the City of New York claiming false arrest, malicious prosecution, potential COVID-19 exposure, physical injury, excessive force and mental anguish and seeking \$130,000 as redress (Board Review #16). A 50H hearing was held on § 87(2)(a) Gen. Mun. § 50-h(3) To date, a copy of the transcript has not been provided to the CCRB.
- § 87(2)(b)
- According to OCA, neither § 87(2)(b) nor § 87(2)(b) has a history of convictions in New York City (Board Review #32).

Squad: 15

Investigator: Owen Godshall Inv. Owen Godshall 11/04/2021
Signature Print Title & Name Date

Squad Leader:  IM Simon Wang 11/04/21
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date