

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Dukich	Team: Squad #08	CCRB Case #: 202103206	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 05/18/2021 9:45 PM, Wednesday, 02/23/2022 10:50 AM	Location of Incident: Northwest Corner Avenue H and East 48 Street; 100 Church Street, 10th Floor	18 Mo. SOL 11/18/2022	Precinct: 63		
Date/Time CV Reported Tue, 05/18/2021 11:26 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/27/2021 9:37 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Paul Mallilo	00564	949246	063 PCT
2. POF Randi Knepper	12582	967569	063 PCT
3. POM Sergio Martins	19109	964146	063 PCT
4. SGT Gary Leite	05022	948376	063 PCT
5. POM Umar Mirza	09700	965798	063 PCT
6. CPT Alexander Cedillo	00000	944255	063 PCT
7. PO Ali Alomaisi	23797	962918	063 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Melissa Oliva	16962	968678	063 PCT
2. POM Frank Kalnberg	17774	969841	063 PCT
3. POM Daniel Diaz	08295	960457	063 PCT
4. POM Stanislav Yakovlev	06378	945119	063 PCT
5. POM Nicholas Altizermendoza	06444	949327	063 PCT
6. POF Melissa Oneill	22264	940549	063 PCT
7. LT Sheldon Arrindell	00000	944335	069 PCT
8. POM Vilaire Valemburn	15935	967710	063 PCT
9. POM Marc Staye	05356	963767	069 PCT
10. POM Matthew Mckenna	06245	960916	063 PCT
11. POM Christian Martinez	25911	964141	111 PCT
12. POF Tricia Navarrocaballo	19673	958973	063 PCT
13. DT3 Jonathan Bourne	02430	958321	INT CIS
14. PO Paul Alva	11022	963372	063 PCT
15. PO Roodjerry Guerrier	22996	969759	063 PCT
16. PO David Gamez	06463	955938	063 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Randi Knepper	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Randi Knepper tightly handcuffed § 87(2)(b)	
B.SGT Paul Mallilo	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Paul Mallilo used physical force against § 87(2)(b)	
C.POF Randi Knepper	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Randi Knepper used physical force against § 87(2)(b)	
D.SGT Paul Mallilo	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Paul Mallilo restricted § 87(2)(b) breathing.	
E.SGT Gary Leite	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Gary Leite used physical force against § 87(2)(b)	
F.SGT Paul Mallilo	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Paul Mallilo used physical force against § 87(2)(b)	
G.POM Sergio Martins	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Sergio Martins used physical force against § 87(2)(b)	
H.SGT Gary Leite	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Gary Leite used physical force against § 87(2)(b)	
I.PO Ali Alomaisi	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Ali Alomaisi used physical force against § 87(2)(b)	
J.POM Sergio Martins	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Sergio Martins used physical force against § 87(2)(b)	
K.POM Umar Mirza	Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Umar Mirza used physical force against § 87(2)(b)	
L.POM Umar Mirza	Discourtesy: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Umar Mirza spoke discourteously to § 87(2)(b)	
M.POM Sergio Martins	Untruthful Stmt.: On February 23, 2022, at 100 Church Street, 10th Floor in Manhattan, Police Officer Sergio Martins provided a false official statement to the CCRB.	
N.CPT Alexander Cedillo	Abuse: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Captain Alexander Cedillo refused to provide his name to § 87(2)(b)	

## Case Summary

On May 18, 2021, at approximately 11:26 p.m., § 87(2)(b) filed the following complaint via IAB original log § 87(2)(b)

On May 18, 2021, at approximately 9:45 p.m., at the northwest corner of Avenue H and East 48<sup>th</sup> Street in Brooklyn, Sergeant Paul Mallilo and Police Officer Randi Knepper, both of the 63<sup>rd</sup> Precinct, stopped § 87(2)(b) vehicle for a traffic violation. PO Knepper handcuffed § 87(2)(b) and when he told her that the handcuffs were on too tight, she allegedly tightened them further (**Allegation A: Force,** § 87(2)(g) PO Knepper and Sgt. Mallilo then allegedly pushed § 87(2)(b) causing him to fall onto the ground (**Allegations B and C: Force,** § 87(2)(g) Sgt. Mallilo then allegedly placed his knee onto § 87(2)(b) back (**Allegation D: Force,** § 87(2)(g)

§ 87(2)(b) allegedly took the keys to § 87(2)(b) vehicle. Sgt. Leite approached § 87(2)(b) and in doing so, pushed § 87(2)(b) out of the way (**Allegation E: Force,** § 87(2)(g) Sgt. Mallilo, Police Officer Sergio Martins, Police Officer Ali Alomaisi, and Sergeant Gary Leite, all of the 63<sup>rd</sup> Precinct, took § 87(2)(b) to the ground (**Allegations F-I: Force,** § 87(2)(g) PO Martins punched § 87(2)(b) several times in the ribs (**Allegation J: Force,** § 87(2)(g) while Police Officer Umar Mirza of the 63<sup>rd</sup> Precinct punched § 87(2)(b) in the head repeatedly (**Allegation K: Force,** § 87(2)(g) PO Mirza told § 87(2)(b) “You want to fucking fight huh, you think you're fucking tough. You think you're fucking tough, huh?” (**Allegation L: Discourtesy,** § 87(2)(g)

§ 87(2)(b) allegedly collectively asked several officers for their names and shield numbers, at which time Captain Alexander Cedillo of the 63<sup>rd</sup> Precinct responded that he did not have to answer any of her questions (**Allegations N: Abuse of Authority,** § 87(2)(g)

Additionally, on February 23, 2022, at 100 Church Street, 10<sup>th</sup> Floor in Manhattan, PO Martins provided a false official statement to the CCRB (**Allegation M: False Official Statement,** § 87(2)(g)

§ 87(2)(b) was charged with resisting arrest, obstructing governmental administration, operating a vehicle without insurance, operating an unregistered vehicle, and improper passing on the right as a result of this incident (Board Review 01).

§ 87(2)(b) was charged with resisting arrest and obstructing governmental administration as a result of this incident (Board Review 02).

BWC from Sgt. Mallilo, PO Knepper, PO Martins, PO Mirza, Police Officer Frank Kalnberg of the 63<sup>rd</sup> Precinct, Police Officer Ali Alomaisi of the 63<sup>rd</sup> Precinct, Sergeant Gary Leite of the 63<sup>rd</sup> Precinct, Police Officer Daniel Diaz of the 63<sup>rd</sup> Precinct, Police Officer Stanislav Yakovlev of the 63<sup>rd</sup> Precinct, Police Officer David Gamez of the 63<sup>rd</sup> Precinct, Police Officer Nicholas Altizermecado of the 63<sup>rd</sup> Precinct, Police Officer Melissa O'Neill of the 63<sup>rd</sup> Precinct, Lieutenant Sheldon Arrindell of the 69<sup>rd</sup> Precinct, Police Officer Vilaire Valembrun of the 63<sup>rd</sup> Precinct, Police Officer Marc Staye of the 69<sup>th</sup> Precinct, Police Officer Matthew McKenna of the 63<sup>rd</sup> Precinct, Police Officer Christian Martinez of the 111<sup>th</sup> Precinct, Police Officer Tricia Navarrocarralballo of the 63<sup>rd</sup> Precinct, Police Officer Jonathan Bourne of the Criminal Intelligence Section, and Police Officer Melissa Oliva of the 63<sup>rd</sup> Precinct was obtained by the investigation (Board Review 03-05).

Cell phone footage of the incident was provided to the investigation by § 87(2)(b) (Board Review 06-08).

## Findings and Recommendations

**Allegation (A) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Randi Knepper tightly handcuffed § 87(2)(b)**

**Allegation (B) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Paul Mallilo used physical force against § 87(2)(b)**

**Allegation (C) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Randi Knepper used physical force against § 87(2)(b)**

**Allegation (D) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Paul Mallilo restricted § 87(2)(b) breathing.**

On June 3, 2021, § 87(2)(b) stated to the CCRB that at approximately 9:47 p.m., she had just departed from a restaurant with her boyfriend, § 87(2)(b) and three friends, § 87(2)(b) and § 87(2)(b). After leaving the restaurant and walking two blocks east along Avenue H towards Kings Highway in Brooklyn, § 87(2)(b) saw that her childhood neighbor, § 87(2)(b) had been pulled over in his silver Jeep by PO Knepper and Sgt. Mallilo. § 87(2)(b) was sitting in his vehicle, talking to the officers through his window on the northwest corner of Avenue H and East 48<sup>th</sup> Street. A bus came to a stop in front of them, momentarily obscuring § 87(2)(b) view of § 87(2)(b) and the officers, who were across the street. § 87(2)(b) could hear what sounded like struggling after the bus stopped, and by the time she and her friends walked around the bus to see what was going on, they saw that § 87(2)(b) had been handcuffed and was pressed against his car. § 87(2)(b) complained that the handcuffs were too tight, and PO Knepper tightened them. PO Knepper and Sgt. Mallilo then escorted § 87(2)(b) into an NYPD vehicle (Board Review 09).

§ 87(2)(b) testimony to the CCRB on January 18, 2022, was largely consistent with § 87(2)(b). Once the bus moved past and no longer obstructed her view, § 87(2)(b) saw that § 87(2)(b) was already outside of his vehicle, approximately one car lane and a sidewalk away from where she stood. PO Knepper and Sgt. Mallilo pushed § 87(2)(b) with their arms on the upper part of his body so that § 87(2)(b) fell to the ground. § 87(2)(b) is not sure what exactly the officers did to bring him to the ground. On the ground, both officers grabbed § 87(2)(b) by his arms underneath his armpits. § 87(2)(b) was not doing anything to resist or to fight back against the officers. Sgt. Mallilo placed his right knee across § 87(2)(b) shoulder to his lower back area, while holding § 87(2)(b) back with both of his hands in a CPR-like position. § 87(2)(b) lay parallel to his car, facing the front of the car. § 87(2)(b) said “I can’t breathe and you’re hurting me” at least four to five times while lifting his head. § 87(2)(b) did not observe what PO Knepper was doing at this time. Sgt. Mallilo continued to restrain § 87(2)(b) for a period of time that § 87(2)(b) could not recall. § 87(2)(b) did not know whether § 87(2)(b) was handcuffed at the time that he said that he could not breathe, nor did she remember whether she saw officers handcuff § 87(2)(b). § 87(2)(b) stated that she had a block in her memory and could not recall what happened to § 87(2)(b) after he was restrained. She did not recall whether she saw officers lift him at any point, nor whether she saw him escorted to a police vehicle (Board Review 10).

The investigation was unable to obtain a statement from § 87(2)(b) (Board Review 11).

§ 87(2)(b) was uncooperative with the investigation and did not provide a statement (Board Review 12).

The investigation was unable to obtain a statement from § 87(2)(b) (Board Review 13).

§ 87(2)(b) arrest report states the following narrative: “AT TPO A/O DID OBSERVE A GRAY 2002 ACURA SUV TRAVELING WESTBOUND ON AVE H. VEH DID PROCEED TO OVERTAKE MARKED RMP BY PASSING ON THE RIGHT SIDE ON A ONE LANE STREET. VEH DID NOT HAVE LICENSE PLATE DISPLAYED” (Board Review 01).

PO Knepper’s BWC from the incident begins with PO Knepper driving a moving vehicle. PO Knepper parks the vehicle and approaches § 87(2)(b) who exits a gray SUV double-parked several feet ahead at 00:57. PO Knepper instructs § 87(2)(b) to “Please get back in your car” at 1:01 and § 87(2)(b) complies.

At 1:06 minutes, Sgt. Mallilo approaches § 87(2)(b) and introduces himself, and at 2:19, asks for § 87(2)(b) registration and insurance. He hands it to PO Knepper, and she looks at it. § 87(2)(b) repeats several times that he is late picking up his son. At 4:05 he says “I’m good yo” to someone who can be heard calling out to him. He says, “I’m trying to get my fucking son, and I’m still late. Can I go?” PO Knepper asks for him to give them a couple of minutes. At 5:39, PO Knepper tells § 87(2)(b) that he passed their vehicle on a single-lane road. § 87(2)(b) disputes the infraction and begins to get out of the vehicle. PO Knepper requests that he step back inside, but § 87(2)(b) refuses. § 87(2)(b) starts walking in the middle of the street and gesticulating towards the lanes. Sgt. Mallilo requests that he step back, and § 87(2)(b) takes a few steps back at 6:49. He screams for PO Knepper to return his ID.

At 6:52, Sgt. Mallilo says, “You know what, turn around.” He takes hold of § 87(2)(b) upper body and handcuffs his hands behind his back. He tells § 87(2)(b) to put his hands behind his back. As Sgt. Mallilo is handcuffing § 87(2)(b) at 7:17, § 87(2)(b) says, “Nah, I got to get my son!” then moves his body around. At 7:25, Sgt. Mallilo finishes handcuffing § 87(2)(b). To the right of the frame at 7:26, § 87(2)(b) and § 87(2)(b) stand several feet away. § 87(2)(b) appears to record § 87(2)(b) and the officers on his cellphone. § 87(2)(b) says, “Why are they so tight though?” § 87(2)(b) asks PO Knepper to stop squeezing his hand and she says “Okay.” § 87(2)(b) complains that his handcuffs are too tight at 8:40 and PO Knepper says “Okay.” She does not appear to adjust the handcuffs. At 9:04, § 87(2)(b) says, “What did you put it so fucking tight for?” and she responds “Okay.” § 87(2)(b) then says, “So why did you tighten it?” while PO Knepper holds his forearm. At 9:15, PO Knepper briefly walks over to her RMP. At 9:32, she approaches the left passenger side, where Sgt. Mallilo attempts to place § 87(2)(b) in the back of the RMP. He says, “stand up.” At 9:46, § 87(2)(b) slides from the backseat of the police vehicle and onto the ground. He lies face down on the ground. PO Knepper requests an ambulance to the location. § 87(2)(b) mentions again that his handcuffs are too tight at 10:29 and she says “okay.” Another officer mentions that they have a bus coming for § 87(2)(b). § 87(2)(b) says at 10:41, “The door pushed my head.” The officers continuously ask § 87(2)(b) to sit up and he yells “You do this for nothing” repeatedly on the ground. At 10:51, § 87(2)(b) says, “No you pushed my head in the car, why would I get up, to get my head smashed again?” § 87(2)(b) continues to scream “You’re wrong.” PO Knepper kneels to the ground next to § 87(2)(b) and the police vehicle. PO Knepper checks § 87(2)(b) handcuffs at 11:40 and says, “There’s room in it.” At 13:20, § 87(2)(b) says to PO Alomaisi that he pushed § 87(2)(b) head into the car, but that it was an accident. PO Knepper walks away from the vehicle at 14:40 and does not return to the scene for the duration of her video footage (Board Review 04).

PO Knepper testified on February 18, 2022, that on May 18, 2021, at approximately 9:45 p.m., PO Knepper was driving westbound on Avenue H in Brooklyn, near the intersection of Kings Highway. She was the operator, while Sgt. Mallilo was in the passenger seat. Avenue H is a two-lane street, one going east and the other going west. She pulled up and waited on a stop light—her vehicle was the first vehicle at the light. Once the light turned green, another vehicle crossed the

double line and passed her vehicle on the right, at which point she could see that the vehicle had no license plate affixed to the rear. PO Knepper told Sgt. Mallilo that the vehicle had committed two VTL infractions—lacking a license plate and crossing a double yellow line—and Sgt. Mallilo told PO Knepper to pull him over, which she did.

Before PO Knepper exited her vehicle, the driver, § 87(2)(b) exited his vehicle. PO Knepper activated her BWC and approached § 87(2)(b) while Sgt. Mallilo approached the passenger side of the vehicle to check whether anybody else was inside. Sgt. Mallilo then walked back over to the driver's side and stood to the right of PO Knepper. PO Knepper instructed § 87(2)(b) to get back inside the vehicle and he complied, though he kept the driver's door open. § 87(2)(b) asked why he was being pulled over and she asked him for his documentation. She explained that she would look at his documentation first, then explain the reason for the stop. § 87(2)(b) looked in his glove compartment and around his vehicle for his documents and told PO Knepper that he was late to pick up his son down the block. PO Knepper asked for the documentation again and § 87(2)(b) tried to exit the car while arguing that he did nothing wrong. § 87(2)(b) tone was loud and confrontational, and he flailed his hands from side to side and in front of him to gesture while he was talking. § 87(2)(b) then provided his license and the title of his vehicle to PO Knepper. The back of the title was not signed and the mileage on the title was high, which made PO Knepper suspicious because § 87(2)(b) stated that he had just bought the vehicle. He tried to exit the vehicle again and she asked him to wait inside because she wanted to run the vehicle's registration in the DMV database to verify that it belonged to § 87(2)(b).

Once PO Knepper ran § 87(2)(b) credentials, she saw that he had prior arrests, which included a gun charge. § 87(2)(b) continuously reached in his side door, his center console, his glove compartment after providing his documentation to PO Knepper. She repeatedly asked him to keep his hands visible as § 87(2)(b) did not indicate to PO Knepper what he was reaching for. § 87(2)(b) then exited his vehicle again and went into the middle of the street to point towards the street and to demonstrate that he had done nothing wrong. PO Knepper told him to get back into the vehicle again, however he refused and yelled that he needed to pick up his son. In total, PO Knepper instructed § 87(2)(b) to remain inside his vehicle approximately five times.

§ 87(2)(b) approached the officers, coming within six feet of them while continuously gesticulating and flailing his arms in an animated matter in front of his body. Sgt. Mallilo. Sgt. Mallilo instructed PO Knepper to handcuff and arrest § 87(2)(b) and told § 87(2)(b) to turn around. § 87(2)(b) tensed his body, reaching into his car so that PO Knepper could not see what he was grabbing. Eventually, § 87(2)(b) emerged with the keys, which were on the seat of the vehicle. § 87(2)(b) car was off, and he used his left hand to grab the keys. § 87(2)(b) refused to place his hands behind his back as instructed around five times by both Sgt. Mallilo and PO Knepper, and he flailed his arms as he threw his car keys into the middle of the street. The keys landed approximately by the other lane of traffic. § 87(2)(b) would not give up his hands and pulled them closer to himself as both PO Knepper and Sgt. Mallilo attempted to handcuff him.

PO Knepper noticed that a crowd of four to five people was watching from the other side of the street several minutes into the car stop. She did not know the association of anybody in the crowd to § 87(2)(b). The crowd yelled things along the lines of, "What do you need?" to § 87(2)(b). The crowd approached within six feet of § 87(2)(b) as PO Knepper and Sgt. Mallilo handcuffed him. PO Knepper was unsure where they stood but believed that they were in front of § 87(2)(b) vehicle. PO Knepper gave the crowd multiple commands to stand on the sidewalk, though they did not comply. At that time, PO Knepper called for assistance, because the situation was becoming increasingly hostile. Once § 87(2)(b) threw his keys in the middle of the street, he told the people in the crowd, "Grab my keys, don't let them take the car." PO Knepper eventually overcame § 87(2)(b).

§ 87(2)(b) resistance, which took between 45 seconds to a minute, and rear handcuffed him as he faced his vehicle. PO Knepper did not use any other force to handcuff § 87(2)(b) aside from pulling his arms back. One of the civilian bystanders who was a part of the crowd, § 87(2)(b) picked the keys up and walked over to the other side of the street. PO Knepper did not see where § 87(2)(b) put the keys.

Given that § 87(2)(b) was detained at that time, procedurally, she had to take the vehicle back to the stationhouse. Alternatively, she could park the vehicle outside on the street, but she would need the keys, which were in § 87(2)(b) possession, to do so.

The cage car arrived within a minute of the additional officers' arrival. PO Knepper and another officer escorted § 87(2)(b) to the cage car. PO Knepper held § 87(2)(b) left arm with her left hand, and his handcuffs with her right hand. PO Knepper told § 87(2)(b) to calm down and to sit in the vehicle. She told him that they would figure everything out at the precinct stationhouse. § 87(2)(b) then went limp and dropped his weight to the ground. He fell onto the right side of his body and stated that he did not want to go into the car. PO Knepper dropped down to her knees since she was still holding § 87(2)(b) and adjusted to sit on the ground next to him. PO Knepper did not let go of him when he fell to the ground so that she could cushion his fall and make sure that he did not hit his head. PO Knepper could not recall whether § 87(2)(b) hit his head against the ground once he fell. § 87(2)(b) then stated that the handcuffs were too tight and cried a little bit while saying that he just wanted to pick up his son. PO Knepper put two fingers in between the cuffs and confirmed that the handcuffs were not too tight, as she was trained to do at the academy. She then tried to reposition the handcuffs so they would not dig into § 87(2)(b) skin, but she did not loosen or tighten the handcuffs at any time. She told him that she would loosen his handcuffs once they get to the stationhouse. PO Knepper could not remember where Sgt. Mallilo was at this time but believed that he was attempting to get the keys from § 87(2)(b). At no point did she witness Sgt. Mallilo place his knee on § 87(2)(b) back. PO Knepper herself did not place her knee on § 87(2)(b) back. PO Knepper recalled that two officers stood to her right at this time, though she could not remember who they were.

§ 87(2)(b) complained that he could not breathe, so PO Knepper attempted to reposition him. PO Knepper could not see anything that specifically restricted his breathing. No other officer made physical contact with § 87(2)(b) at the time when he said that he could not breathe. PO Knepper and another officer then lifted § 87(2)(b) from the ground and attempted to place him in the caged police car. On his way into the vehicle, § 87(2)(b) hit his head against the top of the door frame. § 87(2)(b) did not request medical attention on scene, and she did not know whether he requested it at the stationhouse when he spoke with the desk officers. The officers who brought the cage car then transported § 87(2)(b) back to the precinct.

Both § 87(2)(b) and § 87(2)(b) were ultimately arrested. § 87(2)(b) was charged with resisting arrest, obstructing government administration, and the VTL infractions mentioned earlier. PO Knepper was aware that the arrest is sealed, though she did not know why it was sealed. § 87(2)(b) was charged with resisting arrest and obstructing governmental administration.

PO Knepper was presented with her BWC from the incident, played from 8:30 to 9:17 minutes. The video refreshed PO Knepper's recollection of § 87(2)(b) saying that his handcuffs were too tight by the vehicle, rather than later in the incident. PO Knepper did not know what § 87(2)(b) said when he said, "Why are you tightening it," and mentioned that her hands were not on the handcuffs at that time.

PO Knepper was presented with the TRI report that she signed off on with regards to this incident.

She stated that though she did not use a forcible takedown on § 87(2)(b) she prepared a TRI because she had her hands on § 87(2)(b) and she believed that there was a possibility that he would have complained about this incident. She felt that it was in everybody's best interest to document that she had her hands on him at some point. The TRI indicated that a forcible takedown specifically was used because there were not many other options available to describe the level of force used in the drop-down portion of the report. PO Knepper stated that no supervisor instructed her to indicate that a forcible takedown was used, but that a supervisor prepared the report and handed it to her to sign. She believed Captain Cedillo prepared this report because his name was on the paperwork, though she did not have an independent recollection of him preparing this report (Board Review 14).

Sgt. Mallilo's testimony on February 22, 2022, largely consistent with PO Knepper's. Sgt. Mallilo stated that he asked § 87(2)(b) for his identification two to three times before § 87(2)(b) provided it to him. § 87(2)(b) handed him his title for other vehicles, but ultimately could not provide any paperwork for the vehicle that he was driving. He stated that he did not have any paperwork because he had just bought the vehicle. Sgt. Mallilo was not able to confirm that § 87(2)(b) was the owner of the vehicle at any time.

Sgt. Mallilo did not have enough time to see what came up when he ran § 87(2)(b) name before § 87(2)(b) exited his car and walked onto Avenue H. Sgt. Mallilo approached him and asked him to return to his vehicle. § 87(2)(b) continued to talk rapidly and became more combative. § 87(2)(b) said, "If you are not going to give me a ticket then give me my fucking ID back and let me go." § 87(2)(b) also bladed his stance by angling his body away from the officers and tensed up his entire body. At that time, Sgt. Mallilo made the decision to arrest § 87(2)(b) for the two VTL infractions and for obstructing governmental administration. He decided to detain him at the precinct because other de-escalation tactics had failed, and a crowd of approximately five people was beginning to form on the other side of Avenue H. Sgt. Mallilo could not remember whether § 87(2)(b) had any kind of contact with anybody in that crowd or what the crowd was doing.

Sgt. Mallilo told § 87(2)(b) to place both of his hands behind his back, but § 87(2)(b) began to swing his arms in both directions. Sgt. Mallilo was able to take hold of both of § 87(2)(b) hands behind his back while § 87(2)(b) pulled his arms away. PO Knepper was ultimately able to handcuff him. During the struggle to handcuff § 87(2)(b) § 87(2)(b) threw his car keys in front of his car. Sgt. Mallilo saw § 87(2)(b) approach and pick up the keys to § 87(2)(b) vehicle crossing the street to the other side of Avenue H. At no point did Sgt. Mallilo take § 87(2)(b) to the ground. Sgt. Mallilo denied ever placing a knee on § 87(2)(b) back nor seeing any other officer do so. Sgt. Mallilo walked over to attempt to get the car keys from § 87(2)(b) while other officers attempted to place § 87(2)(b) into a police vehicle. Sgt. Mallilo did not witness how they did so, nor who dealt with § 87(2)(b) at that time. Sgt. Mallilo did not hear § 87(2)(b) say that his handcuffs were on too tight, nor did he witness PO Knepper tighten them (Board Review 15).

PO Mirza testified on May 11, 2022, that on May 18, 2021, he was driving with PO Oliva when he received a job requesting additional units to the location over the radio. While driving there, a follow-up statement was made saying, "no further." A minute afterwards, another request came over the radio for one more additional unit, so PO Mirza and his partner headed to the location. He did not receive any additional details regarding the incident prior to arriving at the location.

Upon arriving, PO Mirza saw Sgt. Mallilo, PO Knepper, and one other additional unit already at the location. § 87(2)(b) stood by his car in handcuffs, with Sgt. Mallilo holding on to one of his arms, and some other officer holding the other side of § 87(2)(b) PO Mirza parked his vehicle approximately ten feet behind § 87(2)(b) vehicle. He did not learn any additional details regarding



the incident upon arriving. Sgt. Mallilo let PO Mirza know that § 87(2)(b) would be placed in the back of his RMP, so he assumed that § 87(2)(b) was under arrest. He did not learn why he was under arrest. PO Mirza walked over to § 87(2)(b) right side and took hold of his arm underneath his armpit with his left arm to guide him towards the RMP.

§ 87(2)(b) was uncooperative, as he was not walking willingly towards the RMP. He did not take any other actions to appear combative but continued to ask why he was under arrest. While this was happening, PO Mirza heard the group on the other side of the street speaking loudly, though he did not recall what they said. As they attempted to walk with him to the car, § 87(2)(b) went limp and fell to the ground on his own. PO Mirza continued to hold the right side of his body to cushion § 87(2)(b) fall. None of PO Mirza's nor Sgt. Mallilo's actions contributed nor caused § 87(2)(b) to fall to the ground. His body began to convulse, as though he was having a seizure. At that time, PO Mirza took out his radio and called for an ambulance for § 87(2)(b). At no time did PO Mirza witness Sgt. Mallilo place a knee onto § 87(2)(b) back, nor did he do so himself. He did not witness any other officer do so. PO Mirza did not recall witnessing § 87(2)(b) complain of any specific injuries. He did not recall § 87(2)(b) saying that he could not breathe (Board Review 16).

On February 23, 2022, Sgt. Leite testified that on May 18, 2021, he was at the precinct when he heard another sector come over as either a 10-85 or a 10-13 at the location, which generally stands for "officer needs assistance." Sgt. Leite did not receive any additional information about the job prior to arriving to the location.

Sgt. Leite responded with PO Diaz and PO Martins. Once he arrived on scene, he saw PO Knepper with § 87(2)(b) who was lying on the ground on his stomach near a marked police vehicle. Sgt. Leite walked over to § 87(2)(b) and helped him roll over to his side to help him breathe better, while PO Diaz and PO Martins crossed the street. § 87(2)(b) was complaining that he could not walk, though he did not explain why he could not walk. Sgt. Leite did not recall whether § 87(2)(b) made any specific comments that indicated that he could not breathe, but he rolled him over to promote free breathing anyway because this was standard procedure. Sgt. Leite did not recall whether § 87(2)(b) complained that his handcuffs were too tight at any time. Sgt. Leite did not learn any additional information about the incident once he arrived on scene but understood that § 87(2)(b) and § 87(2)(b) were being arrested. At no point did Sgt. Leite see Sgt. Mallilo nor any other officer place a knee onto § 87(2)(b) back, nor did he do so himself. He did not see PO Knepper tighten § 87(2)(b) handcuffs, nor did he do so himself (Board Review 17).

PO Knepper's BWC, which captures the entire incident, does not depict PO Knepper tightening § 87(2)(b) handcuffs after he asked her to loosen them, but on the contrary depicts PO Knepper checking and explaining that the handcuffs have room in them. Additionally, PO Knepper denied ever tightening § 87(2)(b) handcuffs. § 87(2)(g)

As PO Knepper, PO Mirza, and Sgt. Mallilo denied ever taking § 87(2)(b) to the ground, and PO Knepper's BWC, which captures the entire incident, does not depict either officer bringing § 87(2)(b) to the ground, § 87(2)(g)

Given that BWC, which captures the entire incident, does not capture any officer place a knee onto § 87(2)(b) back while he is on the ground, and that both PO Knepper and Sgt. Mallilo denied ever placing a knee onto § 87(2)(b) back or witnessing any other officer do so, § 87(2)(g)

**Allegation (E) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Gary Leite used physical force against § 87(2)(b)**

**Allegation (F) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Paul Mallilo used physical force against § 87(2)(b)**

**Allegation (G) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Sergio Martins used physical force against § 87(2)(b)**

**Allegation (H) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Sergeant Gary Leite used physical force against § 87(2)(b)**

**Allegation (I) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Ali Alomaisi used physical force against § 87(2)(b)**

**Allegation (J) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Sergio Martins used physical force against § 87(2)(b)**

**Allegation (K) Force: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Umar Mirza used physical force against § 87(2)(b)**

**Allegation (L) Discourtesy: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Police Officer Umar Mirza spoke discourteously to § 87(2)(b)**

**Allegation (M) Untruthful Statement: On February 23, 2022, at 100 Church Street, 10th Floor in Manhattan, Police Officer Sergio Martins provided a false official statement to the CCRB.**

§ 87(2)(b) testified that once § 87(2)(b) was removed to a police vehicle, several other officers ordered § 87(2)(b) and her friends onto the sidewalk. As § 87(2)(b) and her friends walked towards the sidewalk, officers continued ordering them onto it. § 87(2)(b) turned to § 87(2)(b) to see if he was on the sidewalk and saw that he was compliant with the officers' instructions. § 87(2)(b) was shouting as he continued to record from the sidewalk and § 87(2)(b) said "relax" in response to § 87(2)(b) shouting. She did not remember exactly what he shouted at the officers. § 87(2)(b) has his phone and possibly his keys in his hand.

Several officers then began approaching § 87(2)(b). Officers pushed § 87(2)(b) out of their way, while a female officer pulled § 87(2)(b) away from § 87(2)(b) by her left arm. Four to six male officers began to pull at § 87(2)(b) upper body, two of whom entered his pockets, while the others held his arms. No officer issued any commands to § 87(2)(b) before taking him to the ground. Sgt. Mallilo got on top of § 87(2)(b) back and held him down. PO Mirza punched § 87(2)(b) in his face several times, while PO Martins punched him in the ribs. The officers then handcuffed § 87(2)(b), lifted him from the ground, and escorted him to an NYPD vehicle. His face was bleeding, and he had scratches and bruises throughout his body. An ambulance arrived one to three minutes later, and officers escorted § 87(2)(b) into it at approximately 10:05 p.m. § 87(2)(b) was ultimately discharged from § 87(2)(b) Hospital after receiving four stitches for facial lacerations (Board Review 09).

§ 87(2)(b) testified that eight to ten unmarked police vehicles arrived, containing approximately ten to fifteen additional officers. Around five officers rushed over to where she was standing. § 87(2)(b) was on the sidewalk and § 87(2)(b) was in the street approximately a foot or two in front of § 87(2)(b) and to her left. § 87(2)(b) stood on the sewer drain, extremely close to the sidewalk, but since she anticipated that the officers would have an issue with this, she began to pull § 87(2)(b) back with § 87(2)(b). The officers told § 87(2)(b), § 87(2)(b) and the rest of the group to stay out of the way, though they were across the street from where § 87(2)(b) was arrested.

Sgt. Leite pushed § 87(2)(b) out of the way and approached § 87(2)(b). He did not issue any commands to § 87(2)(b) before pushing her. He used both of his hands to push her on her right arm,

on the right side of her body. Sgt. Mallilo, Sgt. Leite, PO Martins, and PO Alomaisi took § 87(2)(b) to the ground by pulling on him from all sides. Three to four of those officers also kicked his feet. § 87(2)(b) did not do anything with his body to prevent officers from pulling him down to the ground. All five officers lay on top of § 87(2)(b) with their entire bodies. PO Mirza punched the back of § 87(2)(b) head. § 87(2)(b) did not remember whether other officers also punched § 87(2)(b). The officers said something to § 87(2)(b) though § 87(2)(b) did not remember the substance of what they said. All the officers remained on top of § 87(2)(b) for approximately two to four minutes. § 87(2)(b) was not doing anything with his body when he was on the ground. When § 87(2)(b) was lifted from the ground § 87(2)(b) saw blood on the left side of his face and on his head. An ambulance arrived and § 87(2)(b) entered it (Board Review 10).

The video footage of the incident provided by § 87(2)(b) titled "Incident Recording" begins with several civilians and officers standing in the street. PO Alomaisi, PO Mirza, and at least three other officers can be seen standing by a marked RMP to the left of the screen. § 87(2)(b) screams § 87(2)(b) several times and tells him to go onto the sidewalk. § 87(2)(b) stands on the sidewalk but appears to walk in the direction of the street at 00:15. The camera pans away at 00:20, at which time an officer can be heard saying, "Boss, I need the keys." At 00:27, PO Alomaisi, PO Martins, and Sgt. Mallilo stand in a circle around § 87(2)(b). § 87(2)(b) stands behind him, and § 87(2)(b) stands in front of him. At 00:33, Sgt. Leite approached § 87(2)(b) and uses his left hand to push § 87(2)(b) away from him. § 87(2)(b) steps several feet back as a result of his push. PO Alomaisi says, "I need the keys to the car" repeatedly. PO Alomaisi taps § 87(2)(b) on the shoulder and says, "Ma'am, stop, we need the keys." § 87(2)(b) appears to throw something at 00:31 and something hitting the ground can be heard. The camera pans away briefly and at 00:36, Sgt. Mallilo, Sgt. Leite, PO Martins, and PO Alomaisi appear to drop their weight while holding § 87(2)(b) upper body. At that time, PO Martins stands behind § 87(2)(b). PO Alomaisi stands to § 87(2)(b) right, Sgt. Mallilo stands to his left, and Sgt. Leite stands in front of § 87(2)(b). § 87(2)(b) falls to the ground and at 00:46, PO Mirza approaches the group of officers from where he stood, ten feet away, and punches him in the head four times in succession before the camera is obstructed by PO Martins' body. At 00:47, PO Martins, who is captured without interruption and whose position can be traced from 00:36, lifts his right arm, bended at the elbow into the air and lowers it quickly towards § 87(2)(b) body. No contact is visible, as the view is obstructed by several bodies. At 00:55 seconds, PO Martins again brings up his arm, bending it at the elbow, and brings it back down towards § 87(2)(b) body two additional times. PO Martins and PO Mirza walk § 87(2)(b) across the street at 1:30.

At 1:45, PO Diaz asks, "Did he drop his keys?" § 87(2)(b) answers that those were the car keys that the officers were trying to take from him, but they did not even give him enough time to take the car keys out of his pocket. The video concludes (Board Review 08).

The TRI report prepared for this incident lists the following narrative: "At time and place of occurrence, officer from the 63 Precinct arrested an individual for a VTL violation. They then arrested a second party for holding the initial perpetrator's keys and not giving them to the officer. The charge was obstructing governmental administration. A witness who was the cousin of the second perpetrator later made allegations stating that the arrest was unlawful and unnecessary force was used [...] stated she never saw the keys. Upon further investigation, the undersigned determined this was a lie as the keys were in fact given to the second perpetrator who refused to comply with officers and then picked up by the same CV making these allegations. The officers acted appropriately during this arrest. The minimum necessary force to arrest this perpetrator was used and no wrongful doing was found. The undersigned recommend this be closed at this time and no further investigation needed."

The type of force reported included a forcible takedown, wrestling/grappling, and a hand strike. The type of injuries sustained as a result of police action were lacerations requiring stitches/staples (Board Review 18).

§ 87(2)(b) medical treatment of prisoner report states: “At TPO perp went to hospital for cut above eye, while resisting arrest” (Board Review 19).

In Sgt. Leite’s BWC from the incident, he walks over to the crowd where § 87(2)(b) and the civilians stand at 1:57 minutes. At 2:06 minutes, Sgt. Leite says, “Down,” and officers take § 87(2)(b) to the ground. At 2:11, PO Martins can be seen clenching his fist and appearing to bring it down towards § 87(2)(b) body, although the strike itself is obscured by another officer. At 2:21, PO Martins delivers two strikes in the same manner, and two corresponding thuds are audible, though no contact is captured. At 2:28, Sgt. Leite says, “Got him?” and PO Mirza appears to hold down both of § 87(2)(b) hands, which are bended in front of the camera. 2:30, PO Mirza says to § 87(2)(b) “You want to fucking fight huh, you think you’re fucking tough. You think you’re fucking tough, huh?” At 2:37, PO Mirza says, “I got him, this is his hand.” § 87(2)(b) is handcuffed at 2:41.

At 2:48 minutes, officers lift § 87(2)(b) off the ground. Sgt. Leite returns to attending § 87(2)(b). At 2:58 minutes, Sgt. Leite says to § 87(2)(b) “See what you caused?” At 5:24 minutes, § 87(2)(b) is seen with what appears to be a large quantity of blood streaming down his face as officers await an ambulance for him. At 6:09 minutes, Sgt. Leite explains to Cpt. Cedillo that § 87(2)(b) sustained facial lacerations during his arrest and is awaiting an ambulance. At 11:11 minutes, Sgt. Mallilo explains that § 87(2)(b) threw his keys toward § 87(2)(b) who picked them up (Board Review 05).

PO Knepper testified that approximately six other officers arrived at the location almost immediately after § 87(2)(b) took the keys to the vehicle. PO Knepper was not sure which officers arrived, though she knew that they were from the 63<sup>rd</sup> Precinct. Once the officers arrived, PO Knepper communicated to them that § 87(2)(b) had the keys to § 87(2)(b) vehicle, which they needed to bring back to the precinct. PO Knepper was still standing with § 87(2)(b) waiting for a cage car when the other officers walked over to speak with § 87(2)(b) to try to get the keys from him. PO Knepper heard yelling from that area, but she could not hear exactly what was said. She did not see what other officers did to get the keys from § 87(2)(b) if anything, because her attention was still focused on § 87(2)(b). Though PO Knepper saw § 87(2)(b) on the ground at some point during the incident, she did not see officers forcibly take § 87(2)(b) to the ground, nor did she see any officer punch § 87(2)(b) anywhere on his body. While PO Knepper waited with § 87(2)(b), Sgt. Mallilo went to assist other officers in obtaining the keys from § 87(2)(b). The officers called an ambulance for § 87(2)(b) because he had a cut on his head. Once the ambulance arrived, § 87(2)(b) received medical attention inside the ambulance. PO Knepper did not see how § 87(2)(b) obtained the cut (Board Review 14).

Sgt. Mallilo testified that once additional units arrived, he walked over to § 87(2)(b) and asked for the keys to § 87(2)(b) vehicle. He told § 87(2)(b) that if he did not hand over the keys, he could be arrested for obstructing government administration. Sgt. Mallilo heard four to five other officers give this command to § 87(2)(b) though he could not remember who exactly, as there were several officers at the location. § 87(2)(b) responded that he did not have the keys. At that time, Sgt. Mallilo needed the keys to the vehicle because § 87(2)(b) “stole” the keys from the ground, which Sgt. Mallilo claimed was petit larceny. Additionally, Sgt. Mallilo needed to bring the vehicle back to the precinct, because it was arrest evidence that needed to be vouchered. At that point, § 87(2)(b) was considered under arrest for obstructing governmental administration.

§ 87(2)(b) swung his arms in a forward motion and tried to run away by pulling his body backwards. Sgt. Mallilo decided to take § 87(2)(b) down to the ground to handcuff him because he could not get a hold of his arms in his upright position. He grabbed § 87(2)(b) by the shoulders and Sgt. Mallilo fell onto his back with the front of § 87(2)(b) body lying on top of him. Other officers assisted in taking § 87(2)(b) to the ground, though he could not remember who exactly. While the officers wrestled with § 87(2)(b) a female took the keys out of his pocket and eventually gave the keys to the officers. § 87(2)(b) tried to pull his hands in between his body and Sgt. Mallilo's so that other officers could not handcuff him. Sgt. Mallilo tried to push § 87(2)(b) off him with both of his hands. He did not witness PO Martins nor any other officer punch § 87(2)(b) in the ribs. He did not witness PO Mirza nor any other officer punch § 87(2)(b) in the head. Sgt. Mallilo did not know how § 87(2)(b) obtained that laceration. § 87(2)(b) was treated on scene (Board Review 15).

On February 23, 2022, PO Martins testified that on May 18, 2021, at 9:55 p.m., he heard PO Knepper call a 10-13: officer needs assistance over the radio. He arrived on scene with PO Diaz and Sgt. Leite. Upon arriving, PO Martins saw a group of approximately four to five civilians standing in the middle of the street. He approached them with his partners and asked them to stay on the sidewalk. From around 25 feet away, in the middle of the street, he saw a marked police vehicle, near which § 87(2)(b) stood in handcuffs. Sgt. Mallilo stood in the middle of the street assisting with § 87(2)(b) arrest. Sgt. Mallilo stated that § 87(2)(b) threw his car keys as officers attempted to handcuff him and that § 87(2)(b) picked them up.

As PO Martins stood with the crowd in the street, the crowd was screaming loudly, though he did not remember what they said. PO Martins repeatedly told them to get out of the street, and while some of the crowd complied, others in the crowd continued to step into the street. Sgt. Mallilo approached and asked him for the keys. § 87(2)(b) replied, "No." Sgt. Mallilo then told § 87(2)(b) to put his hands behind his back. PO Martins understood that § 87(2)(b) was going to be arrested for obstructing governmental administration. § 87(2)(b) said "No," and tried to move his hands from his back to his front. PO Martins then approached § 87(2)(b) from behind to assist Sgt. Mallilo with § 87(2)(b) arrest. He did not recall where Sgt. Mallilo stood in relation to § 87(2)(b). To prevent § 87(2)(b) from fleeing and to handcuff him, PO Martins tried to bring § 87(2)(b) to the ground by tripping him. PO Martins held § 87(2)(b) right arm with his hands as he did so. § 87(2)(b) fell to the ground chest-down and PO Martins attempted to take hold of his arms to put them behind his back.

PO Martins believed that other officers fell to the ground with Sgt. Mallilo, though he could not recall which officers. He believed that an officer told § 87(2)(b) to "Stop resisting," though he did not remember who said this. PO Martins could not remember if he issued any commands to § 87(2)(b) himself. He attempted to handcuff § 87(2)(b) by placing his arms behind § 87(2)(b) back. § 87(2)(b) tensed his arms and continued to pull his arms in front of his body. At no time did PO Martins use any other force to gain § 87(2)(b) compliance. He denied punching § 87(2)(b) rib area, nor did he see any other officer do so. He did not see any officer punch § 87(2)(b) in the head, but based on his understanding of the situation, a punch to the head would have been warranted, given that § 87(2)(b) was resisting.

PO Martins helped lift § 87(2)(b) from the ground and observed that he was bleeding from his head. PO Martins did not see how § 87(2)(b) got the lacerations on his head but assumed that they were from the fall. PO Martins did not know whether the keys to the vehicle were ultimately retrieved from § 87(2)(b). § 87(2)(b) left the scene in the ambulance and went to the hospital. § 87(2)(b) was ultimately arrested for obstructing governmental administration and resisting

arrest.

PO Martins was presented with Sgt. Leite's BWC, played from 2:07 seconds until 2:14 seconds. PO Martins was not able to identify the officer whose arm moved in a punching motion. He also could not estimate where his position was relative to the subject officer depicted during that time frame. The undersigned paused the video at 2:23 seconds. PO Martins identified himself as the officer in the left corner of the camera. Seeing this frame did not refresh his recollection of the actions he and other officers took during this incident (Board Review 20).

On May 27, 2022, PO Martins was played the entire incident recording provided by § 87(2)(b) located in IA #65, titled "Incident Recording.mov", from 00:00 until 1:35. After reviewing the video, PO Martins testified that he did not punch § 87(2)(b). PO Martins identified himself as the officer wearing a blue mask with a visible taser on the left side of his body at 00:30. At 00:37 seconds, PO Martins identified himself as the officer standing to the right of a female officer with his back facing the camera. At 00:44 seconds, PO Martins identified himself to the left of the frame, closest to the camera of the two officers in the left portion of the frame. PO Martins stated that between 00:44 and 00:50, he did not punch § 87(2)(b). In that portion of the video, PO Martins claimed he was reaching for § 87(2)(b) arm. PO Martins could not identify himself at 00:55 seconds. He could not identify the officer whose arm is moving up and down in a punching motion between 00:55 and 1:00. PO Martins identified himself as the officer crouched down with one knee on the ground with the right side of his body facing the camera and the blue mask on his chin (Board Review 21).

PO Mirza testified that once he lifted § 87(2)(b) and walked with him to the marked RMP, Sgt. Mallilo walked over to a crowd of four to five people, of which there were at least three females and one male, who gathered in the street, approximately fifteen feet to the left and in front of PO Mirza's vehicle.

After PO Mirza called an ambulance for § 87(2)(b) he heard the commotion on the other side of the street intensify. PO Mirza was facing § 87(2)(b) on the ground and once he turned around to face the crowd, he saw the front of § 87(2)(b) body fall on top of the front of Sgt. Mallilo's body. Sgt. Mallilo hit the ground and his head hit the pavement. He could not describe the position of § 87(2)(b) and Sgt. Mallilo past that. He did not know whether any other officer was making physical contact with § 87(2)(b) at the time that § 87(2)(b) fell atop Sgt. Mallilo. At that point, PO Mirza rushed towards the crowd to assist in controlling § 87(2)(b) arms, because it looked as though § 87(2)(b) tackled Sgt. Mallilo and was thus violent. In gaining control of § 87(2)(b) arms, he would have been able to prevent § 87(2)(b) from grabbing for any weapons or fighting the officers. To his understanding, § 87(2)(b) was under arrest at this time for tackling a sergeant. He was not aware if § 87(2)(b) was under arrest for anything prior to this.

§ 87(2)(b) was laying on the ground on his stomach, with his arms bent and tucked in underneath him. PO Mirza then approached § 87(2)(b) and punched him a couple of times on the left side of his head to gain compliance of his arm. He struck his head specifically because that was the area that was exposed to him. Other areas were exposed as well, but he believed that § 87(2)(b) head would produce the most shock on his body, and thus would most effectively gain his compliance. To PO Mirza's knowledge, the patrol guide does not draw any distinction between instances when an officer is allowed to strike a head or another part of the body. PO Mirza stated that he did not make any effort to gain § 87(2)(b) compliance prior to punching him because there was no opportunity to do so—§ 87(2)(b) looked as though he had tackled a sergeant and had his hands underneath his body, so there was no time for "diplomacy." PO Mirza stated that there was no tussle or grappling between himself and § 87(2)(b). He also wanted to take protective measures to

gain control of § 87(2)(b) because he did not know if he had any weapons, though he did not see anything that indicated that he had any weapons at any time. The punch was his first course of action to gain control. He was able to gain compliance after punching § 87(2)(b). PO Mirza did not know if PO Martins took part in the struggle with § 87(2)(b). He did not see PO Martins nor any other officer punch § 87(2)(b). PO Mirza recalled that Sgt. Leite was attempting to gain control of § 87(2)(b)'s right arm in the struggle. As § 87(2)(b) was on the ground, PO Mirza told him, "You want to fucking fight?" He said this because he was in shock from the incident. There was no other reason that he made this statement. During the struggle, he heard yelling from the crowd of individuals, though he did not hear what exactly they were yelling.

After § 87(2)(b) loosened his arm from PO Mirza's punch, several officers handcuffed him and lifted him from the ground. PO Mirza was part of the group of officers who helped lift him from the ground. At that time, PO Mirza saw that § 87(2)(b) had a thin cut above his left eyebrow, about an inch or an inch and a half in length, which was bleeding. PO Mirza did not know if he had that cut prior to his interaction with § 87(2)(b). PO Mirza escorted § 87(2)(b) to the hospital. At some point, officers relieved him, and he finished his tour.

PO Mirza was presented with Sgt. Leite's BWC, played from 2:10 until 2:17. The video did not refresh his recollection about witnessing any other officer punch § 87(2)(b). The video was played again from 2:25 until 2:35. The video refreshed PO Mirza's recollection regarding what exactly he said to § 87(2)(b) (Board Review 16).

Sgt. Leite testified that within a minute or so upon arriving, Sgt. Leite saw that § 87(2)(b) was secured in handcuffs, and was not fighting. He looked to his left, where he saw a large crowd of around five to ten people gathering on the sidewalk. He saw Sgt. Mallilo, PO Martins, and PO Mirza detaining § 87(2)(b) and pulling him to the ground. He crossed the street to assist officers in handcuffing § 87(2)(b) who was surrounded by officers and the group of civilians. The group of civilians were shouting obscenities, grabbing § 87(2)(b), pulling him back and forth, and physically getting in the way of the officers. To the best of his knowledge, the people in the crowd were yelling statements along the lines of, "Suck my dick," "They did not do anything," in addition to racial comments that Sgt. Leite could not remember. The individuals were on the sidewalk close to the street. Sgt. Leite heard officers issue several commands for the individuals to get back. The individuals did not follow any of these commands. Once Sgt. Leite approached, § 87(2)(b) was directly in front of § 87(2)(b). There was no other entry point to get to § 87(2)(b) other than in the direction that § 87(2)(b) was blocking, so he pushed her out of the way by her shoulders to get to § 87(2)(b). § 87(2)(b) stepped back but did not fall to the ground. Sgt. Leite did not recall if he used one or both of his hands to push her.

Sgt. Leite heard several officers issue commands such as "Give me your hands" and "Stop fighting" to § 87(2)(b) who did not comply with any of these instructions. § 87(2)(b) tensed up his body and refused to be handcuffed. Sgt. Leite then grabbed § 87(2)(b)'s left shoulder and took him to the ground with Sgt. Mallilo, PO Martins, and PO Mirza. He could not remember whether he issued any commands to any of the officers. Sgt. Leite could not see any bulges or anything that indicated that § 87(2)(b) had a weapon on him. To Sgt. Leite's knowledge, there was no reason that a forcible takedown was used on § 87(2)(b) other than to handcuff him.

§ 87(2)(b) fell to the ground onto his stomach. He was still refusing to be handcuffed by laying on his arms and flailing them. Sgt. Leite was able to gain control of § 87(2)(b)'s hands and handcuffed him with another officer. He could not see if other officers used any force to gain control of § 87(2)(b). He did not see any officer punch § 87(2)(b) in the ribs or in the head. Sgt. Leite did not recall if he gave any commands to any officers to punch § 87(2)(b) though he

believed that he did not do so (Board Review 17).

PO Diaz's testimony on April 22, 2022, was consistent with Sgt. Leite's aside from the following: PO Diaz did not know whether all the civilians in the street were blocking the street but knew that a big portion of them were. Upon arriving, PO Diaz conducted crowd control to prevent any civilians interfering with the arrest by instructing them to step onto the sidewalk. The individuals that were in front of PO Diaz proceeded to walk onto the sidewalk, though he did not know if all the individuals did so. They remained on the sidewalk and communicated with the officers verbally. Based on the words they were using, such as calling the officers racist, and their tone, they seemed upset. PO Diaz did not see where Sgt. Leite went during the incident, nor did he see Sgt. Leite push any civilians out of his way.

Approximately ten feet to the left of his body, PO Diaz saw a large group of officers and civilians. He could not tell which officers were in that group. While he saw officers take down § 87(2)(b) PO Diaz's attention was focused on the civilians that he was attempting to continue to guide onto the sidewalk. PO Diaz did not see how exactly officers brought § 87(2)(b) to the ground, nor how many officers approximately did so. As officers took § 87(2)(b) to the ground, the civilians in front of PO Diaz were recording on their phones. Once § 87(2)(b) was on the ground, officers handcuffed him in less than a minute. PO Diaz turned away towards his right to resume crowd control. PO Diaz is familiar with PO Mirza, though he did not see PO Mirza punch § 87(2)(b) in his head. He did not see PO Martins punch § 87(2)(b) in the ribs.

PO Diaz was presented with the video provided by § 87(2)(b) linked in IA #65, played from 00:25 until 00:46. PO Diaz identified himself as the officer who was standing in the left side of the frame, appearing to look in the directions of PO Martins and PO Mirza punching § 87(2)(b). The video did not refresh PO Diaz's recollection of any allegations that he witnessed (Board Review 22).

Patrol Guide Procedure 221-02 states that when a member of the service must gain compliance, control, or custody of an uncooperative subject, the member should utilize de-escalation techniques when appropriate and consistent with personal safety, which may reduce or eliminate the need to use force and increase the likelihood of gaining the subject's voluntary compliance. If de-escalation and conflict negotiation techniques fail to persuade an uncooperative subject to cooperate, members should apply no more than the reasonable force necessary to gain control (Board Review 23).

Additionally, Patrol Guide Procedure 221-01 requires that officers consider the following when determining whether the use of force is reasonable: the nature and severity of the crime/circumstances, whether the subject is actively [or passively] resisting custody, the immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, the size, age, and condition of the subject in comparison to the number of MOS, and the number of subjects in comparison to the number of members of service. Officers should "apply no more than the reasonable force necessary to gain control" (Board Review 24).

According to Patrol Guide Procedure 200-02, officers must "value human life, respect the dignity of each individual and render [their] services with courtesy and civility" (Board Review 25).

In DCT-DAO Case #2017-17276, it was ruled by the Honorable Jeff S. Adler, that there are certain stressful and chaotic situations in which profane remarks would not constitute misconduct (Board Review 26).

Administrative Guide 304-10 defines a false official statement as an intentional statement that a



member of the service knows to be true, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made. Members of service are prohibited from intentionally making a false official statement. Absent extraordinary circumstances, intentionally making a false official statement regarding a material matter will result in separation from the Department (Board Review 27).

At the time when Sgt. Leite pushed § 87(2)(b) to the side, § 87(2)(b) allegedly had § 87(2)(b) car keys and was refusing to hand them over to the officers. § 87(2)(b) stood directly in front of § 87(2)(b) and given that PO Martins, Sgt. Mallilo, PO Alomaisi, and § 87(2)(b) circled around § 87(2)(b) Sgt. Leite had no alternative path available to approach § 87(2)(b). As officers needed to obtain the car keys so that they could move the vehicle into an appropriate parking spot or voucher it as evidence, and § 87(2)(b) interfered with Sgt. Leite's path to § 87(2)(b) § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Sgt. Mallilo, Sgt. Leite, and PO Martins all testified that § 87(2)(b) was not following their commands to hand over § 87(2)(b) keys. Additionally, these officers testified that § 87(2)(b) resisted arrest by moving his body and attempting to run from the officers. While § 87(2)(b) and § 87(2)(b) both testified that § 87(2)(b) did not do anything with his body nor fail to comply with any instructions before officers brought him to the ground, they stood on the sidelines of the incident and were likely not privy to the full circumstances, such as § 87(2)(b) alleged possession of § 87(2)(b) keys. While video footage provided by § 87(2)(b) depicts Sgt. Mallilo, PO Martins, Sgt. Leite, and PO Alomaisi bringing § 87(2)(b) to the ground, it is unclear whether § 87(2)(b) resisted arrest, or if the officers themselves pushed § 87(2)(b) causing his body to move. BWC does not adequately capture this portion of the incident. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

While PO Martins denied ever punching § 87(2)(b) he identified himself as the officer depicted between 00:44 and 00:50 seconds lifting his right arm up before quickly bringing it back down toward § 87(2)(b) body. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) Though PO Martins also stated that he could not identify himself as the officer depicted punching § 87(2)(b) between 00:55 and 1:00, the second set of punches is captured at 2:21 in Sgt. Leite's BWC video and corresponds to the time the punches are depicted in § 87(2)(b) video—in both videos, the punches occur exactly six seconds after § 87(2)(b) says, "Are you fucking punching him in his head?" Given that PO Martins' face is clearly identified at 2:25 in Sgt. Leite's BWC video, that his face corresponds to the body captured uninterrupted from 2:21, and that his relative position corresponds to the officer captured in § 87(2)(b) video, the investigation identified PO Martins as the officer who punched § 87(2)(b) at that time.

PO Martins, Sgt. Mallilo, and Sgt. Leite all testified that § 87(2)(b) resisted arrest on the ground by flailing his body and refusing to give up his hands. However, at the time when PO Martins is depicted punching § 87(2)(b) the first time, four other officers held down his body while he was face down on the ground. Additionally, § 87(2)(b) was not arrested for a violent crime and did not actively attempt to run or otherwise flee from the officers in that instance. During PO Martins'

second punch to § 87(2)(b) general torso area, PO O'Neill held down his legs with her arms. Given the degree to which § 87(2)(b) was outnumbered by officers and his relative position on the ground, he could not have posed a considerable threat to them when PO Martins punched him. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

While PO Mirza testified that he punched § 87(2)(b) a couple of times in the head because he saw § 87(2)(b) tackle Sgt. Mallilo, cellphone footage of the incident captures Sgt. Mallilo, Sgt. Leite, PO Martins, and PO Alomaisi holding § 87(2)(b) upper body and Sgt. Mallilo tackling § 87(2)(b) to the ground. In that process, Sgt. Mallilo falls to the ground with § 87(2)(b). Irrespective of what PO Mirza believed he saw, however, at the time when he approached, the four officers who took § 87(2)(b) were already in the process of handcuffing him. PO Mirza testified that § 87(2)(b) was passively resisting on the ground, specifically by placing his arms under his body, preventing officers from handcuffing him at the time when he punched him in the head. § 87(2)(b) did not punch or kick any officer once he was on the ground. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

PO Mirza testified that the only reason he told § 87(2)(b) “You want to fucking fight huh, you think you're fucking tough. You think you're fucking tough, huh?” was out of shock at his apparent tackle of Sgt. Mallilo. At the time when he issued this statement, PO Mirza had just gained control of § 87(2)(b) hands, and the rest of the officers were still in the process of handcuffing him. § 87(2)(b) resisted arrest by allegedly placing his arms underneath his body, prompting officers to use force. Additionally, BWC and cellphone footage provided by § 87(2)(b) captures a crowd of approximately five people surrounding § 87(2)(b) and the officers, with many of the people in that crowd shouting at the officers and attempting to move closer to § 87(2)(b). § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Upon review of Sgt. Leite's BWC and cellphone video footage provided by § 87(2)(b) the investigation determined that PO Martins was the officer who punched § 87(2)(b) at least three times during the incident. However, after being presented with both videos depicting the punches, PO Martins maintained that he did not punch § 87(2)(b). Given that it is implausible that the movement of PO Martins' arm as depicted in BWC footage was an attempt to grab § 87(2)(b) arm rather than a punch, that he failed to identify himself as the officer punching § 87(2)(b) though he was able to identify himself at various other points in the video, and that his denial of his hand strike is material to the outcome of this investigation, § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (N) Abuse of Authority: On May 18, 2021, at the Northwest Corner Avenue H and East 48 Street in Brooklyn, Captain Alexander Cedillo refused to provide his name to § 87(2)(b).**

§ 87(2)(b)

§ 87(2)(b) stated that after § 87(2)(b) was placed in the ambulance, § 87(2)(b) and her friends asked the officers, as a group, for their names, badge numbers, and precinct. A male officer in a white shirt responded, “We don't have to answer anything, it's not our duty to answer

questions.” She described the officer as a male with a white complexion, short, of a slim build, between 25-45 years old, with a mohawk/fade hairstyle (Board Review 09).

In the cellphone video provided by § 87(2)(b) titled “IMG\_8574.mov,” the video begins with Captain Cedillo standing a foot or two in front of the camera with his arms folded across his chest. A civilian can be heard asking for his name and badge number several times. Captain Cedillo responds that he does not have a badge number, but that his name is Cedillo. He spells out his name. The civilian asks who the other officers who drove away in the unmarked vehicles were, and he responds that he does not know at that time, though if she goes to the 60th Precinct, he will let her know. The video concludes (Board Review 06).

BWC shows that the only officers wearing white shirts who responded to the incident were Lt. Arrindell, who is a Black male, and Captain Cedillo (Board Review 03).

Patrol Guide Procedure 203-09 states that an officer must “Courteously and clearly state [their] rank, name, shield number, and command to anyone who requests [them] to do so” (Board Review 28).

§ 87(2)(g) § 87(2)(b) allegedly asked for the names and badge numbers of officers as a group, without asking for the name of any particular officer, it is unreasonable for every officer on scene to provide their information. Cellphone footage provided by § 87(2)(b) clearly captures Captain Cedillo providing his name to the civilian recording the video when asked, § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Knepper has been a member of service for three years and has been a subject in one other CCRB complaint and one other allegation, which was not substantiated.
- PO Mirza has been a member of service for four years and has been a subject in one other CCRB complaint and one other allegation, which was not substantiated.
- PO Martins has been a member of service for five years and has been a subject in three other CCRB complaints and five other allegations, which were not substantiated.
- Captain Cedillo has been a member of service for 15 years and has been a subject in one other complaint and three other allegations, none of which were substantiated.
- Sgt. Mallilo has been a member of service for 12 years and has been a subject in nine other CCRB complaints and sixteen allegations, of which five were substantiated:
  - 201808958 involved substantiated allegations of abuse of authority and other misconduct noted against Sgt. Mallilo. The Board recommended Command Discipline B. NYPD penalty record cannot be found.
- Sgt. Leite has been a member of service for 13 years and has been a subject in 13 other CCRB complaints and 43 allegations, of which 11 were substantiated:
  - 201212775 involved a substantiated allegation of discourtesy. The Board recommended Command Discipline and the NYPD imposed Command Discipline A.
  - 201603474 involved substantiated allegations of abuse of authority and other misconduct noted. The Board recommended formalized training and the NYPD imposed formalized training and instructions.

- 201800168 involved a substantiated allegation of other misconduct noted. The NYPD penalty record cannot be found.
- § 87(2)(g)
- 202006156 involved a substantiated allegation of discourtesy. The Board recommended command Discipline A. The NYPD penalty record cannot be found.
- PO Alomaisi has been a member of service for five years and has been a subject in five other CCRB complaints and 11 allegations, of which three were substantiated:
  - 201807333 involved a substantiated allegation of force. The Board recommended charged and the NYPD imposed charges.
  - 202005170 involved substantiated allegations of discourtesy and untruthful statement. The Board recommended command discipline and charges, and the NYPD imposed charges.

#### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of July 11, 2022, a Notice of Claim FOIL request was filed with the New York City Office of the Comptroller (Board Review 29). The results are pending.

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 8

Investigator:	<u>Stephanie Dukich</u> Signature	<u>Inv. Stephanie Dukich</u> Print Title & Name	<u>July 25, 2022</u> Date
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Squad Leader:	<u>Ethan De Angelo</u> Signature	<u>IM Ethan De Angelo</u> Print Title & Name	<u>July 25, 2022</u> Date
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Reviewer:	_____ Print Title & Name	_____ Date	
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