



CIVILIAN COMPLAINT REVIEW BOARD

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2020 NYC PROTESTS

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AGENCY MISSION

The New York City Civilian Complaint Review Board (CCRB, Board, or the Agency) is an independent Agency that is empowered to receive, investigate, prosecute, mediate, hear, make findings, and recommend action on allegations that a member of the New York City Police Department (NYPD) engaged in excessive or unnecessary Force, Abuse of Authority, including racial profiling and biased-based policing, Discourtesy, or the use of Offensive Language against a member of the public, or that a member of service (MOS) made an untruthful material statement during the course of the resolution of a CCRB complaint. The Board's staff, composed entirely of civilian employees, conducts investigations, mediations, and prosecutions in an impartial manner.

In fulfillment of its mission, the Board pledges:

- To encourage members of the community to file complaints when they believe they have been victims of police misconduct;
- To respect the rights of civilians and officers;
- To encourage all parties involved in a complaint to come forward and present evidence;
- To expeditiously investigate each allegation thoroughly and impartially;
- To make fair and objective determinations on the merits of each case;
- To offer civilians and officers the opportunity to mediate their complaints, when appropriate, in order to promote understanding between officers and the communities they serve;
- To recommend disciplinary actions that are measured and appropriate when the investigative findings substantiate that misconduct occurred;
- To engage in community outreach in order to educate the public about the Agency and respond to concerns relevant to the Agency's mandate;
- To report relevant issues and policy matters to the Police Commissioner and the public; and
- To advocate for policy changes related to police oversight, transparency, and accountability that will strengthen public trust and improve police-community relations.

THE BOARD AND AGENCY OPERATIONS

The CCRB became independent of the NYPD and was established in its current all-civilian form in 1993. The Board consists of 15 members: 5 are appointed by the Mayor; 5 are appointed by The City Council (one from each borough); 3 are designated by the Police Commissioner; 1 is appointed by the Public Advocate; and the Chair is co-appointed by the Mayor and the Speaker of the City Council.

Under the New York City Charter, the Board must reflect the diversity of the City's residents, and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner, who must have had prior experience as law enforcement professionals. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be renewed. They receive compensation on a per-session basis, although some Board members choose to serve pro bono.

Board members review and make findings on misconduct complaints once they have been fully investigated. The Board makes one of the following recommendations once it determines that an officer engaged in misconduct: Instructions, Formalized Training, Command Discipline A, Command Discipline B, or Charges and Specifications.

Until 2013, the Board referred all cases of substantiated officer misconduct to the Police Commissioner with a discipline recommendation. Pursuant to a Memorandum of Understanding between the CCRB and the NYPD (effective April 11, 2013), attorneys from the CCRB's Administrative Prosecution Unit (APU) handle the prosecution of most cases in which the Board recommends Charges and Specifications—the most serious discipline recommendation. In all cases, the Police Commissioner has final authority over whether to impose discipline.

LETTER FROM THE CHAIR



Dear Fellow New Yorkers,

On May 25th, 2020, George Floyd was murdered by a police officer in Minneapolis and the horrifying footage of his death was seen around the world. The response was immediate. Global outrage sparked hundreds of protests across the country and internationally. The Black Lives Matter (BLM) movement, founded in 2013 following the acquittal of Trayvon Martin's killer, George Zimmerman, gained historic momentum and encouraged people to speak out against the systemic racism that plagues the U.S. The streets of New York City flooded with protesters demanding reform.

At the height of these protests, peaceful protesters were kettled, pepper sprayed, assaulted, and arrested. As a result, the CCRB received over 750 complaints, 300 of which were filed in just 48 hours. We began investigating these highly complex cases, all while adjusting to remote work in the middle of the global Coronavirus pandemic. Over the next two years, investigators tracked down witnesses, photographs, video footage, and more to piece together the series of events at protests across all five boroughs. With the evidence diligently collected by CCRB investigators, the Board was able to vote on hundreds of cases and found 146 officers committed misconduct and recommended discipline based on the NYPD's disciplinary Matrix.

This report details the patterns of misconduct discovered in the NYPD protest response, roadblocks the CCRB encountered while investigating these cases, recommendations on how to improve the process moving forward, and the current status of each protest case.

Protests against police brutality bred more instances of police misconduct. If this misconduct goes unaddressed, it will never be reformed.

Sincerely,

A handwritten signature in black ink that reads "Arva Rice". The signature is fluid and cursive.

Arva Rice

BACKGROUND AND EXECUTIVE SUMMARY

BACKGROUND

On May 25, 2020, in Minneapolis, MN, police responded to a call that George Floyd allegedly tried to use a counterfeit twenty-dollar bill at a local convenience store. During the arrest, police officer Derek Chauvin killed Mr. Floyd, an unarmed Black man, by kneeling on Mr. Floyd's neck for more than nine minutes, despite Mr. Floyd's repeated protestations that he could not breathe. Seventeen-year-old Darnella Frazier recorded a video of the incident that was seen across the world.¹

Mr. Floyd's killing came on the heels of the March 13, 2020, fatal shooting of Breonna Taylor in Louisville, KY, while police were executing a no-knock warrant. Although stay-at-home orders and mask mandates were in place across the country because of the COVID-19 pandemic, Mr. Floyd's murder incited a flurry of sustained protests throughout the United States, drawing thousands of people into the streets to protest the repeated instances of Black people being killed during interactions with the police, widespread law enforcement abuses, and systemic racism.

In New York, large-scale protests began on May 29, 2020, and lasted through early June 2020. From June 1 to June 8, then-Mayor Bill de Blasio imposed city-wide curfews, which prohibited members of the public, with certain exceptions, such as first responders and other essential workers, from being outside during evening and overnight hours. Non-exempt persons who violated the curfew were subject to arrest. Smaller-scale protests continued throughout the summer and into early fall. Although these protests were largely peaceful, from May 2020 to November 2020, the CCRB received hundreds of complaints from civilians, members of the press, and legal observers detailing abusive treatment, interference, and other misconduct by NYPD officers at protest locations.

While members of service were facing unprecedented challenges, the NYPD's response was widely condemned in the press. In the aftermath of the protests, multiple government, civil, and human rights organizations, including Human Rights Watch, the New York State Attorney General's Office, and the New York City Department of Investigation, issued reports² that found serious deficiencies in the protest response and made recommendations to improve NYPD's strategy, planning, and training.

This report focuses on individual instances of alleged officer misconduct reported to the CCRB by members of the public.

¹<https://www.npr.org/2021/05/26/1000475344/read-this-powerful-statement-from-darnella-frazier-who-filmed-george-floyds-murd>

²<https://www1.nyc.gov/assets/doi/reports/pdf/2020/DOIRpt.NYPD%20Reponse.%20GeorgeFloyd%20Protests.12.18.2020.pdf>, <https://ag.ny.gov/sites/default/files/2020-nypd-report.pdf>

CCRB INVESTIGATIONS

The CCRB received 321 complaints related to the protests that were within its jurisdiction. It was able to conduct a full investigation³ of 226 of those complaints.

Of the 226 fully investigated complaints reviewed by the Board:

- **88** complaints of misconduct were **Substantiated** (the Board determined by a preponderance of the evidence that misconduct occurred).
- **59** complaints were **Officer Unidentified** (the Board was unable to identify the officers involved in the alleged acts of misconduct).
- **50** complaints were **Unable to Determine** (there was insufficient evidence to determine whether misconduct occurred).
- **18** complaints were **Within NYPD Guidelines** (the officer acted within Departmental Guidelines).
- **11** complaints were **Unfounded** (the Board determined that the misconduct alleged did not occur).

Each complaint may involve multiple allegations against one or more members of service. The Board makes a finding on each allegation of misconduct.

The Board substantiated **269** individual allegations of misconduct against **146⁴** members of service. Those allegations fell into the following categories:

- **140** substantiated allegations were for excessive force, 121 of which involved physical force and/or the improper use of batons and pepper spray.
- **72** substantiated allegations were for abuse of authority, including 31 substantiated allegations that officers refused to provide their name and/or shield number or obstructed their shield number.
- **24** substantiated allegations were for untruthful statements, 22 of which were for false official statements or misleading official statements.
- **24** substantiated allegations were for discourtesy, 20 of which involved the use of discourteous words.
- **9** substantiated allegations were for offensive language, including allegations that officers engaged in hate speech and displays of racism.

³ A complaint is fully investigated when the investigator is able to interview a complainant or alleged victim.

⁴ If a MOS has substantiated misconduct in more than one complaint, they will be counted more than once in the total number of MOS with substantiated misconduct.

BOARD DISCIPLINARY RECOMMENDATIONS AND OUTCOMES

The Board substantiated protest allegations against **146** members of service. In most cases, the Board relied on the NYPD's Disciplinary Matrix in making the following recommendations to the Police Commissioner:⁵

- Charges and Specifications (administrative prosecution that can result in termination) for **89** officers.
- Command Discipline B (ranges from a reprimand to forfeiture of 10 vacation days) for **26** officers.
- Command Discipline A (ranges from reprimand up to forfeiture of five vacation days) for **31** officers.
- The Board did not recommend Instructions or Training for any substantiated protest allegations.

For the **57** officers who received a Command Discipline A or B recommendation from the Board, the Police Commissioner:

- Imposed command discipline or training against **30** officers (the imposed penalty was less than the CCRB recommended in 4 of those cases).
- Did not to impose any discipline at all against **18** officers.
- Closed the case as officer retired/resigned with no penalty for **3** officers.
- Forwarded the cases for **2** officers who refused Command Discipline to the APU for prosecution.
 - The APU completed 1 administrative trial that is pending Police Commissioner approval.
- Has not made a final disciplinary determination for **4** additional officers.

For the **89** officers for whom the Board recommended Charges and Specifications:

- Administrative proceedings are pending in the APU against **62** officers (each officer is prosecuted separately).
 - The APU entered 2 plea agreements that are awaiting Police Commissioner approval.
 - The APU completed 5 administrative trials that are pending Police Commissioner approval.
- The APU resolved **3** cases by guilty plea.
- The APU entered a plea agreement with **1** officer, but the Police Commissioner rejected the plea and imposed lesser discipline.
- The Police Commissioner retained the cases of **13** officers, which means that the APU cannot prosecute those cases:
 - 2 officers forfeited 10 vacation days.

⁵ Pursuant to a February 2021 Memorandum of Understanding between the CCRB and the NYPD, the Board agreed to use the NYPD's Disciplinary System Penalty Guidelines, often referred to as the Disciplinary Matrix, to make discipline recommendations. Prior to the implementation of the Disciplinary Matrix, the Board made findings and recommended discipline in 14 substantiated protest complaints.

- 1 officer forfeited 5 vacation days.
- 1 officer forfeited 3 vacation days.
- 9 officers received no discipline at all.
- 4 cases were closed as previously adjudicated with discipline by the NYPD.
- 5 officers retired/resigned before further disciplinary action could be taken.
- 1 case was closed as beyond statute of limitations.

OBSTACLES TO INVESTIGATING PROTEST COMPLAINTS

The CCRB faced many challenges while investigating protest complaints, including:

- The pervasive and purposeful actions taken by officers to conceal their identities, such as wearing mourning bands over their shields or refusing to provide their name and shield to civilians, and the NYPD's failure to track and document where officers, vehicles, and equipment were deployed, which substantially contributed to **609 (43%)** allegations of misconduct being closed as **Officer Unidentified**.
- Delayed responses, false positives (NYPD turned over footage that was either incorrect or irrelevant in response to a video request), false negatives (the NYPD reported that queries for the requested video footage did not return any results, but the footage was later discovered), and inconsistent responses by the NYPD to requests for footage from body-worn cameras (BWCs) and other NYPD-controlled cameras.
- Officers refusing to be interviewed remotely.
- Delays caused by the remote work and social distancing requirements of the COVID-19 pandemic.

KEY FINDINGS: MEMBER OF SERVICE CONDUCT

The CCRB's investigations found that during the protests, members of service, from supervision to rank and file officers, engaged in the following actions:

1. Supervisors ordered civilians "kettled"—which is the encirclement of individuals to confine them in a contained area.
2. Officers used batons to strike civilians in violation of NYPD guidelines (**34** substantiated allegations).
3. Officers improperly used pepper spray on civilians in violation of NYPD guidelines, including by deploying pepper spray indiscriminately across crowds of peaceful protesters (**28** substantiated allegations).
4. Officers used physical force, such as pushes and shoves, against civilians in violation of NYPD Guidelines (**59** substantiated allegations).
5. Officers abused their authority against members of the press and civilians who were not involved in protests.
6. Officers failed to provide medical attention to injured civilians (**5** substantiated allegations).
7. Officers were unable to identify other members of service with whom they were deployed and did not know, or could not recall, which superior officer issued orders to take action against protestors.

8. Officers wore mourning bands that obscured their shield numbers and refused to provide civilians with their name and/or shield numbers (**31** substantiated allegations of obstructed shields or refusal to provide name/shield).
9. Officers failed to turn on BWCs during certain interactions with civilians, which is required by the Patrol Guide (**101** other possible misconduct referrals for improper BWC use), or their cameras ran out of battery power.
10. Officers failed to complete required paperwork, including arrest paperwork and reports of injuries to civilians (**48** other possible misconduct referrals for improperly prepared or missing police reports).
11. Officers confiscated property without providing information for retrieval by its owner (**3** substantiated allegations of improper seizure of property).

KEY FINDINGS: DEPARTMENTAL FAILURES

The CCRB's investigations found that the Department failed in their response to the protests by:

1. Failing to deploy officers in a manner that allowed for the tracking of officer whereabouts and supervising officer assignments.
2. Failing to request adequate EMT support.
3. Failing to delineate commanding officers in the field for lower ranked officers.
4. Failing to ensure that BWCs were functioning.
5. Failing to ensure the completion of standard paperwork, detail rosters, and vehicle assignments.
6. Failing to ensure officers followed proper protocols for arresting, summoning, and seizing property from protestors.
7. Failing to provide properly labeled specialized equipment utilized during protests ("riot gear") that enables the ready identification of officers.
8. Failing to clarify policies on arresting legal observers.

RECOMMENDATIONS

1. All members of service should receive updated and routine training on the proper use of crowd control tactics during large-scale events, including the proper use of pepper spray and batons, and the NYPD should keep track of the level of training received by officers.
2. Police should not interfere with legal observers and members of the press who are acting in their official capacities to document protest activity and protect First Amendment rights.
3. Police should not take action against civilians who are complying with police orders to disperse.
4. Officer names and shield numbers should always be clearly visible so that officers are easily identifiable.
5. Officers should be assigned equipment that reflects their name and/or shield numbers. Where that is not possible, an accurate record should be kept of which officers were given each piece of riot gear so that they can be readily identified. Officer names and precinct numbers should be visible in prominent locations on helmets and riot shields.

6. Each precinct should keep a log of which members of service use departmental vehicles and members of service should report what department-issued vehicles they used during their shifts.
7. Superiors should clearly identify themselves to officers at the beginning of shifts and/or before issuing commands.
8. Officers should be given the name of the superiors to whom they will be reporting, if not their regular supervisor, and an accurate record should be kept of temporary supervision assignments.
9. High-ranking members of service (whom do not have shield numbers) should have their names and commands visible in large font on their clothing.
10. The NYPD should log which officers respond to radio calls of other officers in need of assistance.
11. BWCs must be turned on for any officer who places a distress call.
12. Supervisors who take command of public demonstrations must be equipped with BWCs and must turn them on.
13. All department-issued devices with GPS tracking capabilities, such as BWCs, should be activated at the onset of interactions with civilians.
14. The NYPD should include BWC searches on all Internal Affairs Bureau (IAB) referral logs and link digital memo book entries to the appropriate BWC footage (as previously mentioned in the CCRB's BWC report) so that CCRB investigators are provided with this evidence when the case is referred.⁶
15. The CCRB should be authorized to directly access and search NYPD BWC footage. This would significantly improve responsive BWC collection and increase the likelihood of reaching a disposition on the merits.
16. The NYPD should set up designated medical treatment areas with FDNY staff and EMTs on duty so that civilian injuries can be addressed immediately and before they are transported for detainment or arrest processing.
17. Officers should provide property voucher cards whenever they seize property.

NEXT STEPS

To maintain public confidence in the police department and help prevent the widespread police abuses that occurred during the 2020 protests from being repeated, officers who engaged in substantiated acts of misconduct during the protests must be disciplined pursuant to the NYPD's Disciplinary Matrix and held to account for their actions—particularly those who used excessive force against civilians. It is also imperative that the departmental failures highlighted in this report, primarily the equipment failures and the lack of documentation of officer deployments and assignments, be addressed going forward.

In light of the recommendations in this report, and the other reports issued about the 2020 protests, the NYPD should conduct an assessment of how it utilizes various tactics and tools during protests to properly balance the risks to people and property against the risks of suppressing legitimate and peaceful protest.

⁶ https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20200227_BWCReport.pdf

Methodology And Scope

This report (1) discusses challenges that the CCRB encountered while investigating complaints (2) analyzes all the complaints received wherein a complainant/victim stated that they were either engaging in protest activity or witnessed activity occurring at a protest location during the period of May 2020 through November 2020; (3) outlines the type of police misconduct that was reported; and (4) details the discipline recommended by the Board for substantiated allegations of misconduct. Data analyzed is from the 321 complaints that were within the CCRB's jurisdiction and pertains to 500 identified members of service. The CCRB data used in this report was collected on January 24, 2023.

Several data sources were collected and analyzed:

- The CCRB data analysts queried CCRB's internal database for all data relating to protest complaints and compared them to overall CCRB complaints.⁷
- CCRB data analysts read and coded protest complaints to quantify issues identified by investigators.
- CCRB investigators identified common threads across protest investigations.

This report focuses on individual instances of alleged officer misconduct reported to the CCRB by members of the public as the New York City Department of Investigations (DOI) and the New York State Attorney General (AG) have already released reports⁸ analyzing the NYPD protest response from an institutional and operational standpoint and how the policing response was impacted by the weeklong curfew.

⁷ In the comparative analysis, the overall 2020 CCRB complaints exclude the protest complaints. We note that in 2020 the CCRB received less complaints than in previous years, which was likely due to the pandemic.

⁸<https://www1.nyc.gov/assets/doi/reports/pdf/2020/DOIRpt.NYPD%20Reponse.%20GeorgeFloyd%20Protests.12.18.2020.pdf>, <https://ag.ny.gov/sites/default/files/2020-nypd-report.pdf>

INVESTIGATIVE CHALLENGES

The CCRB faced several challenges investigating protest-related complaints, many of which led to complaints being closed as “Officer Unidentified” because the CCRB could not determine which officers were involved in the alleged misconduct. Chief among these challenges were: (1) the actions NYPD members took to conceal their identities, which prevented them from being identified by complainants, victims, and witnesses; (2) the NYPD’s failure to track and document where officers, vehicles, and equipment were deployed; (3) the NYPD’s failure to provide dispositive responses to requests for footage from BWCs and other NYPD-controlled cameras that resulted in delayed responses, false positives, false negatives, and inconsistent responses; and (4) investigative delays resulting from officers refusing to be interviewed remotely. Despite these challenges, CCRB investigators pursued every available avenue to obtain evidence and identify as many officers as possible.

Challenge One: Concealment of Officer Identities

Of the 226 fully investigated complaints, 59 were closed as “Officer Unidentified.” The Board was unable to identify the officers involved in a staggering 43% (609) of fully investigated allegations of protest-related misconduct⁹. As shown in Figure 2, that is almost four times the percentage of subject officers who could not be identified in non-protest complaints (11%).

Although identification of officers is generally more difficult during large scale events, like protests, and the use of masks as an appropriate safety measure to reduce virus transmission due to the COVID-19 pandemic added an additional layer of difficulty to the officer identification process, the CCRB found that purposeful actions by officers, such as obscuring their badges or refusing to provide civilians with their names and shield numbers, resulted in multiple members of service being unidentified, allowing them to escape accountability for their actions during the protests. This concealment occurred with such frequency that “obscuring shield” was given a dedicated misconduct allegation category when the Agency categorized the Abuse of Authority protest allegations.

Figure 1: Complaints Closed As "Officer Unidentified"

	2020 CCRB	2020 Protests
Officer(s) Unidentified	143 (10%)	59 (26%)

Figure 2: Fully Investigated Allegations Closed As "Officer Unidentified"

	2020 CCRB	2020 Protests
Officer(s) Unidentified	891 (11%)	609 (43%)

⁹ The 609 allegations closed Officer Unidentified do not come solely from the 59 complaints closed Officer Unidentified. It is possible for individual allegations to be closed as officer unidentified in a complaint with a different overall disposition.

1. Case Example - Intentional concealment of shield numbers with mourning bands, Officer Unidentified¹⁰

On June 6, 2020, at approximately 7:00 p.m. in Brooklyn, a civilian was attending a candlelight vigil honoring Breonna Taylor when she saw a uniformed officer who had a mourning band over her shield. When the officer walked by, the civilian asked the officer if she could uncover her shield number. The officer ignored her and walked away. The civilian was able to describe the officer's race, height, and build, however, without additional descriptive details, pertinent video evidence, or other witnesses, the investigation was unable to determine the identity of the subject officer. The Board closed the allegations as Officer Unidentified.

Challenge Two: Deployment of Officers Without Documentation of their Whereabouts or Issued Equipment

The CCRB uncovered numerous NYPD documentation and officer deployment tracking failures throughout the protests. In most instances, officers were deployed without tracking their whereabouts, which led to difficulty in determining the pool of officers from which subject officers could be identified. The CCRB found that NYPD detail rosters—rosters that track which officers are assigned to a precinct—were often incomplete and illegible, and crucial reports—such as TRI (Threat, Resistance, Injury) reports that document use of force and injuries to civilians and officers—often were not completed at all.

During their CCRB interviews, officers of various ranks stated that they could not identify the commanding officers who gave them directives and could not identify fellow ranked members of service with whom they had been deployed during the protests. Officers reported being deployed to multiple locations with officers from other precincts or reporting to other locations due to radio calls for assistance.

Case Examples: The cases below are examples of complaints where officers accused of misconduct could not be identified due to individual officer and departmental documentation failures.

1. Lack of NYPD paperwork, Officer Unidentified¹¹

On May 31, 2020, at approximately 11:00 p.m. in the Midtown East area of Manhattan, the witness was with her boyfriend and a friend when she saw a marked police van driving amongst a group of protesters. The van made multiple turns while it was within the crowd, driving very close to some protestors, but not making physical contact with them. The witness took a photograph of the van and the license plate, but she could only describe the driver as a white male in uniform. The witness' friend also could not describe the driver. Surveillance video from two nearby commercial buildings showed the van driving in the crowd of protesters, but the cameras were too far away to capture a clear image of the driver. NYPD documents identified the van as being assigned to the 14th Precinct. A record of the

¹⁰ CCRB Case No. 202003985

¹¹ CCRB Case No. 202003765

van's movements showed that it mostly circulated in the downtown Manhattan area. A search for BWC footage from the van's assigned precinct yielded negative results. The NYPD stated that due to the chaos of the protests it did not maintain a log of which officers took out the van. Without more specific officer descriptions, and the lack of documentation from the NYPD regarding the vehicle's assignment, the investigation was unable to determine the identity of the subject officers driving the vehicle and the complaint was closed as "Officer Unidentified."

2. Officers' identities could not be determined because they wore inaccurate helmets and body shields or lacked any visible identification, Officer Unidentified¹²

On June 4, 2020, at approximately 6:30 p.m. in the Mott Haven neighborhood of the Bronx, a civilian, a healthcare worker, and a friend were participating in a Black Lives Matter protest. At 7:30 p.m., officers began to encircle the protestors. When the curfew began at 8:00 p.m., the civilian witnessed his friend being arrested, officers grabbing a man off a bicycle and handcuffing him although he said that he was leaving the area, and several officers indiscriminately swinging their batons at protestors, sometimes making contact with their bodies. An officer approached the civilian and other nearby healthcare workers and threatened them with arrest if they did not leave. Another individual at this protest was struck by a baton, handcuffed, and escorted to a holding area where a large group of arrested protestors were being corralled. None of the civilians could fully describe the multitude of officers with whom they interacted.

The CCRB investigator reviewed hours of BWC footage, which showed that some officers were wearing riot helmets or riot shields with a shield number clearly printed on it. When the investigator interviewed the officers to whom those shield numbers were assigned, however, the officers stated that they were not the officers in the video and could not explain how the other officers had access to their equipment. NYPD records confirmed that the interviewed officers had been deployed to other locations in the city. As a result of the lack of documentation as to which officers were assigned the riot gear, the CCRB was unable to identify the officers engaged in the alleged misconduct and closed the complaint as "Officer Unidentified."

3. Officers Submitted Illegible Paperwork Regarding Officer Deployments¹³

On May 29, 2020, at approximately 9:00 pm in front of the 88th Precinct in Brooklyn, hundreds of protestors gathered for a Black Lives Matter protest. Several officers were stationed around the perimeter of the precinct. The precinct commander, Captain Ryon Malcolm, who was at a separate protest at Fort Greene Park at the time, stated that he heard a protestor say that the crowd was marching to the 88th Precinct. Cpt. Malcom requested a level two mobilization and went to the precinct himself. The NYPD could not produce documentation of the officers who

¹² CCRB Case No. 202005994

¹³ CCRB Case No. 202004179

were deployed pursuant to Cpt. Malcolm's order. Cpt. Malcolm ordered the assembled officers to "push [protestors] on the sidewalk" and to "push them away." He stated that protestors were throwing objects and he witnessed one protestor smash a patrol car window.

The civilian and a friend were protesting outside the precinct when they were pushed to the ground and had batons shoved into their backs by unidentified officers. They, along with other protestors, were pushed into and pinned against a nearby fence by officers using riot shields. The civilian saw other protestors being wrestled to the ground.

The NYPD submitted the detail roster for the precinct, but most of its 59 pages were illegible. The few pages that were legible showed that officers from various commands were deployed to unknown locations within the boundary of the 88th Precinct. As a result, the CCRB could not identify which officers were present at the stationhouse and could have been involved in the alleged use of force against the civilian and the other protestors.

4. Officers Assembled from Multiple Precincts and Deployed Citywide Without Documentation of an Assignment¹⁴

On June 4, 2020, at approximately 7:30 pm in McCarren Park in Brooklyn, a large group of protestors gathered for a March Against Police Brutality. The protestors marched from the park towards the intersection of Penn Street and Wythe Avenue. The civilian participated in the march with his bicycle. The protestors were blocked at the intersection by 100 to 200 officers standing in a line. The civilian recorded several minutes of the standoff on his cellphone. The protestors began chanting and walking back up the street. The civilian stated that as he began walking away, he saw people running past him and then a white male officer in a white shirt pushed him backward. Another similarly dressed officer told the civilian to "get the fuck on the ground, get the fuck on the ground. Shut the fuck up. You wanted smoke, you got it" as he pushed the civilian. The civilian tripped and fell on the ground. He was surrounded by two to four unidentified officers and was punched on his upper body and head. The civilian started to yell that he was being assaulted and he was turned on his stomach and handcuffed. The civilian lost his eyeglasses after he was handcuffed and could not clearly make out the faces of the officers. The civilian stated that an unidentified officer crushed his eyeglasses with his foot. The civilian was transported from his arrest location without his bicycle, cellphone, and glasses. The civilian never received a voucher for any of his property. Officers interviewed regarding the McCarren Park protest stated that they had all been assigned to Randall's Island in Manhattan. The available NYPD paperwork showed that at least 175 officers (from different commands) were assigned to cover protest-related activity in Brooklyn North; none of the rosters identified specific deployment locations. The CCRB was unable to identify the officers engaged in the alleged misconduct and closed the complaint as "Officer Unidentified."

¹⁴ CCRB Case Nos. 202004204, 202004071

Challenge Three: Collection of BWC footage and other NYPD-controlled cameras

CCRB investigators reported challenges in obtaining BWC footage from the multitude of protest complaints spanning the city. In several instances, this was because members of service failed to turn on their BWCs in situations mandated by the NYPD Patrol Guide or because the batteries in the BWCs lost their charge because of the duration of the protest deployment. There was also a backlog of unfulfilled BWC requests at the time of the summer protests.

There were challenges with obtaining video footage pursuant to a request submitted to the NYPD, which generally fell into the following categories:

- False positives¹⁵ – the NYPD turned over footage that was either incorrect or irrelevant in response to a video request, resulting in investigators unnecessarily reviewing large amounts of footage.
- False negatives¹⁶ – the NYPD reported that queries for the requested video footage did not return any results, but the footage was later discovered through other means.
- Inconsistent NYPD responses¹⁷ – the NYPD found video footage that was responsive to multiple CCRB requests, but that footage was only sent back in response to some, but not all, of the pending requests.

The CCRB has discussed the existence of false negatives in previous reports as a result of the request, search, and response procedures currently in place in order for investigators to obtain BWC footage.¹⁸ The CCRB does not have direct access to search for BWC footage, therefore investigators must submit a search request to the NYPD based on the information they are able to gather during the early stages of the investigation. After the NYPD conducts the search, it reports the results back to the investigator along with any video footage it was able to find or with a negative response if the query conducted by the NYPD did not produce any results.

The protests resulted in large volumes of recorded data due to increased officer deployments for long periods of time—this seems to have increased the incidence of false positive video data being provided by the NYPD, which CCRB investigators had to comb through before realizing that the video did not have any footage relevant to their investigation.

Challenge Four: Extensive Delays in MOS Interviews

For the first few months of the pandemic, the CCRB, like most offices and City agencies, operated remotely. This was for the safety of Agency staff, members of the public, and

¹⁵ Case examples – CCRB Case Nos. 202005478, 202004729, 202006194

¹⁶ Case examples – CCRB Case Nos. 202003782, 202004183, 202004586, 202004002, 202003731

¹⁷ Case examples – CCRB Case Nos. 202003897, 202003969, 202004315, 202003782, 202004183

¹⁸ https://www1.nyc.gov/assets/ccrb/downloads/pdf/policy_pdf/issue_based/20200227_BWCReport.pdf, pp. 53-56; https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/board/20190710_boardmtg_BWC_memo.pdf

members of the Department, in compliance with the state-wide¹⁹ operational safety protocols. During that time, interviews with members of service were severely delayed because of union resistance to allowing its members to be interviewed remotely.²⁰ The CCRB announced that it would hold an emergency public board meeting on August 8, 2020, to inform the public of this issue.²¹ A few days prior to the meeting, however, the NYPD issued a directive ordering members of service to participate in CCRB interviews or face departmental discipline.²² This delay affected the closing time for complaints, which was further compounded by the previously discussed delay in document production from the Department.

¹⁹ <https://www.governor.ny.gov/sites/default/files/atoms/files/offices-interim-guidance.pdf>

²⁰ <https://gothamist.com/news/nypds-refusal-comply-misconduct-investigations-cost-months-time-and-effort>

²¹ <https://livestream.com/accounts/8706161/events/3082869/videos/212780242>

²² <https://www.nydailynews.com/new-york/nyc-crime/ny-nypd-virtual-interview-civilian-complaint-review-board-20200806-myqry5ksb5c6fd3csee6zccri-story.html>

PROTESTS WITH THE LARGEST NUMBER OF CCRB COMPLAINTS

The CCRB received 321 protest complaints that fell within its **Force, Abuse of Authority, Discourtesy, Offensive Language, and Untruthful Statements** made during the course of a CCRB investigation (**FADO & U**) jurisdiction. The majority of complaints received by the CCRB stemmed from protests that took place in May and June of 2020 and occurred in Brooklyn and Manhattan. No complaints involved incidents occurring in Staten Island.

Figure 3: Date and Location of Protest Complaints

01. Manhattan - May 28, 2020	4	28. Manhattan - June 06, 2020	2
02. Barclays Center, Brooklyn - May 29, 2020	25	29. Queens - June 06, 2020	1
03. Brooklyn - May 29, 2020	9	30. Brooklyn - June 18, 2020	1
04. Manhattan - May 29, 2020	4	31. Manhattan - June 28, 2020	6
05. Flatbush, Brooklyn - May 30, 2020	28	32. Manhattan - June 30, 2020	3
06. Bowery, Manhattan - May 30, 2020	8	33. Manhattan - July 02, 2020	1
07. Dispersed, Manhattan - May 30, 2020	15	34. Brooklyn - July 12, 2020	1
08. Union Square, Manhattan - May 30, 2020	16	35. Queens - July 12, 2020	1
09. Queens - May 30, 2020	1	36. Manhattan - July 13, 2020	1
10. Brooklyn - May 31, 2020	5	37. Brooklyn - July 15, 2020	2
11. Manhattan - May 31, 2020	13	38. Manhattan - July 15, 2020	1
12. Bronx - June 01, 2020	2	39. Manhattan - July 24, 2020	2
13. Brooklyn - June 01, 2020	3	40. Manhattan - July 25, 2020	1
14. Manhattan - June 01, 2020	7	41. Manhattan - July 28, 2020	2
15. Bronx - June 02, 2020	2	42. Brooklyn - August 03, 2020	1
16. Brooklyn - June 02, 2020	3	43. Manhattan - August 07, 2020	1
17. Lower Manhattan - June 02, 2020	23	44. Manhattan - August 14, 2020	1
18. Manhattan - June 02, 2020	7	45. Brooklyn - September 12, 2020	1
19. Downtown Brooklyn - June 03, 2020	24	46. Manhattan - September 12, 2020	2
20. Manhattan - June 03, 2020	10	47. Manhattan - September 19, 2020	1
21. Brooklyn - June 04, 2020	14	48. Manhattan - September 26, 2020	2
22. Manhattan - June 04, 2020	4	49. Brooklyn - October 27, 2020	2
23. Mott Haven, Bronx - June 04, 2020	29	50. Manhattan - November 04, 2020	4
24. Brooklyn - June 05, 2020	4	51. Manhattan - November 05, 2020	1
25. Manhattan - June 05, 2020	1	52. Manhattan - November 21, 2020	1
26. Bronx - June 06, 2020	1	53. Manhattan - November 24, 2020	1
27. Brooklyn - June 06, 2020	3	54. Other	13

Figure 4: Protest Complaints by Borough^{23 24}

	2020 CCRB	2020 Protests
Bronx	779 (22%)	34 (11%)
Brooklyn	1,161 (32%)	127 (40%)
Manhattan	820 (23%)	147 (46%)
Queens	582 (16%)	3 (1%)
Staten Island	144 (4%)	
Outside NYC	4 (0%)	
NA	88 (2%)	10 (3%)

The following five protests resulted in the largest number of complaints: May 29, 2020 at Barclays Center in Brooklyn (25); May 30, 2020 in Flatbush, Brooklyn (28); June 2, 2020 in Lower Manhattan (23); June 3, 2020 in Downtown Brooklyn (24); and June 4, 2020 in Mott Haven, Bronx (29).

MAY 29, 2020 – BARCLAYS CENTER, BROOKLYN

From approximately 7 p.m. to 11 p.m., thousands of people²⁵ gathered to protest in and around Barclays Center in Brooklyn. Some walked on streets and sidewalks with signs. Others were on bikes. Uniformed and plain clothes NYPD members of service responded with riot shields and/or helmets. Chief Jeffrey Maddrey, the highest-ranking Brooklyn borough commanding officer, responded to the protest location²⁶ along with Chief of Department Terence Monahan. Chief Monahan declared the assembly unlawful²⁷ because he observed the crowd throwing multiple objects at officers for a thirty-minute timespan. Chief Monahan then authorized Strategic Response Group (SRG) officers to clear the protest site using bicycles.²⁸

The CCRB received numerous complaints from this protest, including allegations of officers arresting and threatening to arrest people without cause;²⁹ shoving protestors as they were walking in the street³⁰ or as they were complying with police directives to disperse;³¹ striking protestors in the head with batons;³² using offensive and derogatory language to address protestors;³³ and pepper-spraying a government official.³⁴

²³ “NA” refers to complaints that did not describe a specific geographic location.

²⁴ Any blanks in charts represent zero

²⁵ <https://www.netsdaily.com/2020/5/29/21275279/thousands-protesting-murder-of-george-floyd-at-barclays-center>, <https://yalereview.org/article/photographing-george-floyd-protests>

²⁶ CCRB Case No. 202004729

²⁷ CCRB Case No. 202003695

²⁸ CCRB Case No. 202003695

²⁹ CCRB Case Nos. 202003770, 202003743

³⁰ CCRB Case Nos. 202003770, 202003753, 202003730

³¹ CCRB Case Nos. 202003695, 202003731

³² CCRB Case Nos. 202003715, 202003717

³³ CCRB Case Nos. 202003770, 202003715, 202003730

³⁴ CCRB Case No. 202003695

As seen below, complaints received from this protest primarily involved Use of Force and Abuse of Authority allegations.

Figure 5: Barclays Center Protest: Complaints Containing FADO & U Allegations

Abuse of Authority	12
Discourtesy	8
Force	24
Offensive Language	3
Untruthful Statement	3

MAY 30, 2020 – FLATBUSH, BROOKLYN

In the Flatbush neighborhood of Brooklyn, from about 5 p.m. onwards, protestors gathered in the streets, holding signs, chanting, and yelling. Some protestors reportedly threw objects at police officers.³⁵ Officers in riot gear formed lines around protestors and walked alongside the crowd. The CCRB received a complaint that an officer pulled down an individual’s COVID-19 mask to pepper spray him in the face.³⁶ Video of this incident was shown widely by news outlets and across social media.³⁷

During this protest, two NYPD vehicles drove through a crowd of protestors. When protestors blocked one vehicle’s path with a metal barricade, the officer driving the vehicle accelerated through the crowd with enough force to push the barricade and knock protestors to the ground.³⁸ Protestors threw garbage bags and other objects at the other police vehicle as it advanced through the crowd.

The CCRB received complaints that officers charged and tackled protestors;³⁹ used pepper spray indiscriminately,⁴⁰ purposely pepper sprayed protestors and a reporter in the face;⁴¹ and did not provide medical attention to people who were pepper sprayed or injured by officers.⁴² There were also allegations that officers shoved civilians with batons even as they complied with police directives to clear the way for police vehicles,⁴³ struck people with batons,⁴⁴ and shoved people to the ground.⁴⁵ An officer also allegedly used a riot shield to push an individual to the ground causing him to hit his head and pass out.⁴⁶ Part of the protest extended to the Brooklyn Bridge where the CCRB received complaints that

³⁵ CCRB Case No. 202006547

³⁶ CCRB Case No. 202003703

³⁷ <https://pix11.com/news/local-news/watch-cop-pulls-mask-off-man-pepper-sprays-him-in-the-face/>

³⁸ CCRB Case No. 202003710

³⁹ CCRB Case No. 202003788

⁴⁰ CCRB Case Nos. 202003805, 202006547

⁴¹ CCRB Case Nos. 202006547, 202004408

⁴² CCRB Case Nos. 202003703, 202005916, 202004474

⁴³ CCRB Case No. 202003797

⁴⁴ CCRB Case Nos. 202003797, 202005197, 202005916

⁴⁵ CCRB Case Nos. 202003788, 202005933, 202003790, 202003782

⁴⁶ CCRB Case No. 202004474

officers tackled protestors to the ground and struck them in the head with batons.⁴⁷ Officers again drove vehicles through protestors, striking a protestor's bicycle.⁴⁸

When questioned by the CCRB, several officers gave untruthful statements⁴⁹ about their own or their colleagues' use of force⁵⁰ and about driving through the protestors.⁵¹ As seen below, complaints received from this protest primarily involved Use of Force and Abuse of Authority allegations.

Figure 6: Flatbush Protest: Complaints Containing FADO & U Allegations

Abuse of Authority	15
Discourtesy	12
Force	25
Offensive Language	6
Untruthful Statement	4

JUNE 2, 2020 – LOWER MANHATTAN

Due to the violence and destruction of property that occurred during some of the late night protests, on June 1, 2020, then-Mayor Bill de Blasio issued Executive Order 117 declaring a state of emergency in New York City and imposing a city-wide curfew from 11 p.m. on June 1 to 5 a.m. on June 2.⁵² Mayor de Blasio made the announcement by calling in to Spectrum News NY1 on the afternoon of June 1.⁵³ Executive Order 118 imposed a curfew from 8 p.m. on June 2 to 5 a.m. on June 3, an advance of three hours from the start of the previous night's curfew.⁵⁴ Executive Order 119 extended the curfew from June 2 through June 8.⁵⁵ Only police officers, peace officers, firefighters, first responders and emergency medical technicians, individuals traveling to and from or performing essential work, people experiencing homelessness, and individuals seeking medical treatment or medical supplies were permitted outside during curfew hours.⁵⁶ Non-exempt individuals who violated the curfew were subject to arrest.⁵⁷

In the Upper Manhattan area, crowds gathered in the afternoon and proceeded to march to Lower Manhattan. NYPD officers followed the protestors. The CCRB received a complaint that an officer refused to provide his name and badge number to a protestor.⁵⁸ Complaints alleged that beginning shortly after 8 p.m., multiple officers moved into the crowd and

⁴⁷ CCRB Case Nos. 202003879, 202005197

⁴⁸ CCRB Case No. 202003854

⁴⁹ Untruthful statements occurred during interviews with CCRB investigators after the protests took place.

⁵⁰ CCRB Case Nos. 202003799, 202005916, 202003797

⁵¹ CCRB Case Nos. 202003854

⁵² <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-117.pdf>

⁵³ <https://www.ny1.com/nyc/all-boroughs/news/2020/06/01/new-york-city-curfew-protests>

⁵⁴ <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-118.pdf>

⁵⁵ <https://www1.nyc.gov/assets/home/downloads/pdf/executive-orders/2020/eo-119.pdf>

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ CCRB Case No. 202003851

started striking protestors with batons,⁵⁹ sometimes with enough force to cause bone fractures.⁶⁰ Officers struck an individual with their batons as the person picked up their fallen cellphone that they had been using to record the police.⁶¹ Part of the protest also passed by a Midtown precinct where NYPD supervisors tackled a reporter recording arrests, damaging his camera.⁶² When protestors crossed the Manhattan Bridge, they were “stopped...by police barricading the bridge at its exit...[the] protestors became ‘stuck’ on the bridge, with blockades (also known as “kettling”) on both sides.”⁶³

In Lower Manhattan, officers used profanity towards protestors as they complied with police directives to move.⁶⁴ Reporters who were trying to film officers making arrests were shoved with batons and arrested at the direction of NYPD supervisors.⁶⁵ The CCRB received complaints that officers struck an individual at the back of their neck with a baton,⁶⁶ struck people with batons while they were being handcuffed,⁶⁷ and pulled an individual to the ground by their hair when attempting to arrest them.⁶⁸ An essential worker going to work was tackled and arrested,⁶⁹ another was also arrested and alleged that officers struck him with batons while he passed a protest location.⁷⁰ Officers gave untruthful statements to CCRB investigators about using force against civilians.⁷¹ As seen below, complaints received from this protest primarily involved Use of Force, Abuse of Authority, and Discourtesy allegations.

Figure 7: Lower Manhattan Protest: Complaints Containing FADO & U Allegations

Abuse of Authority	13
Discourtesy	12
Force	20
Offensive Language	2
Untruthful Statement	2

JUNE 3, 2020 – DOWNTOWN BROOKLYN

In the Cadman Plaza area of Downtown Brooklyn from approximately 7:00 p.m. onwards, groups of people gathered to protest. NYPD responded and formed lines around various groups of protestors. Chief Maddrey, the highest-ranked borough supervisor present, told

⁵⁹ CCRB Case Nos. 202004048, 202004002, 202100617, 202004684, 202100268

⁶⁰ CCRB Case Nos. 202004048, 202004002

⁶¹ CCRB Case No. 202004203

⁶² CCRB Case No. 202003860

⁶³ <https://pix11.com/news/unrest-in-america/peaceful-protesters-stranded-on-manhattan-bridge-with-nypd-blockades-on-either-side>; CCRB Case No. 202004035

⁶⁴ CCRB Case No. 202003834

⁶⁵ CCRB Case No. 202003834

⁶⁶ CCRB Case No. 202106215

⁶⁷ CCRB Case Nos. 202004222, 202004684

⁶⁸ CCRB Case No. 202004684

⁶⁹ CCRB Case No. 202004315

⁷⁰ CCRB Case No. 202004800

⁷¹ CCRB Case Nos. 202004222, 202003860

officers to form a line to block off streets.⁷² An officer used his baton to shove reporters who were covering the protest even though they clearly had their press credentials visible,⁷³ and some officers refused to identify themselves when asked even when such requests were made in the presence of other officers or a superior officer.⁷⁴

When interviewed by the CCRB, an officer gave an untruthful statement about being in a vehicle that was at the scene of the protest,⁷⁵ other officers gave untruthful statements about using physical force against civilians.⁷⁶ As seen below, complaints received from this protest primarily involved Use of Force and Abuse of Authority allegations.

Figure 8: Downtown Brooklyn Protest: Complaints Containing FADO & U Allegations

Abuse of Authority	14
Discourtesy	10
Force	18
Offensive Language	5
Untruthful Statement	4

JUNE 4, 2020 - MOTT HAVEN, BRONX

In the Mott Haven neighborhood of the Bronx, hundreds of people gathered to protest. NYPD Assistant Chief Kenneth Lehr,⁷⁷ the Bronx borough commanding officer, stated that in the afternoon before protestors began to assemble, he held a meeting with other commanding officers to discuss “strategies”⁷⁸ as the protest had become a “high priority event.”⁷⁹ The strategies discussed by AC Lehr were “getting more personnel assigned...elements of the transit bureau...coordinate [with] members of...housing bureau (because of the Patterson Houses)...[and getting] SRG assigned.”⁸⁰ AC Lehr stated that “we were deploying on the fly...we were making decisions in the street as this thing unfolded, and grew into a, a logical, you know, threat.”⁸¹ At about 7:30 p.m., multiple witnesses reported that officers started barricading several streets, using bicycles to stop the protestors from leaving the area—another instance of the use of “kettling.”⁸² Officers broadcasted an automated message telling everyone to leave the area,⁸³ but the protestors were unable to do so as they were penned in place by the police barricades and surrounding buildings.⁸⁴

⁷² CCRB Case No. 202004586

⁷³ CCRB Case No. 202003901

⁷⁴ CCRB Case Nos. 202004586, 202004110, 202004643

⁷⁵ CCRB Case No. 202003945

⁷⁶ CCRB Case Nos. 202003901, 202004990

⁷⁷ Chief Terrence Monahan and Assistant Chief Kenneth Lehr both retired before the CCRB completed this investigation.

⁷⁸ CCRB Case No. 202004142 January 19, 2021, Interview of Assistant Chief Kenneth Lehr

⁷⁹ *Id.*

⁸⁰ *Id.*

⁸¹ *Id.*

⁸² CCRB Case Nos. 202004883, 202004402

⁸³ CCRB Case Nos. 202004142, 202004183, 202006855

⁸⁴ CCRB Case Nos. 202004883, 202004402

The CCRB received complaints that some officers climbed on top of vehicles and struck protestors with batons,⁸⁵ indiscriminately pepper sprayed protestors,⁸⁶ used bicycles to strike protestors,⁸⁷ used discourteous and offensive language towards protestors,⁸⁸ zip tied protestors hands so tightly that they were numb,⁸⁹ and that an officer kicked a protestor in the face with his boots.⁹⁰ Medical personnel present at the protest stated that “there was an insufficient number to provide immediate medical assistance to all demonstrators injured by police violence.”⁹¹

Despite being “part of a longstanding program by the National Lawyers Guild to monitor police conduct during protests,”⁹² the CCRB received a complaint that legal observers—who are “third-party observers of protest movements whose sole function is to adequately safeguard individuals’ rights,”⁹³ and who were clearly identifiable by their green hats⁹⁴—were “zip-tied”⁹⁵ by officers who were advised by the Assistant Deputy Commissioner of NYPD Legal that “legal observers were not exempt from enforcement.”⁹⁶ CCRB investigations into complaints arising from this protest determined that an officer gave an untruthful statement about being pushed by protestors,⁹⁷ while others obscured their badge numbers with mourning bands,⁹⁸ and that in some instances, there were no Threat, Resistance, Injury (TRI) reports on file even though officers are required to complete one when force is used against a civilian.⁹⁹ As seen below, complaints received from this protest primarily involved Use of Force allegations.

Figure 9: Mott Haven Protest: Complaints Containing FADO & U Allegations

Abuse of Authority	11
Discourtesy	11
Force	26
Offensive Language	3
Untruthful Statement	2

⁸⁵ CCRB Case Nos. 202100606, 202004183, 202004301

⁸⁶ CCRB Case Nos. 202100606, 202004402

⁸⁷ CCRB Case No. 202004301

⁸⁸ CCRB Case Nos. 202004055, 202004301, 202004183

⁸⁹ CCRB Case No. 202100495

⁹⁰ CCRB Case No. 202004055

⁹¹ <https://phr.org/our-work/resources/a-targeted-attack-on-the-bronx/>

⁹² <https://www.hellgatenyc.com/nypd-lawyer-just-following-orders/>; CCRB Case No. 202004142

⁹³ <https://www.nycbar.org/media-listing/media/detail/statement-on-detention-of-legal-observers>

⁹⁴ CCRB Case No. 202004142

⁹⁵ <https://www.law.com/newyorklawjournal/2020/06/08/letter-demands-nypd-discipline-after-legal-observers-were-detained-illegally-searched-during-bronx-protest/>; CCRB Case No. 202004142

⁹⁶ <https://www.hellgatenyc.com/nypd-lawyer-just-following-orders/>; CCRB Case No. 202004142

⁹⁷ CCRB Case No. 202004402

⁹⁸ CCRB Case No. 202004183

⁹⁹ CCRB Case Nos. 202004183, 202004301

NYPD PROTEST RESPONSE

Members of the public consistently reported allegations of excessive force and other misconduct during protests across the City. According to these reports, the NYPD deployed all manner of force—physical takedowns, baton strikes, pepper spray, and bicycle barricades against civilian protestors. The CCRB’s investigations revealed that the forceful suppression of the protests occurred at the direction of high-level borough supervisors such as Assistant Chief Kenneth Lehr of the Bronx borough command, Bureau Chief Jeffrey Maddrey of the Brooklyn borough command, and various heads of precincts.

When interviewed by DOI on October 28, 2020, then-NYPD Chief of Department, Terence Monahan,¹⁰⁰ stated that “each commander who had eyes on the scene was given authority to make decisions that had to be made at that point in time...so every borough commander who’s working was given authority to make decisions on what he had to do at each of these protests,”¹⁰¹ and the commanding officers enforcing the curfew were “people from the SRG.”¹⁰² During his interview with CCRB investigators on March 5, 2021, Chief Monahan reiterated that there were no “set rules” for engaging with protestors who were on the street during the curfew period in June 2020 “because every incident that [] was taking place...was unique...to the scene.”¹⁰³ In a March 8, 2021, CCRB interview, Chief Monahan stated that the SRG unit “is the expert at large crowds. If arrests need to be made, SRG knows legally how [arrests] should be done.”¹⁰⁴ Chief Monahan detailed to DOI the circumstances under which certain uses of force could be deployed. For example, pepper spray is “only supposed to be utilized when you are making an arrest. Unless it’s utilized by the SRG under the direction of a captain or above.”¹⁰⁵ Batons are only to be “utilized to gain control of a person that’s resisting”¹⁰⁶ and the SRG unit is trained to use bicycles to push people along.¹⁰⁷ Chief Monahan testified that he had designated the May 29, 2020, protest at the Barclays Center an unlawful assembly and ordered SRG units to disperse the crowd.¹⁰⁸ Again, at the June 4, 2020, Mott Haven protest, which reportedly involved multiple objects being thrown at officers and crowds pushing against officers,¹⁰⁹ Chief Monahan personally ordered subordinate officers to place a protestor under arrest. He stated that after he saw that the officers “grabbed her... [he] walked away”¹¹⁰ and was not aware of the additional force used by those officers to effectuate the arrest.¹¹¹

In a January 19, 2021, CCRB interview, AC Lehr stated that at the June 4, 2020, Mott Haven protest, he decided to enforce the curfew because some of the protestors were in a standoff

¹⁰⁰ While Chief Monahan was the subject in the following investigations: CCRB Case Nos. 202003695, 202003717, 202003743, 202004408, 202005229, 202005916, 202006846, 202006855, and 202008019, Chief Monahan retired prior to the Board coming to a determination on those cases.

¹⁰¹ https://www1.nyc.gov/assets/doi/oignypd/response/ChiefofDepartment_TerenceMonahan.pdf, pp. 9

¹⁰² https://www1.nyc.gov/assets/doi/oignypd/response/ChiefofDepartment_TerenceMonahan.pdf, pp. 33

¹⁰³ CCRB Case No. 202004142, March 5, 2021, Interview of Chief Terence Monahan

¹⁰⁴ CCRB Case No. 202003695, March 8, 2021, Interview of Chief Terence Monahan

¹⁰⁵ https://www1.nyc.gov/assets/doi/oignypd/response/ChiefofDepartment_TerenceMonahan.pdf, pp. 45

¹⁰⁶ https://www1.nyc.gov/assets/doi/oignypd/response/ChiefofDepartment_TerenceMonahan.pdf, pp. 45

¹⁰⁷ CCRB Case No. 202003695, March 8, 2021, Interview of Chief Terence Monahan

¹⁰⁸ CCRB Case No. 202003695, March 8, 2021, Interview of Chief Terence Monahan

¹⁰⁹ CCRB Case No. 202003695, February 8, 2021, Interview of Bureau Chief Jeffrey Maddrey

¹¹⁰ CCRB Case No. 202004142, March 5, 2021, Interview of Chief Terence Monahan

¹¹¹ CCRB Case No. 202006855

with some of the officers and he was concerned about potential looting.¹¹² Chief Monahan recalled being informed by AC Lehr of his intent to arrest anyone who was on the streets when the 8:00 pm curfew went into effect.¹¹³ Officers interviewed by the CCRB stated that they took an enforcement action such as seizing a bicycle¹¹⁴ or effecting an arrest¹¹⁵ because of the curfew.

Overall, the NYPD's response was criticized by several governmental entities. New York Attorney General (AG), Letitia James, stated that the NYPD displayed a "pattern of using excessive force and making false arrests against New Yorkers during peaceful protests,"¹¹⁶ and DOI Commissioner, Margaret Garnett, stated that the "NYPD as an institution made a number of key errors or omissions that likely escalated tensions and the potential for violence, and certainly contributed to a public perception that the department was suppressing rather than facilitating lawful First Amendment assembly and expression."¹¹⁷ In regards to the weeklong curfew, DOI found that "the gap between the Mayor's public statements and the NYPD's understanding of its enforcement authority derived from the Executive Order, set up needless confrontations between police and protesters and unfairly fueled public perceptions that the NYPD was abusing its authority."¹¹⁸ The AG's report stated that when then-Police Commissioner Dermot Shea was asked whether officers received directives for policing protests that occurred after curfew, he "did not identify any specific directive given to officers, though noted that NYPD officers were advised to be 'as flexible as possible in allowing people to demonstrate, respecting their First Amendment rights, but also trying to balance that against the rights of individuals in New York City that want to go about their daily lives.'"¹¹⁹

¹¹² CCRB Case No. 202004142, January 19, 2021, Interview of Assistant Chief Kenneth Lehr

¹¹³ CCRB Case No. 202004142, March 5, 2021, Interview of Chief Terrence Monahan

¹¹⁴ CCRB Case No. 202005168

¹¹⁵ CCRB Case No. 202005295

¹¹⁶ <https://www.npr.org/2021/01/14/956793786/new-york-state-sues-nypd-over-its-handling-of-2020-racial-justice-protests>

¹¹⁷ <https://www.politico.com/news/2020/12/18/nypd-public-trust-protest-response-448415>

¹¹⁸ <https://www1.nyc.gov/assets/doi/reports/pdf/2020/DOIRpt.NYPD%20Reponse.%20GeorgeFloyd%20Protests.12.18.2020.pdf>; pg 49

¹¹⁹ <https://ag.ny.gov/sites/default/files/2020-nypd-report.pdf>; pg 31

FADO & U ALLEGATIONS RECEIVED BY THE CCRB

The protest complaints the CCRB received contained more than 1,800 distinct allegations of police misconduct against members of the public. As shown in Figure 10, the largest percentage of these allegations were for Use of Force at 64%, followed by Abuse of Authority at 20%, and Discourtesy at 12%. Offensive Language and Untruthful Statement allegations made up 3% and 2% of the allegations, respectively. The percentage Use of Force allegations from the protest complaints was markedly higher than the percentage of Use of Force allegations in the non-protest complaints received in 2020 (22%).

Figure 10: FADO & U Allegations Received

	2020 CCRB	2020 Protests
Abuse of Authority	9,328 (64%)	376 (20%)
Discourtesy	1,569 (11%)	226 (12%)
Force	3,221 (22%)	1,193 (64%)
Offensive Language	353 (2%)	48 (3%)
Untruthful Statement	118 (1%)	30 (2%)

Figure 11: Complaints Containing FADO & U Allegations

	2020 CCRB (3,578 Complaints)	2020 Protests (321 Complaints)
Abuse of Authority	2,737 (77%)	158 (49%)
Discourtesy	982 (27%)	120 (37%)
Force	1,368 (38%)	271 (84%)
Offensive Language	266 (7%)	35 (11%)
Untruthful Statement	108 (3%)	22 (7%)

USE OF FORCE ALLEGATIONS

Physical force (hand strikes, pushes, etc.,) was the most reported use of force allegation during the protests at 55%, followed by nightsticks (batons and asps) being used as clubs at 24%.¹²⁰ Nightsticks were employed by the NYPD at a far higher rate during the protests than other reported 2020 incidents, where nightsticks made up only 1% of the use of force allegations.¹²¹ Allegations of improper use of pepper spray also increased significantly during the protests, accounting for 10% of protest allegations compared to 1% of 2020 non-protest allegations.¹²²

Figure 12: Force Allegations Received & Substantiated

	2020 CCRB Received	2020 CCRB Substantiated	2020 Protests Received	2020 Protests Substantiated
Chokehold	94 (3%)	14 (10%)	17 (1%)	2 (1%)
Flashlight as club	1 (0%)			
Gun as club	4 (0%)			
Gun fired	13 (0%)			
Gun Pointed	227 (7%)	8 (6%)	2 (0%)	1 (1%)
Handcuffs too tight	22 (1%)		5 (0%)	
Hit against inanimate object	79 (2%)	2 (1%)	23 (2%)	4 (3%)
Less Than Lethal Force/Device			1 (0%)	1 (1%)
Nightstick as club (incl asp & baton)	41 (1%)	2 (1%)	284 (24%)	34 (24%)
Nonlethal restraining device	108 (3%)	6 (4%)	3 (0%)	1 (1%)
Other	29 (1%)		20 (2%)	1 (1%)
Other blunt instrument as a club	9 (0%)		17 (1%)	3 (2%)
Pepper spray	27 (1%)	7 (5%)	117 (10%)	28 (20%)
Physical force	2,442 (76%)	94 (67%)	652 (55%)	59 (42%)
Police shield	2 (0%)		10 (1%)	
Radio as club	2 (0%)			
Restricted Breathing	97 (3%)	7 (5%)	26 (2%)	
Vehicle	24 (1%)		16 (1%)	6 (4%)

Case Examples: Below are case examples involving allegations that members of service used force against civilians during the protests.

Case One: Controlling Civilian Movements by Baton Strikes, Substantiated¹²³

On May 30, 2020, at approximately 10 p.m. in the Union Square area of Manhattan, the Victim, and his friend, both white males in their late twenties, were attending a George Floyd protest along with several other people. Several officers lined up and repeatedly moved towards the protestors, forcing them in one direction. The Victim's friend, who was

¹²⁰ See Figure 12.

¹²¹ *Id.*

¹²² *Id.*

¹²³ CCRB Case No. 202003847

recording the incident on his cellphone, captured Police Officer Brian Mahon striking the Victim's left arm with his baton. The momentum of the blow caused the Victim to stumble onto the sidewalk where PO Mahon swung his baton at the Victim's back. The Victim tried to move away when an unidentified woman stood between him and PO Mahon, but PO Mahon pushed the unidentified woman aside and continued to follow the Victim. PO Mahon again struck the Victim in his arm with the baton. The Victim's arm and back were bruised from the baton strikes.

During his CCRB interview, PO Mahon acknowledged pushing the Victim with his baton, but denied hitting the Victim with his baton, stating that had he done so, he would have broken the Victim's bones. PO Mahon stated that he swung his baton to get the Victim to leave the location as the NYPD had told the protestors to disperse. The Board substantiated Use of Force allegations against PO Mahon for striking the Victim with a baton and pushing the Victim and the unidentified woman, and an Untruthful Statement allegation for stating that he did not hit the Victim. The Board recommended Charges¹²⁴ for PO Mahon. The complaint is pending in the APU.

Case Two: Pushing and Shoving People, Substantiated¹²⁵

On May 29, 2020, at approximately 10:30 p.m. at a protest moving through Flatbush in Brooklyn, an unidentified male protester was pushed by Sergeant Matthew Peters. The Victim, who was standing on the sidewalk recording the protest, witnessed this and yelled for Sgt. Peters to leave the man alone. Sgt. Peters grabbed the Victim by the shirt and arm and pushed him down the street. Sgt. Peters then approached an unidentified female who was standing on the sidewalk and pushed her by the shoulder, causing her to stumble. Police Officer Osvaldo Nunez, who was standing close to Sgt. Peters, approached an unidentified male who held a cellphone in his left hand and pushed him in the right shoulder. The cellphone recording showed Sgt. Peters pushing the Victim and the two unidentified individuals. PO Nunez's BWC footage showed him pushing the unidentified male individual.

During his CCRB interview, Sgt. Peters stated that he was trying to disperse the crowd, but the video showed that the street where the incident occurred was predominantly filled with officers, and the people he pushed were not doing anything different from the other protestors to prompt Sgt. Peters to push them. PO Nunez claimed that he pushed the unidentified male because could not see his hands, but his BWC footage showed that the man had a cellphone in his hands and that PO Nunez independently approached him before pushing him. The Board substantiated Use of Force allegations against Sgt. Peters for pushing and shoving the Victim and the other individuals, and a Use of Force allegation against PO Nunez for pushing and shoving the unidentified male. The Board recommended

¹²⁴ The complaint was closed before the implementation of the NYPD Disciplinary Matrix.

¹²⁵ CCRB Case No. 202003731

Charges¹²⁶ for Sgt. Peters and Command Discipline A¹²⁷ for PO Nunez. The complaint against Sgt. Peters is pending in the APU.

Case Three: Using Pepper Spray on Protesters, Substantiated¹²⁸

On May 30, 2020, at approximately 10 p.m. in the Flatbush area of Brooklyn, the Victim was among protesters who were facing down a line of police officers. Other groups of protesters were facing lines of officers that had approximately 25 to 30 officers each. Some protesters threw bottles at the officers. Officers ordered protesters to leave the street and move to the sidewalk. Some protesters pushed against the police line and officers began to initiate arrests. Some officers got into an altercation with the protesters. Police Officer Johnny Marquez pepper sprayed the protesters who were physically engaging with the officers. He then turned his pepper spray to the remaining protesters who were not breaching the police line. None of these protesters posed a threat to the officers. The Board substantiated a Use of Force allegation against PO Marquez for using pepper spray against the individuals in the crowd. The Board recommended Command Discipline B¹²⁹ for PO Marquez, but the Police Commissioner rejected the Board's recommendation¹³⁰ and did not discipline the officer.

Case Four: Officers using force to apprehend looters during a protest, Within NYPD Guidelines¹³¹

On June 1, 2020, at approximately 3:00 a.m. at a Footlocker store in the Soho area of Manhattan, two witnesses were taking photographs of protesters marching through the neighborhood. The witnesses observed individuals break into a Footlocker store and begin to carry out merchandise. Officers responded to the break-in approximately twenty minutes later and found the individuals still inside the store. They grabbed several individuals and used their batons to strike those who tried to flee. Officers ultimately arrested three individuals. The investigation found that the individuals resisted arrest and the brief use of force by the officers was proper as it allowed them to quickly apprehend the individuals for whom there was probable cause to arrest. The Board found that the officers' actions were Within NYPD Guidelines.

Case Five: Use of force against a photojournalist without cause, Substantiated¹³²

On June 2, 2020, at approximately 9:30 p.m., a Black Lives Matter protest was taking place near the Midtown North Precinct stationhouse in Manhattan. A photojournalist for a local

¹²⁶ The Board substantiated two physical force allegations in the presumptive (no injury) category and 1 physical force allegation in the presumptive (injury) category of the Disciplinary Matrix. The presumptive (no injury) category carries a ten vacation days forfeiture penalty for each allegation and the presumptive (injury) category carries a ten suspension days plus ten vacation days forfeiture penalty.

¹²⁷ The Board substantiated one physical force allegation in the mitigation (no injury) category of the Disciplinary Matrix. The mitigation (no injury) category carries a five vacation days forfeiture penalty.

¹²⁸ CCRB Case No. 202006547

¹²⁹ The Board substantiated one pepper spray allegation in the mitigation (no injury) category of the Disciplinary Matrix, which carries a ten vacation days forfeiture penalty.

¹³⁰ <https://www1.nyc.gov/assets/ccrb/downloads/pdf/complaints/complaint-outcomes/departure-letters/202006547-PO-Marquez.pdf>

¹³¹ CCRB Case No. 202008260

¹³² CCRB Case No. 202003860

newspaper stood several feet away from a protestor being arrested and was taking photographs of the arrest. As he took photos, Sergeant Christopher Hewitson ran into the photographer and struck him with a baton, causing him to stumble backward. The photographer moved a few feet away from Sgt. Hewitson and attempted to hold up his press pass, which had been hanging around his neck. He shouted that he was press, but Sgt. Hewitson charged at him and pushed him to the ground with enough force that he landed hard on the sidewalk and sustained abrasions to his arms, legs, and cheek as a result. His camera also landed on the ground causing \$800 in damage. The incident was captured on BWC and by recordings made by another reporter. At his CCRB interview, Sgt. Hewitson denied that he was the individual who used force against the photographer when he was shown video of the incident, stated that he only had incidental contact with civilians in the area as he told them to leave. The investigation determined that Sgt. Hewitson gave a false testimony that was designed to thwart his identification as the subject officer, and when confronted with credible evidence of his identity and his conduct, he maintained that he was not the officer captured in video and photographs and had not used force against any civilians. The Board substantiated Use of Force, Abuse of Authority, and Untruthful Statement allegations against Sgt. Hewitson. The Board recommended Charges against Sgt. Hewitson and the APU has served Charges on Sgt. Hewitson.

ABUSE OF AUTHORITY ALLEGATIONS

Abuse of Authority allegations made up 20% of the total protest allegations as compared to 64% of overall allegations received in 2020.¹³³ The highest percentage of Abuse of Authority protest allegations were under the threat of force category, 17%, followed by refusal to provide shield number at 12%, and detainment at 11%.¹³⁴

Figure 13: Abuse of Authority Allegations Received & Substantiated

	2020 CCRB Received	2020 CCRB Substantiated	2020 Protests Received	2020 Protests Substantiated
Body Cavity Searches	6 (0%)	1 (0%)		
Electronic device information deletion	10 (0%)	1 (0%)	2 (1%)	
Entry of Premises	802 (9%)	63 (6%)	1 (0%)	
Failed to Obtain Language Interpretation	46 (0%)	7 (1%)		
Failure to provide RTKA card	687 (7%)	317 (31%)	2 (1%)	
False Official Statements			1 (0%)	
Forcible Removal to Hospital	467 (5%)	15 (1%)		
Frisk	495 (5%)	66 (6%)		
Gun Drawn	70 (1%)	1 (0%)	1 (0%)	1 (1%)
Improper dissemination of medical info	7 (0%)			
Interference with recording	138 (1%)	12 (1%)	32 (9%)	10 (14%)
Other	37 (0%)	13 (1%)		
Other: Detainment	40 (0%)	7 (1%)	42 (11%)	2 (3%)
Other: Obstructed Shield	22 (0%)	1 (0%)	20 (5%)	13 (18%)
Photography/Videography	44 (0%)	2 (0%)	6 (2%)	2 (3%)
Property damaged	281 (3%)	8 (1%)	34 (9%)	6 (8%)
Question	191 (2%)	7 (1%)	7 (2%)	
Questioned immigration status	5 (0%)			
Refusal to obtain medical treatment	169 (2%)	27 (3%)	35 (9%)	5 (7%)
Refusal to process civilian complaint	154 (2%)	26 (3%)		
Refusal to provide name	624 (7%)	34 (3%)	16 (4%)	2 (3%)
Refusal to provide shield number	642 (7%)	60 (6%)	45 (12%)	16 (22%)
Refusal to show arrest warrant	21 (0%)		2 (1%)	
Refusal to show search warrant	30 (0%)			
Retaliatory arrest	2 (0%)		2 (1%)	2 (3%)
Retaliatory summons	12 (0%)	6 (1%)	1 (0%)	
Search (of person)	523 (6%)	43 (4%)	2 (1%)	
Search of Premises	325 (3%)	23 (2%)		
Search of recording device	30 (0%)	4 (0%)	1 (0%)	
Seizure of property	160 (2%)	4 (0%)	17 (5%)	3 (4%)
Sex Miscon (Humiliation: fail to cover)	1 (0%)			
Sex Miscon (Sexual Harassment, Gesture)	3 (0%)			
Sex Miscon (Sexual Harassment, Verbal)	9 (0%)	2 (0%)		
Sex Miscon (Sexual/Romantic Proposition)	2 (0%)			
Sex Miscon (Sexually Motivated Frisk)	2 (0%)			
Sex Miscon (Sexually Motivated Search)	4 (0%)			
Sexual Miscon (Forcible Touching)	1 (0%)			
Sexual Miscon (Inappropriate Touching)			1 (0%)	
Sexual Misconduct (Sexual Humiliation)	8 (0%)	1 (0%)	1 (0%)	
Stop	678 (7%)	69 (7%)	14 (4%)	1 (1%)
Strip-searched	51 (1%)	5 (0%)	2 (1%)	
Threat of arrest	863 (9%)	41 (4%)	21 (6%)	1 (1%)
Threat of force (verbal or physical)	369 (4%)	48 (5%)	64 (17%)	7 (10%)
Threat of summons	88 (1%)	4 (0%)		
Threat re: immigration status	2 (0%)			
Threat re: removal to hospital	83 (1%)	14 (1%)		
Threat to damage/seize property	100 (1%)	14 (1%)	2 (1%)	
Threat to notify ACS	35 (0%)	4 (0%)		
Unlawful Arrest	8 (0%)	8 (1%)	1 (0%)	1 (1%)
Unlawful Summons	3 (0%)	3 (0%)		
Vehicle search	493 (5%)	40 (4%)		
Vehicle stop	485 (5%)	17 (2%)	1 (0%)	

¹³³ See Figure 10.

¹³⁴ See Figure 13.

Case Examples: Below are case examples where it was alleged that members of service abused their authority when interacting with civilians.

Case One: Detaining People Without Cause During the Curfew, Substantiated¹³⁵

On June 4, 2020, at approximately 8:30 p.m. in the Upper Westside of Manhattan, the Victim was working as a bicycle delivery person. Although a citywide curfew was in effect from 8 p.m., essential workers, such as delivery persons, were exempt from the curfew. The Victim stopped his bicycle to speak to officers who were arresting a woman whom he had seen jogging earlier that day in the area. Inspector Steven Ortiz decided to arrest the Victim for violation of curfew and disorderly conduct. Video footage showed that the Victim tried to inform officers that he had proof of employment as an essential worker on his phone, but he was ignored. The Board substantiated an allegation of Abuse of Authority against Ins. Ortiz for improperly detaining the Victim. The Board recommended Charges,¹³⁶ but the Police Commissioner retained the case and did not discipline Ins. Ortiz.

Case Two: Failure to Provide Medical Attention, Substantiated¹³⁷

On June 4, 2020, at approximately 9:30 p.m. in the Williamsburg area of Brooklyn, the Victim was marching in a protest when he was arrested. Police Officer Luis Negrón was assigned as the arresting officer despite not being the officer who effectuated the arrest. The Victim was placed on a prisoner bus to be transported to central booking. He informed PO Negrón that he required medical attention because his hand was broken, an injury sustained when another officer struck him with a baton. PO Negrón mentioned “seeing a doctor” at central booking, but never followed up to make sure that the Victim received medical attention. Several hours later, after the Victim was released with a summons, he went to a hospital where he was diagnosed with a fractured finger, bruising to several parts of his body, and abrasions to his face and neck. The Board substantiated an Abuse of Authority allegation against PO Negrón for failing to obtain medical attention for the Victim. The Board recommended Command Discipline A¹³⁸ for PO Negrón. The Police Commissioner imposed the recommended Command Discipline A penalty.

Case Three: Improper Arrest, Substantiated¹³⁹

On September 26, 2020, at approximately 8:00 p.m. in Washington Square Park in Manhattan, the Victim and two friends came upon an event called “Art of the Protest.” The Victim and his friends heard an NYPD message broadcast instructing the attendees to move onto to the sidewalk. The Victim and his friends were crossing the street in compliance with the instruction when Captain Christopher Treubig told a group of SRG bicycle officers to “grab this guy, grab him.” Cpt. Treubig and the SRG officers rushed the Victim. As they closed in on him, Cpt. Treubig said “he’s on fucking parole.” The officers took the Victim

¹³⁵ CCRB Case No. 202003920

¹³⁶ The Board substantiated one abuse of authority – other allegation in the aggravating category of the Disciplinary Matrix, which carries a 15 vacation days forfeiture penalty.

¹³⁷ CCRB Case No. 202004071

¹³⁸ The Board substantiated one abuse of authority – refusal to obtain medical treatment allegation in the presumptive: negligent failure category of the Disciplinary Matrix, which carries a five vacation days forfeiture penalty.

¹³⁹ CCRB Case No. 202006494

down, and he became tangled in one of the police bicycles. After a few moments of tugging on the Victim's arms, as multiple officers pinned the Victim to the ground with their knees, the Victim was handcuffed. The incident was captured on BWC and Technical Assistance Response Unit (TARU) cameras, which showed that the Victim and his friends crossed the street as instructed by the broadcast message and that the Victim had not committed any parole violations. The Board substantiated Abuse of Authority and Discourtesy allegations against Cpt. Treubig. The Board recommended Charges¹⁴⁰ for Cpt. Treubig. The complaint is pending in the APU.

Case Four: Improper Seizure of Property, Substantiated¹⁴¹

On June 3, 2020, at approximately 9:00 p.m. in the Midtown East area of Manhattan, the Victim was attending a Black Lives Matter demonstration. The Victim was pushing his bicycle by the handlebars when he was approached by Sergeant Alberto Espinal who had been standing with a group of officers. Sgt. Espinal seized the Victim's bicycle and began walking away with it. The Victim took out his cellphone and began recording, asking Sgt. Espinal why he was taking his bicycle; Sgt. Espinal did not respond. The video showed Sgt. Espinal wheeling the bicycle past Deputy Chief Michael Pilecki, who was in charge that day. It also captured Sgt. Espinal seizing the bicycle of an unidentified individual. At his CCRB interview, Sgt. Espinal said that Deputy Chief Pilecki ordered him and the other officers to "take those bicycles" and "seize [the] bikes." Sgt. Espinal stated that the officers received no orders to voucher the seized property. Deputy Chief Pilecki stated during his CCRB interview that he told the officers to "take summons enforcement action," which entailed issuing a summons to an individual and issuing a voucher for any property seized. Police records indicated that no summons or property voucher was issued to the Victim for his confiscated bicycle. The allegations were only pled against Deputy Chief Pilecki because he was the superior officer on the scene. The Board substantiated the Abuse of Authority allegations against Deputy Chief Pilecki. The Board recommended Charges¹⁴² for Deputy Chief Pilecki. The complaint is pending in the APU.

Case Five: Officers Using Force Against Protestors, Within NYPD Guidelines¹⁴³

On July 28, 2020, at approximately 6:00 p.m. near Madison Square Park in Manhattan, a civilian joined a group of protestors at an Anti-Police Brutality protest. The protestors marched to the park and the civilian marched along with them while carrying his bicycle. They arrived at the interior of the park and the civilian stood with other bicyclists to act as a wall between the protestors and the police officers who had been following them. Multiple officers moved in to arrest the protestors. The civilian stated that the scene was very chaotic and three to four unidentified officers started arrested him by grabbing his arms.

¹⁴⁰ The Board substantiated one discourtesy – word allegation in the presumptive category of the Disciplinary Matrix, which carries a five vacation days forfeiture penalty and one abuse of authority – unlawful arrest allegation in the presumptive category of the Disciplinary Matrix, which carries a 20 vacation days forfeiture penalty.

¹⁴¹ CCRB Case No. 202005168

¹⁴² The Board substantiated two abuse of authority – seizure of property allegations in the aggravating category of the Disciplinary Matrix, which each carry a 15 vacation days forfeiture penalty.

¹⁴³ CCRB Case No. 202107262

The civilian, who had a history of dislocating his left shoulder, said that he resisted the officers' attempts to restrain his arms behind his back for fear that they would dislocate his shoulder again. The officers got the civilian to the ground, but the civilian laid on his side and refused to give his hands to be handcuffed. Detective Kaz Daughtry pulled out his taser as multiple officers yelled at the civilian to turn over. Det. Daughtry was captured on BWC telling the Victim "if you don't turn over, we're gonna taser you right now." The investigation determined that Det. Daughtry's threat of force was Within NYPD Guidelines because the civilian was resisting arrest.

DISCOURTESY AND OFFENSIVE LANGUAGE ALLEGATIONS

Discourtesy allegations made up 12% of protest complaint allegations as compared to 11% of overall complaints received in 2020.¹⁴⁴ Offensive Language allegations made up 3% of total protest allegations as compared to 2% of overall allegations received in 2020.¹⁴⁵ Most of the Discourtesy allegations, 86%, were in the Word category, as shown in Figure 14, and most of the Offensive Language allegations, 46%, were in the Gender category, as shown in Figure 15.

Many officers who engaged in alleged acts of Discourtesy or Offensive Language, which includes officers who engaged in hate speech and displays of racism, did not face discipline for their actions. The Board was unable to identify the officers in 50% of fully investigated Discourtesy allegations,¹⁴⁶ and 34% of Offensive Language allegations.¹⁴⁷

Figure 14: Discourtesy Allegations Received & Substantiated

	2020 CCRB Received	2020 CCRB Substantiated	2020 Protests Received	2020 Protests Substantiated
Action	211 (13%)	39 (12%)	28 (12%)	4 (17%)
Demeanor/tone	12 (1%)		2 (1%)	
Gesture	31 (2%)	2 (1%)	1 (0%)	
Other	16 (1%)	7 (2%)	1 (0%)	
Word	1,299 (83%)	272 (85%)	194 (86%)	20 (83%)

Figure 15: Offensive Language Allegations Received & Substantiated

	2020 CCRB Received	2020 CCRB Substantiated	2020 Protests Received	2020 Protests Substantiated
Disability	8 (2%)			
Ethnicity	29 (8%)	1 (2%)		
Gender	105 (30%)	21 (38%)	22 (46%)	3 (33%)
Gender Identity	4 (1%)		3 (6%)	2 (22%)
Other	79 (22%)	17 (30%)	8 (17%)	2 (22%)
Race	87 (25%)	11 (20%)	11 (23%)	2 (22%)
Religion	8 (2%)			
Sexual orientation	33 (9%)	6 (11%)	4 (8%)	

Case Examples: Below are case examples involving allegations that members of service were discourteous and used offensive language towards civilians.

¹⁴⁴ See Figure 10.

¹⁴⁵ *Id.*

¹⁴⁶ See Appendix B, Figure 4.

¹⁴⁷ See Appendix B, Figure 5.

Case One: Displays of Racism, Officers Unidentified¹⁴⁸

On June 3, 2020, at approximately 11:15 p.m. in the Crown Heights area of Brooklyn, the Victim heard commotion on the street. When she went outside to determine the source of the noise, she observed approximately 20 uniformed police officers in riot helmets and armed with batons interacting with approximately 50 protesters. She saw the officers striking protestors with batons and arresting them using zip ties. Approximately 30 minutes later, the officers began to leave. The incident was captured on multiple cellphone videos. A tall, white, slightly heavy-set unidentified officer, dressed in a standard uniform and wearing a riot helmet, yelled “fuck you” to everyone outside and entered a marked police vehicle. As the police convoy drove away, one of the police loudspeakers played an ice cream song: “Ni**er Love a Watermelon.”¹⁴⁹ CCRB investigators were able to identify the vehicle that the subject officer got into through the videos. Police records showed that vehicle had been loaned out to a different precinct. Precinct records showed that two officers were assigned to the vehicle, both of whom stated that they were not at the incident and were assigned to a stationary post at the time. Neither could account for how their assigned vehicle was at the incident. The Board determined that both officers made untruthful statements regarding the whereabouts of the vehicle but was unable to identify the officers involved in this incident because NYPD records did not accurately reflect which officers made use of the vehicle.

Case Two: Displays of Racism, Substantiated¹⁵⁰

On May 30, 2020, at approximately 11:00 p.m. in the Union Square area of Manhattan, the Victim and a friend were attending a George Floyd protest rally. The Victim’s friend was livestreaming the protest and was facing the Victim who used the front facing camera on his phone to take a photo of himself. Police Officer Enrico Lauretta stood behind the Victim and used his left hand to make the white power symbol by forming his thumb and index finger into a circle and extending his fingers straight outwards and held his hand at shoulder height. He then turned to another officer next to him and smiled. The gesture was captured in the Victim’s photograph. Major organizations that track hate groups and hate speech stated that this specific hand gesture has been adopted globally by white supremacists who make the gestures in photos and on video. PO Lauretta stated that he used his hand and fingers to make the symbol at a protestor who was talking in his ear and calling him names. PO Lauretta could not describe the person to whom he made the gesture. A video posted to the internet showed PO Lauretta making the symbol directly behind the Victim and then immediately turning to another officer and laughing about it. No civilian was captured talking to PO Lauretta during this incident. The Board substantiated one Offensive Language allegation against PO Lauretta for gesturing offensively towards the Victim. The Board recommended Charges¹⁵¹ for PO Lauretta. The complaint is pending in the APU.

¹⁴⁸ CCRB Case No. 202003945

¹⁴⁹ <https://www.npr.org/sections/codeswitch/2014/05/11/310708342/recall-that-ice-cream-truck-song-we-have-unpleasant-news-for-you>

¹⁵⁰ CCRB Case No. 202003697

¹⁵¹ The complaint was closed before the implementation of the NYPD Disciplinary Matrix.

Case Three: Officer using force and speaking discourteously to a civilian at a protest, Within NYPD Guidelines¹⁵²

On May 30, 2020, at approximately 11:30 p.m. in the Union Square area of Manhattan, the complainant stopped to watch a protest on her way home from work. She saw police start to arrest protestors who had gotten too close to them. The police told everyone to leave the location. The complainant refused to leave because she was concerned about the people being arrested. The complainant stated that Inspector Michele Irizarry came up to her, picked her up by both of her arms, pushed her back into a fence and told her, “when I tell you to get out of the park, get out of the fucking park.” The incident was captured on BWC. The footage showed the complainant standing approximately five to ten feet away from the officers who were arresting protestors. It showed Ins. Irizarry approach the individual, grab her arms, and push her lightly on the back in the direction of the stairs behind her. The individual walked towards the stairs. At the time, there was a large, hostile crowd of protestors who were pushing officers and there was a trash can on fire. The investigation determined that Ins. Irizarry used a brief restraint to ensure that the individual followed the instructions in a loud and chaotic environment. The use of profanity, while not captured on BWC, given the stressful and chaotic environment, was permissible under the circumstances. The Board found that Ins. Irizarry’s actions were Within NYPD Guidelines.

¹⁵² CCRB Case No. 202008249

UNTRUTHFUL STATEMENT ALLEGATIONS

Pursuant to a change in the New York City Charter, in March 2020, the CCRB began investigating “the truthfulness of any material statement that is made within the course of the CCRB’s investigation or the resolution of a complaint by a police officer who is the subject of that complaint.”¹⁵³ Such conduct is now captured by the newly created Untruthful Statement allegation. CCRB investigators encountered numerous instances of officers making untruthful statements about their actions during the protests. As shown in Figure 16 below, false official statements were the largest category, 60% (18 allegations), of the untruthful statement allegations stemming from the protests.

Untruthful statement allegations fall into four categories:

1. **False Official Statement:** The false official statement allegation requires a showing by a preponderance of the evidence of three elements: (1) the officer who was the subject of a CCRB complaint made an intentional statement during the course of the CCRB investigation; (2) the officer knew the statement to be untrue; and (3) the statement was material to the outcome of the investigation.
2. **Misleading Official Statement:** Misleading statements are statements in which the officer intends to misdirect the fact finder and materially alter the narrative by omitting material facts, states repeatedly that they do not recall the event or specific actions when a reasonable person would be expected to recall or have been aware, or when officers materially alter their statement after being confronted with evidence which contradicts the initial statement.
3. **Inaccurate Official Statement:** This allegation does not require an intent to deceive, but the officer’s testimony includes incorrect material information out of gross negligence about knowledge which the officer ought to possess.
4. **Impeding an Investigation:** This allegation is reserved for instances when “an officer engages in impeding actions” such as destroying digital or material evidence or refusing to provide said evidence.

Figure 16: Untruthful Statements Allegations Received & Substantiated

	2020 CCRB Received	2020 CCRB Substantiated	2020 Protests Received	2020 Protests Substantiated
False official statement	26 (22%)	24 (50%)	18 (60%)	13 (54%)
Impeding an investigation	66 (56%)		2 (7%)	2 (8%)
Inaccurate official statement	2 (2%)	1 (2%)		
Misleading official statement	24 (20%)	23 (48%)	10 (33%)	9 (38%)

Case Examples: The following are case examples involving allegations that members of service made untruthful statements during the course of a CCRB investigation. As untruthful statement allegations can only arise after a CCRB investigation has begun, they are always accompanied by a separate FADO allegation.

¹⁵³ <https://www1.nyc.gov/assets/charter/downloads/pdf/reports-ballot-issues/post-election-report-20191231.pdf>

Case One: Officer Engaged in Hate Speech and Giving Untruthful Statement, Substantiated¹⁵⁴

On June 3, 2020, and June 10, 2020, at approximately 12:00 p.m. in New York City, a Korean-American civilian with a YouTube channel uploaded two interviews with Detective Sergeant Won Chang to his public channel. DTS Chang, in Korean, discussed the summer protestors and made several comments that were demeaning to Black communities. DTS Chang positioned himself as a member of service when he made the comments. DTS Chang stated in the videos that “Black people who live here—please don’t misunderstand, the Blacks I’m talking about here are the ones to just play, eat, and sleep (muk-go, nol-go, jah-go). These Black people who just play, eat, and sleep, pass on this lifestyle to their future generations,” and that “we are not discriminating against all Blacks. There are Blacks who are educated, there are Blacks who are uneducated but act correctly and have good natures and hearts. And because Koreans have a lot of jung (affection/love), we treat them especially well. But I am talking about young Black people with criminal natures, not all Black people.”

When DTS Chang was interviewed by the CCRB about the incidents, he stated that he did not recall if he appeared in the YouTube videos. Upon being showed the videos, however, he identified himself as the speaker. DTS Chang stated that the offensive statements were not specifically about the Black community because of a pronoun he used. After viewing the video, investigators stated to DTS Chang that the pronoun use immediately followed specific statements about the Black community. DTS Chang eventually agreed with the investigators’ interpretation regarding a specific offensive statement about the Black community. The Board substantiated two Offensive Language allegations against DTS Chang for making derogatory remarks about Black people and one Untruthful Statement allegation for denying that he made the statements. The Board recommended Charges¹⁵⁵ for DTS Chang. DTS Chang retired before further action could be taken.

Case Two: Officer Using Force and Giving Untruthful Statement, Substantiated¹⁵⁶

On June 2, 2020, at approximately 8:20 p.m. in Lower Manhattan, the witness observed protestors outside her apartment. She saw a male individual face down on the ground with several officers holding him down. She watched Sergeant Daniel Nicoletti walk up to the group of officers, raise his nightstick and use it to strike the male individual on his calves. The witness captured the incident on her cellphone. It was also captured on an officer’s BWC. When Sgt. Nicoletti was interviewed by the CCRB, he stated that he did not recall striking anyone with a baton. He was shown the BWC footage of the incident and identified himself in the footage. He stated that he could not identify himself when shown the witness’ cellphone footage. He also stated that the videos did not refresh his recollection about using his baton to strike a civilian. The investigation determined that Sgt. Nicoletti used his

¹⁵⁴ CCRB Case No. 202004550

¹⁵⁵ The Board substantiated one untruthful statement – misleading official statement allegation in the presumptive category of the Disciplinary Matrix, which carries 30 suspension days plus one year dismissal probation penalty and two offensive – race allegations in the presumptive category of the Disciplinary Matrix, which each carry a 20 vacation days forfeiture penalty.

¹⁵⁶ CCRB Case No. 202004222

baton to strike the male individual and that his statement that he did not recall using his baton was intentionally misleading.

The Board substantiated one Use of Force allegation against Sgt. Nicoletti for using force against the individual and one Untruthful Statement allegation for denying that he used force against the individual. The Board recommended Charges¹⁵⁷ for Sgt. Nicoletti, but the Police Commissioner retained the case and did not discipline Sgt. Nicoletti.

¹⁵⁷ The Board substantiated four force – nightstick as club allegations in the presumptive (serious injury), aggravating (no injury), aggravating (injury), and aggravating (serious injury) categories of the Disciplinary Matrix, which each carry a termination penalty, and one untruthful statement – misleading official statement allegation in the presumptive category of the Disciplinary Matrix, which carries 30 suspension days plus one year dismissal probation penalty.

COMPLAINT DISPOSITIONS

When the CCRB is able to fully investigate a complaint, the Board resolves the misconduct allegations and complaints with one of the following five outcomes: Substantiated, Within NYPD Guidelines,¹⁵⁸ Unfounded, Unable to Determine,¹⁵⁹ and Officer Unidentified. A single complaint can involve multiple allegations against multiple members of service, and thus can contain multiple allegation dispositions. The disposition of a fully investigated complaint depends on the disposition of the fully investigated allegations within the complaint.

Of the 226 fully investigated complaints, the Board substantiated 88 complaints containing 269 allegations against 146 individual officers.¹⁶⁰ More than half of the substantiated allegations were for excessive use of force (140 allegations, 52%), mostly involving physical force and the improper use of batons and pepper spray.¹⁶¹ The Board also substantiated numerous abuse of authority allegations, including 31 allegations (12% of substantiated allegations) that officers refused to provide their name and/or shield number or obstructed their shield number.¹⁶² The Board substantiated 24 allegations (9% of substantiated allegations) of discourteous words or gestures and nine allegations of offensive language.¹⁶³

For non-substantiated complaints, the Board determined that 18 complaints were Within NYPD Guidelines; was Unable to Determine whether there was misconduct in 50 complaints; determined that 11 complaints were Unfounded; and was unable to identify the officers involved in 59 complaints.¹⁶⁴

Figure 17: Fully Investigated Complaint Dispositions

	2020 CCRB	2020 Protests
Substantiated	493 (34%)	88 (39%)
Unable to Determine	424 (29%)	50 (22%)
Within NYPD Guidelines	216 (15%)	18 (8%)
Unfounded	162 (11%)	11 (5%)
Officer(s) Unidentified	143 (10%)	59 (26%)

¹⁵⁸ Within NYPD Guidelines is reported to the Police Commissioner as Exonerated.

¹⁵⁹ Unable to Determine is reported to the Police Commissioner as Unsubstantiated.

¹⁶⁰ See Figure 17.

¹⁶¹ See Appendix B, Figure 2.

¹⁶² See Appendix B, Figure 3.

¹⁶³ See Figure 18.

¹⁶⁴ See Figure 17.

Figure 18: Fully Investigated Allegation Dispositions

		2020 CCRB	2020 Protests
Substantiated	Abuse of Authority	1,018 (12%)	72 (5%)
	Discourtesy	320 (4%)	24 (2%)
	Force	140 (2%)	140 (10%)
	Offensive Language	56 (1%)	9 (1%)
	Untruthful Statement	48 (1%)	24 (2%)
	Sub Total	1,582 (19%)	269 (19%)
Unable to Determine	Abuse of Authority	1,500 (18%)	40 (3%)
	Discourtesy	263 (3%)	29 (2%)
	Force	347 (4%)	144 (10%)
	Offensive Language	71 (1%)	16 (1%)
	Untruthful Statement	4 (0%)	6 (0%)
	Sub Total	2,185 (26%)	235 (17%)
Within NYPD Guidelines	Abuse of Authority	1,922 (23%)	36 (3%)
	Discourtesy	114 (1%)	33 (2%)
	Force	656 (8%)	166 (12%)
	Offensive Language	3 (0%)	
	Sub Total	2,695 (32%)	235 (17%)
Unfounded	Abuse of Authority	561 (7%)	22 (2%)
	Discourtesy	143 (2%)	12 (1%)
	Force	306 (4%)	20 (1%)
	Offensive Language	25 (0%)	
	Sub Total	1,035 (12%)	54 (4%)
Officer(s) Unidentified	Abuse of Authority	579 (7%)	102 (7%)
	Discourtesy	140 (2%)	97 (7%)
	Force	127 (2%)	397 (28%)
	Offensive Language	45 (1%)	13 (1%)
	Sub Total	891 (11%)	609 (43%)

The Board determined that 235 allegations were Within NYPD Guidelines,¹⁶⁵ including 109 physical force allegations, 36 nightstick/baton allegations, and nine pepper spray allegations.¹⁶⁶ It was Unable to Determine 235 allegations,¹⁶⁷ including, whether misconduct occurred for 72 physical force allegations, 34 nightstick/baton allegations, and 16 pepper spray allegations.¹⁶⁸ Of the 54 allegations that the Board Unfounded,¹⁶⁹ 10 involved physical force, two involved nightstick/baton use, and one involved the use of pepper spray.¹⁷⁰ The

¹⁶⁵ See Figure 18.

¹⁶⁶ See Appendix B, Figure 2.

¹⁶⁷ See Figure 18.

¹⁶⁸ See Appendix B, Figure 2.

¹⁶⁹ See Figure 18.

¹⁷⁰ See Appendix B, Figure 2.

Board also determined that 13 allegations involving refusal to provide name/shield or the obstruction of a shield were Unfounded.¹⁷¹

More fully investigated allegations were closed as “Officer Unidentified” (609 allegations) than any other disposition category, as shown in Figure 18. This further demonstrates how pervasive the officer identification challenges were throughout the protest investigations, which prevented the Board from holding officers who engaged in misconduct accountable for their actions.

¹⁷¹ See Appendix B, Figure 3.

DISCIPLINARY RECOMMENDATIONS

After the Board substantiates an allegation of misconduct, it makes a discipline recommendation to the Police Commissioner who has final authority over what penalty, if any, should be imposed on the officer. In 2021, pursuant to Memorandum of Understanding (MOU) with the NYPD,¹⁷² the Board began using the NYPD's Disciplinary System Penalty Guidelines, often referred to as the Disciplinary Matrix,¹⁷³ to determine its discipline recommendations. Using the Disciplinary Matrix should result in more consistent discipline recommendations from the CCRB, and consequently, less deviations by the Police Commissioner.

The Disciplinary Matrix provides a penalty for each type of misconduct. If there are multiple substantiated allegations of misconduct, the penalty for each allegation might be added together to arrive at the overall penalty for an officer. Based on the overall penalty, the CCRB selects one of the following disciplinary recommendations:

- Less than 1 day: Training¹⁷⁴
- 1–5 days: Command Discipline A¹⁷⁵
- 6–10 days: Command Discipline B¹⁷⁶
- 11+ days: Charges and Specifications¹⁷⁷

As shown in Figure 19, the Board used the Disciplinary Matrix to make penalty recommendations in 74 of the 88 total substantiated protest complaints; the other 14 substantiated complaints were determined before the CCRB's implementation of the Disciplinary Matrix. The Board recommended Charges and Specifications for 89 officers, Command Discipline B for 26 officers, and Command Discipline A for 31 officers.¹⁷⁸ The Board did not recommend Instructions¹⁷⁹ or Training for any officer who engaged in misconduct during the protests.

¹⁷² The MOU can be found here: https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-ccrb-discipline-matrix-mou-final.pdf

¹⁷³ The version of the NYPD Disciplinary Guidelines that went into effect in January 2021 can be found here: https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/disciplinary-system-penalty-guidelines-effective-01-15-2021-compet-e-.pdf The updated Guidelines, effective February 15, 2022, can be found here: https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-disciplinary-penalty-guidelines-effective-2-15-2022-final.pdf

¹⁷⁴ Given at the Police Academy or the Legal Bureau.

¹⁷⁵ Issued by the commanding officer and may include a penalty ranging from a reprimand up to the officer forfeiting five vacation days.

¹⁷⁶ Issued by the commanding officer and may include a penalty ranging from a reprimand up to the officer forfeiting ten vacation days.

¹⁷⁷ Leads to a prosecutorial process in which officer may either plead guilty or go to trial before the NYPD Deputy Commissioner of Trials or an Assistant Deputy Commissioner of Trials.

¹⁷⁸ See Figure 20.

¹⁷⁹ Guidance issued by a commanding officer.

Figure 19: Substantiated Protest Complaints

	Pre-Matrix	Matrix	Total
Substantiated (Charges)	2 (14%)	56 (76%)	58 (66%)
Substantiated (Command Discipline B)	2 (14%)	11 (15%)	13 (15%)
Substantiated (Command Discipline A)	10 (71%)	7 (9%)	17 (19%)

Figure 20: Board Penalty Recommendations for Substantiated MOS in Protest Complaints

	Pre-Matrix	Matrix	Total
Substantiated (Charges)	2 (10%)	87 (69%)	89 (61%)
Substantiated (Command Discipline B)	2 (10%)	24 (19%)	26 (18%)
Substantiated (Command Discipline A)	16 (80%)	15 (12%)	31 (21%)

After the Board sends its disciplinary recommendation to the Police Commissioner, the case against that officer can be resolved in one of the following ways:

1. If the Board recommended Instructions, Formalized Training, Command Discipline A, or Command Discipline B, the Police Commissioner determines whether to impose discipline. If the Police Commissioner chooses not to impose a recommended discipline, the CCRB is informed in writing of the decision.¹⁸⁰
2. If the Board recommended Charges and Specifications:
 - a. The Police Commissioner can retain case and choose whether to impose discipline.¹⁸¹
 - b. The officer can accept a guilty plea, subject Police Commissioner approval.¹⁸²
 - c. The officer can be prosecuted by the APU at an administrative trial. The Police Commissioner can accept or reject the trial verdict and decide whether to impose discipline.

For cases where the Board recommended Command Discipline A or Command Discipline B, the Police Commissioner did not impose discipline in 18 cases, as shown in Figure 21. The Police Commissioner imposed a lower level of discipline than recommended by the Board in four cases. The Police Commissioner has yet to issue a final disciplinary determination for four cases.¹⁸³ Three officers resigned or retired before discipline could be imposed.¹⁸⁴

¹⁸⁰ This letter differs from the letter sent when the Police Commissioner deviates from the Board’s recommendation.

¹⁸¹ Pursuant to a MOU between the CCRB and the NYPD, the Police Commissioner can retain a case when the Police Commissioner determines that the CCRB’s prosecution of a case would be detrimental to the NYPD’s disciplinary process. The MOU can be found here:

https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf.

¹⁸² The APU may reach an agreed upon disposition with the subject officer that is different from the Board-recommended penalty if there are new aggravating or mitigating facts.

¹⁸³ See Figure 23.

¹⁸⁴ See Figure 21.

Two officers elected to go to trial instead of accepting the Command Discipline recommended by the Board; their cases were forwarded to the APU for prosecution.¹⁸⁵

The Police Commissioner retained 13 cases where the Board recommended Charges and Specifications, imposing discipline on four officers.¹⁸⁶ In two cases, the officers forfeited 10 vacation days. In a third case, the officer forfeited 5 vacation days and in a fourth case, the officer forfeited three vacation days.¹⁸⁷ For the other 9 retained cases—which involved allegations such as improper pepper spray deployment,¹⁸⁸ the use of physical force to either disperse¹⁸⁹ or arrest protestors,¹⁹⁰ and giving a misleading statement¹⁹¹—the Police Commissioner declined to impose any discipline or take any instructional/corrective action at all.¹⁹²

Figure 21: NYPD Discipline Imposed in Non-APU Protest Cases

Action	Board Recommendation	NYPD Discipline	Count
Disciplinary Action	Command Discipline A	Command Discipline A	21
		Formalized Training	1
		Closed Administratively (with Command Discipline B)	1
	Command Discipline B	Command Discipline B	4
		Command Discipline A	2
		Formalized Training	1
Sub Total			30
No Disciplinary Action	Command Discipline A	Resigned	1
		No Discipline	3
	Command Discipline B	Retired	2
		No Discipline	15
	Sub Total		
Non-APU Total			51

¹⁸⁵ See Figure 24.

¹⁸⁶ See Figure 22.

¹⁸⁷ *Id.*

¹⁸⁸ CCRB Case No. 202003712

¹⁸⁹ CCRB Case No. 202003980

¹⁹⁰ CCRB Case No. 202004222

¹⁹¹ CCRB Case No. 202004300

¹⁹² See Figure 22.

Figure 22: NYPD Discipline Imposed in APU Protest Cases¹⁹³

Disciplinary Action	Closed: Resolved by plea	Forfeit vacation 15 days	1
		Forfeit vacation 11 days	1
		Forfeit vacation 10 days	1
	Closed: Previously adjudicated, with discipline	Dismissal Probation	1
		Forfeit vacation 10 days	1
		Instructions	1
		Warned and admonished	1
	Closed: Retained, with discipline	Forfeit vacation 10 days	2
		Forfeit vacation 5 days	1
		Forfeit vacation 3 days	1
	Closed: Plea set aside, Comm. Disc. A	Forfeit vacation 1 day	1
	Sub Total		12
No Disciplinary Action	Closed: Retained, without discipline	No penalty	9
	Closed: Retired		4
	Closed: Resigned		1
	Closed: SOL Expired prior to APU		1
	Sub Total		15
APU Total		27	

Figure 23: Case Pending Final NYPD Discipline Decision in Non-APU Protest Cases

Substantiated (Command Discipline A)	3
Substantiated (Command Discipline B)	1
Total	4

The administrative prosecution portion of the disciplinary process for substantiated cases being handled by the APU has just gotten underway. As shown in Figure 24, there are 62 cases pending in the APU that are at various stages of prosecution.¹⁹⁴ In one case, the CCRB has filed charges and is awaiting service of the charges upon the officer by the NYPD so that the administrative disciplinary process can begin. The APU conducted five protest trials so far that are awaiting final disposition.¹⁹⁵ Officers in two cases have entered guilty pleas that

¹⁹³ Emergency Executive Orders issued by the Governor tolled the 18-month statute of limitations for disciplinary proceedings from March 20 to November 3, 2020. The tolling provided more time to investigate complaints given the remote work and social distancing requirements imposed during the pandemic that also contributed to overall investigative delays.

¹⁹⁴ An additional two cases are pending in the APU after the subject officers rejected the Command Discipline imposed by the Police Commissioner and elected to go to trial instead, for a total of 72 cases pending in the APU.

¹⁹⁵ CCRB Case No. 202003695

are pending Police Commissioner review.¹⁹⁶ Guilty pleas have been approved by the Police Commissioner in three cases.

Figure 24: APU Stage of Cases Pending NYPD Discipline in APU Protest Cases

Officers For Whom The Board Recommended Charges

Awaiting filing of charges	1
Calendared for court appearance	1
Charges filed, awaiting service	1
Charges served, awaiting initial court appearance	42
Plea agreed - paperwork pending	4
Plea filed - awaiting approval by PC	2
Previously adjudicated	1
Trial completed, awaiting verdict	2
Trial scheduled	3
Verdict rendered - awaiting approval by PC	5
Total	62

Officers Forwarded To APU After Refusing Command Discipline

Charges served, awaiting initial court appearance	1
Verdict rendered - awaiting approval by PC	1
Total	2

¹⁹⁶ CCRB Case Nos. 202004301, 202004307

COMPLAINANT DEMOGRAPHICS

This section details the demographics of the individuals who filed the complaint or were the victim of the alleged police misconduct.

Figure 25: Gender Identity of Victims & Alleged Victims

	2020 CCRB	2020 Protests
Female/Woman	1,500 (31%)	190 (25%)
Male/Man	2,724 (56%)	259 (34%)
TGNC	14 (0%)	17 (2%)
NA	599 (12%)	289 (38%)

Figure 26: Race & Ethnicity of Victims & Alleged Victims

	2020 CCRB	2020 Protests
American Indian	22 (0%)	
Asian	120 (2%)	17 (2%)
Black	1,680 (35%)	94 (12%)
Hispanic	733 (15%)	59 (8%)
White	512 (11%)	206 (27%)
Other Race	146 (3%)	24 (3%)
Refused	103 (2%)	8 (1%)
Unknown	1,521 (31%)	347 (46%)

The vast majority of protest complaints, 52%, came from complainants who were between the ages of 20 and 40.

Figure 27: Age of Victims & Alleged Victims

	2020 CCRB	2020 Protests
00 < Age <= 09	18 (0%)	
09 < Age <= 14	45 (1%)	
14 < Age <= 17	129 (3%)	5 (1%)
17 < Age <= 20	208 (4%)	22 (3%)
20 < Age <= 24	410 (8%)	98 (13%)
24 < Age <= 29	671 (14%)	127 (17%)
29 < Age <= 34	642 (13%)	120 (16%)
34 < Age <= 39	467 (10%)	45 (6%)
39 < Age <= 44	362 (7%)	16 (2%)
44 < Age <= 49	265 (5%)	5 (1%)
49 < Age <= 54	298 (6%)	6 (1%)
54 < Age <= 59	217 (4%)	1 (0%)
59 < Age <= 64	119 (2%)	4 (1%)
64 < Age <= 69	74 (2%)	1 (0%)
69 < Age <= 74	37 (1%)	
74 < Age <= 79	16 (0%)	
79 < Age <= 99	13 (0%)	
NA	846 (17%)	305 (40%)

These figures seem to indicate that the gender, race, and ethnicity demographics of the victims/alleged victims in the protest complaints were significantly different from the victim/alleged victim demographics in overall 2020 complaints. For example, only 34% of protest victims/alleged victims identified as male compared to 56% of overall 2020 victims/alleged victims,¹⁹⁷ 27% of protest victims/alleged victims identified as White compared to 11% of overall 2020 victims/alleged victims,¹⁹⁸ and only 12% of protest victims/alleged victims identified as Black compared to 35% of overall 2020 victims/alleged victims.¹⁹⁹ Given the large percentages of protest victims/alleged victims for whom the CCRB does not have any demographic information, however, these numbers may not accurately represent the demographics of the victims/alleged victims in the protest complaints. This is likely attributable to the fact that a large number of protest complaints were initially filed through the CCRB’s website, social media, or recorded message and the person filing the complaint did not provide that information.

¹⁹⁷ See Figure 25.

¹⁹⁸ See Figure 26.

¹⁹⁹ *Id.*

RECOMMENDATIONS

The CCRB's exhaustive and in-depth investigations into the complaints it received regarding the protests revealed abuse and infringement of First Amendment rights by members of the NYPD. To prevent future abuses, the CCRB believes that there are common sense changes that the NYPD can make to its practices. The adoption of these recommendations will vastly improve the CCRB's ability to identify members of service accused of misconduct and to accurately and timely access relevant investigatory evidence, which are crucial to holding members of service accountable.

1. All members of service should receive updated and routine training on the proper use of crowd control tactics during large-scale events, including the proper use of pepper spray and batons, and the NYPD should keep track of the level of training received by officers.
2. Officer names and shield numbers should be clearly visible so that officers are easily identifiable.
3. Police should not take action against civilians who are complying with police orders to disperse.
4. Police should not interfere with legal observers and members of the press who are acting in their official capacities to document protest activity and protect First Amendment rights.
5. Officers should be assigned equipment that reflects their name and/or shield numbers. Where that is not possible, an accurate record should be kept of which officers were given each piece of riot gear so that they can be readily identified. Officer names and precinct numbers should be visible in prominent locations on helmets and riot shields.
6. Each precinct should keep a log of which members of service use departmental vehicles and members of service should report what department-issued vehicles they used during their shifts.
7. Superiors should clearly identify themselves to officers at the beginning of shifts and/or before issuing commands.
8. Officers should be given the name of the superiors to whom they will be reporting, if not their regular supervisor, and an accurate record should be kept of temporary supervision assignments.
9. High-ranking members of service (whom do not have shield numbers) should have their names and commands visible in large font on their clothing.
10. The NYPD should log which officers respond to radio calls of other officers in need of assistance.
11. BWCs must be turned on for any officer who places a distress call.
12. Supervisors who take command of public demonstrations must be equipped with BWCs and must turn them on.
13. All department-issued devices with GPS tracking capabilities, such as BWCs, should be activated at the onset of interactions with civilians.
14. The NYPD should include BWC searches on all Internal Affairs Bureau (IAB) referral logs and link digital memo book entries to the appropriate BWC footage (as previously mentioned in the CCRB's BWC report) so that CCRB investigators are provided with this evidence when the case is referred.

15. The CCRB should be authorized to directly access and search NYPD BWC footage. This would significantly improve responsive BWC collection and increase the likelihood of reaching a disposition on the merits.
16. The NYPD should set up designated medical treatment areas with FDNY staff and EMTs on duty so that civilian injuries can be addressed quickly and before they are transported for detainment or arrest processing.
17. Officers should provide property voucher cards whenever they seize property.

BACKGROUND OF THE CCRB AND GENERAL INTRODUCTION

The Charter of the City of New York established the CCRB and empowered it to receive and investigate complaints from members of the public concerning misconduct by members of the NYPD. The CCRB is required to conduct its investigations “fairly and independently, and in a manner in which the public and the police department have confidence.” Under the City Charter, the CCRB now has jurisdiction to investigate the following categories of police misconduct: **Force, Abuse of Authority, Discourtesy, and Offensive Language, and Untruthful Statement** collectively known as **FADO&U**. The CCRB also notes **other possible misconduct** when it uncovers conduct by officers that is outside its jurisdiction but warrants the attention of the Department. Examples of other possible misconduct include failures by officers to enter necessary information in their activity logs (memo books) and failures to complete required documentation of an incident. The CCRB also has the authority to investigate and make recommendations about the truthfulness of material statements made by a subject officer during a CCRB investigation of a FADO allegation.

The **Board** consists of 15 members, five appointed by City Council, five appointed by the Mayor, three designated by the Police Commissioner, and one appointed by the Public Advocate. The Chair of the Board is dually appointed by the Mayor and City Council Speaker. Under the City Charter, the Board must reflect the diversity of the city’s residents and all members must live in New York City. No member of the Board may have a law enforcement background, except those designated by the Police Commissioner, who must have had a law enforcement vocation. No Board member may be a public employee or serve in public office. Board members serve three-year terms, which can be, and often are, renewed.

The **Executive Director** is appointed by the Board and is the Chief Executive Officer, who is responsible for managing the day-to-day operations of the Agency and overseeing its more than 200 employees. The Agency consists of a 150-member **Investigations Division** responsible for investigating allegations of police misconduct and for making investigative findings. The most serious police misconduct cases, for which the Board has substantiated misconduct and recommended discipline in the form of Charges and Specifications, are prosecuted by the **Administrative Prosecution Unit (APU)**. The APU began operating in April 2013, after the CCRB and the NYPD signed a **Memorandum of Understanding** establishing the unit. APU attorneys are responsible for prosecuting, trying, and resolving cases before a Deputy Commissioner of Trials or Assistant Deputy Commissioner of Trials at One Police Plaza.

The Agency also includes a **Mediation** program that works to resolve less serious allegations between a police officer and a civilian. A complainant may **mediate** their case with the subject officer, in lieu of an investigation, with the CCRB providing a neutral, third-party mediator. None of the 2020 protest complaints were mediated.

Members of the public who file complaints of alleged misconduct by NYPD officers are referred to as **complainants**. Other civilians involved in the incident are categorized as **victims** or **witnesses**. Officers who are alleged to have committed acts of misconduct are categorized as **subject officers**, while officers who witnessed or were present for the alleged misconduct are categorized as **witness officers**. Investigators in the **Intake Unit** receive complaints from members of the public, which are filed in-person, by telephone, voicemail, an online complaint form, or are referred to the Agency by another agency. When a **complaint** is filed, the CCRB assigns it a unique complaint identification number. The CCRB also refers to complaints as **cases**. A single complaint or case may contain multiple FADO&U **allegations**.

During an **investigation**, the CCRB's civilian investigators gather documentary and video evidence and conduct interviews with complainants, victims, civilian witnesses, subject officers, and witness officers in order to determine whether the allegations occurred and whether they constitute misconduct. At the conclusion of the investigation, a **closing report** is prepared, summarizing the relevant evidence, and providing a factual and legal analysis of the allegations. The closing report and investigative file are provided to the Board before it reaches a **disposition**. A panel of three Board members (**Board Panel**) reviews the material, makes findings for each allegation in the case, and if allegations are **substantiated**, provides recommendations as to the discipline that should be imposed on the subject officers.

DISPOSITIONS

The **Disposition** is the Board's finding of the outcome of a case.

Not Fully Investigated Dispositions

Not all complaints and allegations can be fully investigated. When a complaint or allegation is closed without being fully investigated, it is given one of the following dispositions:

- When the complainant or alleged victim was not available for an interview, the disposition is **Unable to Investigate**.
- When a complainant declines to cooperate with an investigation on the advice of their attorney, the disposition is **Closed Pending Litigation**.
- When the complainant/alleged victim asks that their complaint be withdrawn, the case is closed as **Withdrawn**.
- When the subject officer retires before the investigation can be completed the disposition is **Miscellaneous – Subject Retired**.
- When CCRB is not able to identify any complainant or alleged victim the disposition is **Administratively Closed**.

Fully Investigated Dispositions

Allegations that are fully investigated by the CCRB generally result in one of five outcomes:

- An allegation is **Substantiated** if the alleged conduct is found to have occurred and is improper based on a preponderance of the evidence.¹
- An allegation is **Within NYPD Guidelines**² if the alleged conduct is found to have occurred but was not found to be improper by a preponderance of the evidence. Allegations may be Within NYPD Guidelines if the officer’s behavior was found to be allowed under the law and/or the Patrol Guide. This does not mean that the complainant was untruthful in their account of the incident. Many members of the public are not aware of the range of law enforcement activities that are legally permissible and within the boundaries of proper NYPD protocol.
- An allegation is **Unfounded** if the alleged conduct is found by a preponderance of the evidence not to have occurred as the complainant described.
- An allegation is closed as **Officer Unidentified** if the CCRB was unable to identify the officer accused of misconduct.
- An allegation is closed as **Unable to Determine**³ if there is insufficient evidence to determine whether or not misconduct occurred by a preponderance of the evidence.

Appendix A Figure 1: Disposition of 2020 Protest Complaints

Fully Investigated	Substantiated	88 (27%)
	Unable to Determine	50 (16%)
	Within NYPD Guidelines	18 (6%)
	Unfounded	11 (3%)
	Officer(s) Unidentified	59 (18%)
Not Fully Investigated	Administratively Closed	1 (0%)
	Closed - Pending Litigation	28 (9%)
	Complaint Withdrawn	12 (4%)
	Miscellaneous - Subject Retired	2 (1%)
	Unable to Investigate	50 (16%)
Open Cases	Pending	2 (1%)

¹ “Preponderance of the evidence” is an evidentiary standard used in civil cases, and is commonly interpreted to mean that the fact in question was determined to be “more likely than not” true. See *Foran v. Murphy*, 73 Misc.2d 486 (2d Dept 1973) (“In a disciplinary proceeding, . . . it is sufficient if respondent finds the specifications established by a fair preponderance of the evidence.”); *Dep’t of Correction v. Jones*, OATH Index No. 393/04 (May 3, 2004) (“burden of proof in this administrative proceeding to prove misconduct by a preponderance of the credible evidence”).

² Within NYPD Guidelines is reported to the Commissioner as Exonerated, meaning there was a preponderance of the evidence that the acts alleged occurred but did not constitute misconduct.

³ Unable to Determine is reported to the Commissioner as Unsubstantiated, meaning that there was insufficient evidence to establish whether or not there was an act of misconduct.

BOARD DISCIPLINARY RECOMMENDATIONS

When the CCRB substantiates an allegation of misconduct, the Board makes a disciplinary recommendation to the NYPD for the officer found to have committed the misconduct.

Although the CCRB recommends the discipline that it deems appropriate, pursuant to the New York City Charter⁴, New York City Administrative Code⁵, and New York State Civil Service Law,⁶ the Police Commissioner has final approval over all member of service (MOS) discipline. The Commissioner can accept, reject, or modify any discipline recommendation made by the CCRB.

There are five basic types of officer discipline, listed below in ascending order of severity:

1. **Instructions:** guidance issued by a commanding officer.
2. **Formalized Training:** given at the Police Academy or by the Legal or Risk Management Bureaus.
3. **Command Discipline A:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting five vacation days. A Command Discipline A is automatically removed from a MOS' Central Personnel Index after one year.⁷
4. **Command Discipline B:** issued by the commanding officer and may include a penalty ranging from instructions up to the MOS forfeiting 10 vacation days. A MOS can request that a Command Discipline B be removed from his or her Central Personnel Index after three years.
5. **Charges and Specifications:** leads to a prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT), who makes a guilty or not guilty determination. The Police Commissioner has final approval of all dispositions.

Prior to February 2021, the Board's discipline recommendation for an officer was understood to be the same as the single most severe discipline recommendation made for an allegation substantiated against the officer. In other words, the Board's discipline recommendations did not reflect the cumulative weight of the allegations substantiated against an officer: an officer with five substantiated allegations resulting in Command Discipline A recommendations would be given the same overall discipline recommendation as an officer with only one substantiated allegation resulting in a Command Discipline A recommendation.

⁴ New York City Charter §440(d)3

⁵ New York City Administrative Code § 15-08; New York City Administrative Code § 15-17

⁶ NYS Civil Service Law § 75(3-a).

⁷ A Central Personnel Index is a MOS's personnel record.

Pursuant to a February 2021 Memorandum of Understanding between the CCRB and the NYPD,⁸ the Board utilizes the NYPD's Disciplinary System Penalty Guidelines, often referred to as the Disciplinary Matrix,⁹ to determine its discipline recommendation. Using the Disciplinary Matrix enables the CCRB to provide more consistent discipline recommendations, which should, in turn, allow substantiated complaints to receive a more straightforward evaluation by the Police Commissioner.

The Disciplinary Matrix is a list of the Department's penalty recommendations—with variations dependent on the presence of mitigating or aggravating circumstances—for each specific type of officer misconduct. The Disciplinary Matrix measures penalty severity in terms of vacation days forfeited and the CCRB uses these values to determine the overall penalty recommendation for officers found to have committed misconduct in a complaint. There are three steps in the CCRB process to determine an officer's penalty recommendation:

1. Using the Disciplinary Matrix, the CCRB assigns a penalty day value to each substantiated allegation of misconduct.
2. The penalty day value of all the substantiated allegations against an officer is summed to arrive at a single overall penalty day value for the officer's misconduct in the complaint.
3. Based on the overall penalty day value, CCRB makes the following disciplinary recommendations:
 - Less than 1 day: Training
 - 1–5 days: Command Discipline A
 - 6–10 days: Command Discipline B
 - 11+ days: Charges

⁸ On February 4, 2021, the CCRB and the NYPD signed an agreement to implement the NYPD's Disciplinary Guidelines, which lays out penalties for a wide range of police misconduct. The agreement can be found here: https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-ccrb-discipline-matrix-mou-final.pdf

⁹ The version of the NYPD Disciplinary Guidelines that went into effect in January 2021 can be found here: https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/disciplinary-system-penalty-guidelines-effective-01-15-2021-compet-e-.pdf The updated Guidelines, effective February 15, 2022, can be found here: https://www1.nyc.gov/assets/nypd/downloads/pdf/public_information/nypd-disciplinary-penalty-guidelines-effective-2-15-2022-final.pdf

NYPD DISCIPLINARY PROCESS

After the Board sends its disciplinary recommendation to the Police Commissioner, the case against that MOS can be resolved in one of the following ways:

1. If the Board recommended the following: (i) Instructions, (ii) Formalized Training, (iii) Command Discipline A, or (iv) Command Discipline B:
 - a. Police Commissioner determines whether to impose discipline. For Command Discipline A/B recommendations, the MOS may accept the discipline or reject the discipline and be tried by the CCRB's APU¹⁰.
 - b. If the Police Commissioner chooses not to impose a recommended penalty, the CCRB is informed in writing¹¹ of the decision.
2. If the Board recommended Charges and Specifications:¹²
 - a. Police Commissioner can retain case and choose whether to impose discipline.¹³
 - b. The MOS can accept a guilty plea, subject to approval by the Police Commissioner.¹⁴
 - c. The MOS can be prosecuted by the CCRB's Administrative Prosecution Unit¹⁵ (APU) at an administrative trial. The Police Commissioner can either accept or reject the verdict and decide whether to impose discipline.
3. The MOS can retire or resign from the Department before any discipline can be imposed

¹⁰ Prior to 2022, cases where the officer refused a Command Discipline A/B discipline were tried by NYPD's Department Advocates Office (DAO).

¹¹ This letter differs from the letters the Police Commissioner sends the agency when they deviate from a Board recommendation.

¹² Leads to a prosecutorial process in which a MOS may either enter a guilty plea or go to trial before the NYPD Deputy Commissioner of Trials or an Assistant Deputy Commissioner of Trials, who makes a guilty or not guilty determination.

¹³ The Police Commissioner can retain cases pursuant to Provision Two of the April 2012 Memorandum of Understanding between the CCRB and the NYPD concerning the processing of substantiated complaints, which can be found here: https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf. Under Provision Two, the Police Commissioner can retain a case in the limited instances where the Police Commissioner determines that the CCRB's prosecution of a case would be detrimental to the Department's disciplinary process, such as when there is a parallel or related criminal investigation or the subject officer has no disciplinary history or prior substantiated CCRB complaint, and based on that record, the interests of justice would not be served by the CCRB's prosecution.

¹⁴ The APU may reach an agreed upon disposition with the subject officer in a case that is different from the Board-recommended penalty if new facts appear that either mitigate or aggravate the case, such as the subject's willingness to take responsibility for their actions or elements of the subject's discipline history that were unknown at the time of the Board's vote.

¹⁵ Under the terms of a Memorandum of Understanding (MOU) between the CCRB and the NYPD (https://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf), signed in 2012 and in effect since 2013, the APU prosecutes misconduct before the Deputy Commissioner of Trials (DCT) or an Assistant Deputy Commissioner of Trials (ADCT). The MOS can accept a plea offer from an APU prosecutor in lieu of a trial. If the MOS chooses to go to trial and is found guilty, the trial commissioner will recommend a penalty. The Police Commissioner may accept, reject, or modify any penalty recommendation, no matter how it is reached.

APPENDIX B

Listed below, in alphabetical order, are the 146 officers against whom an allegation was substantiated in a 2020 protest complaint. Note that some officers are listed more than once because they had allegations substantiated against them in more than one complaint. A blank entry in the “PENALTY IMPOSED” column indicates that the final disciplinary decision is still pending. A blank entry in the “APU CASE STAGE” column indicates that the case is not an APU case.

Appendix B Figure1: MOS with Substantiated Allegations in Protest Complaints

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
1	Richard Accardi	PO	202004800	COMMAND DISCIPLINE A	D	COMMAND DISCIPLINE - A	
2	Justin Adetimirin	PO	202004474	COMMAND DISCIPLINE A	F	NO DISCIPLINE	
3	Glen Alava	PO	202004586	COMMAND DISCIPLINE B	A	COMMAND DISCIPLINE - A (VACATION: 3 DAYS)	
4	Alfredo Alba	PO	202102795	COMMAND DISCIPLINE A	D		Verdict rendered - awaiting approval by PC
5	Adib Algahiti	PO	202003770	CHARGES	D/O		Calendared for court appearance
6	Luis Alicea	PO	202100445	CHARGES	A	RETIRED	Closed: Retired
7	Daniel Alvarez	PO	202003710	CHARGES	F		Trial completed, awaiting verdict
8	Evan Angels	PO	202003712	CHARGES	F	NO DISCIPLINE	Closed: Retained, without discipline
9	Matthew Ansbro	PO	202004586	COMMAND DISCIPLINE B	A	COMMAND DISCIPLINE - A (VACATION: 3 DAYS)	
10	Bilal Ates	SGT	202003813	CHARGES	F		Charges served, awaiting initial court appearance
11	Ryan Bradley	PO	202003817	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
12	Keith Bryan	SGT	202004326	CHARGES	F		Charges served, awaiting initial court appearance
13	Anthony Buonomo	PO	202005664	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
14	Michael Butler	LT	202003788	CHARGES	F		Verdict rendered - awaiting approval by PC
15	Kyle Calenda	PO	202003715	CHARGES	F		Plea agreed - paperwork pending
16	Andrew Campbell	SGT	202004899	CHARGES	F/U		Charges served, awaiting initial court appearance

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
17	Anthony Carolei	PO	202005916	CHARGES	F/A/U		Charges served, awaiting initial court appearance
18	Christopher Catalano	SGT	202004307	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
19	Stephen Centore	PO	202004055	COMMAND DISCIPLINE B	D/O		
20	Stephen Centore	PO	202004301	COMMAND DISCIPLINE A	D		
21	Stephen Centore	PO	202007535	CHARGES	F		Charges served, awaiting initial court appearance
22	Won Chang	DET	202004550	CHARGES	O/U	RETIRED	Closed: Retired
23	Jianwei Chen	PO	202003945	CHARGES	U		Charges served, awaiting initial court appearance
24	Kachun Cheung	PO	202004800	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
25	Daniel Chin	PO	202003799	CHARGES	F/A/D/U		Charges served, awaiting initial court appearance
26	Christian Chiqui	PO	202003797	CHARGES	F/A	FORFEIT VACATION: 3 DAYS	Closed: Retained, with discipline
27	Amel Cirikovic	PO	202003842	COMMAND DISCIPLINE B	F	FORMALIZED TRAINING	
28	Jessica Clinton	PO	202003695	COMMAND DISCIPLINE A	F	COMMAND DISCIPLINE - A	
29	Jason Cortes	LT	202003717	COMMAND DISCIPLINE B	F	COMMAND DISCIPLINE - B (VACATION: 8 DAYS)	
30	Steven Counihan	SGT	202004301	CHARGES	F/A		Charges served, awaiting initial court appearance
31	John Dadamo	DC	202102650	CHARGES	F		Charges served, awaiting initial court appearance
32	Vincent Dandraia	PO	202003692	CHARGES	F/A		Awaiting filing of charges
33	Alfred Davidson	DET	202003813	CHARGES	F	NO DISCIPLINE	Closed: SOL Expired prior to APU
34	Yuriy Demchenko	PO	202003632	CHARGES	F		Charges served, awaiting initial court appearance
35	Joseph Donato	PO	202003893	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
36	Jonathan Dones	PO	202004800	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
37	Gerard Dowling	INS	202004684	CHARGES	F		Charges filed, awaiting service

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
38	Eric Dym	LT	202004301	CHARGES	F/A	FORFEIT VACATION: 15 DAYS	Closed: Resolved by plea
39	Michael Eckerle	PO	202003817	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
40	Mohamed Elhanafi	PO	202003707	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
41	Anthony Fernandez	DET	202004048	CHARGES	F		Charges served, awaiting initial court appearance
42	Frank Fiorenza	PO	202004307	CHARGES	F		Charges served, awaiting initial court appearance
43	Robert Fisher	CPT	202003834	CHARGES	A		Charges served, awaiting initial court appearance
44	Andrew Fitts	SGT	202003901	CHARGES	F/U		Charges served, awaiting initial court appearance
45	Thomas Foronjy	PO	202003817	COMMAND DISCIPLINE A	A	RESIGNED	
46	Thomas Foronjy	PO	202003834	CHARGES	A/D	NO DISCIPLINE	Closed: Resigned
47	Andre Gaddy	PO	202003879	CHARGES	F	FORFEIT VACATION: 5 DAYS	Closed: Retained, with discipline
48	Evangelos Galatas	PO	202003999	CHARGES	O		Charges served, awaiting initial court appearance
49	Joshua Garcia	PO	202003903	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A (VACATION: 3 DAYS)	
50	Joseph Guarini	PO	202003817	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
51	Vincent Harris	PO	202003712	CHARGES	F/A	NO DISCIPLINE	Closed: Retained, without discipline
52	Ali Hassan	PO	202004300	COMMAND DISCIPLINE B	F/U	NO DISCIPLINE	
53	Fritz Hector	PO	202005295	COMMAND DISCIPLINE B	F	COMMAND DISCIPLINE - B (VACATION: 8 DAYS)	
54	Christopher Hewitson	SGT	202003860	CHARGES	F/A/U		Charges served, awaiting initial court appearance
55	Andrew Hillery	DI	202005051	COMMAND DISCIPLINE B	F	RETIRED	
56	Liosmely Holguin	PO	202004326	CHARGES	F/U		Charges served, awaiting initial court appearance
57	Adnan Hussain	PO	202100617	CHARGES	F/A		Charges served, awaiting initial court appearance

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
58	Joshua Jiminez	PO	202003712	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
59	Corey Johnson	PO	202003815	CHARGES	F/U		Trial scheduled
60	Robert Klein	DET	202101848	CHARGES	D/O	NO DISCIPLINE	Closed: Retained, without discipline
61	Michael Kovalik	PO	202003695	CHARGES	A		Verdict rendered - awaiting approval by PC
62	Evgeny Kramar	PO	202004110	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A (VACATION: 1 DAY)	
63	David Lamarre	SGT	202004315	COMMAND DISCIPLINE A	D	NO DISCIPLINE	
64	John Lamneck	PO	202004307	CHARGES	D/O	FORFEIT VACATION: 1 DAYS	Closed: Plea set aside, Comm. Disc. A
65	Jesse Lance	INS	202003815	CHARGES	F/U		Trial scheduled
66	Toby Lau	PO	202004642	COMMAND DISCIPLINE A	A	CLOSED ADMINISTRATIVELY (COMMAND DISCIPLINE - B)	
67	Enrico Laurretta	PO	202003697	CHARGES	O		Charges served, awaiting initial court appearance
68	Brian Mahon	PO	202003847	CHARGES	F/U		Plea filed - awaiting approval by PC
69	Johnny Marquez	PO	202003797	CHARGES	F/U		Charges served, awaiting initial court appearance
70	Johnny Marquez	PO	202006547	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
71	Antonio Martinez	PO	202004058	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
72	Veronica Martino	PO	202100617	CHARGES	F/A		Charges served, awaiting initial court appearance
73	James Mccarthy	DC	202003712	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
74	Malik Mccloud	PO	202004301	CHARGES	F/A	RETIRED	Closed: Retired
75	Craig Mcgrath	PO	202003706	CHARGES	F	FORFEIT VACATION: 10 DAYS	Closed: Previously adjudicated, with discipline
76	Adam Mellusi	LT	202004301	CHARGES	F		Verdict rendered - awaiting approval by PC
77	Daniel Mendez	PO	202003753	COMMAND DISCIPLINE A	F	COMMAND DISCIPLINE - A	
78	Anthony Mesa	PO	202004112	CHARGES	F		Charges served, awaiting initial court appearance

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
79	John Migliaccio	PO	202004301	CHARGES	F/A		Plea agreed - paperwork pending
80	John Migliaccio	PO	202100606	CHARGES	F		Plea agreed - paperwork pending
81	Michael Miller	PO	202004643	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
82	Anthony Misiano	PO	202003817	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
83	Desean Mullings	PO	202003854	CHARGES	U		Charges served, awaiting initial court appearance
84	William Myhre	PO	202003851	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
85	Luis Negron	PO	202004071	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
86	Daniel Nicoletti	SGT	202004222	CHARGES	F/U	NO DISCIPLINE	Closed: Retained, without discipline
87	Joseph Nicoletti	PO	202003973	CHARGES	F	WARNED AND ADMONISHED	Closed: Previously adjudicated, with discipline
88	Elias Nikas	DI	202004123	CHARGES	A		Charges served, awaiting initial court appearance
89	Osvaldo Nunez	PO	202003731	COMMAND DISCIPLINE A	F	COMMAND DISCIPLINE - A (VACATION: 0.50 DAYS)	
90	John Oconnell	CPT	202003632	CHARGES	F		Charges served, awaiting initial court appearance
91	Robert Ohare	DI	202004800	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
92	Joseph Orlando	PO	202004046	CHARGES	F/U		Charges served, awaiting initial court appearance
93	Martin Ortiz	PO	202003945	CHARGES	U		Charges served, awaiting initial court appearance
94	Steven Ortiz	INS	202003920	CHARGES	A	NO DISCIPLINE	Closed: Retained, without discipline
95	Katherine Osipowich	PO	202004326	CHARGES	U		Charges served, awaiting initial court appearance
96	Zachary Palladino	PO	202003834	CHARGES	A		Charges served, awaiting initial court appearance
97	Michael Palmese	PO	202003834	CHARGES	A/D	FORFEIT VACATION: 11 DAYS	Closed: Resolved by plea
98	James Palumbo	INSP	202200788	CHARGES	F		Trial scheduled

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
99	Brandon Patane	PO	202003805	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
100	Stephen Patti	PO	202003817	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
101	Jonathan Pena	PO	202003817	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
102	Matthew Peters	SGT	202003731	CHARGES	F		Plea agreed - paperwork pending
103	Justin Pichon	PO	202005664	CHARGES	F	NO DISCIPLINE	Closed: Retained, without discipline
104	Christopher Pierre	PO	202003797	CHARGES	F	RETIRED	Closed: Retired
105	Michael Pilecki	DC	202005168	CHARGES	A		Charges served, awaiting initial court appearance
106	Dynel Powell	PO	202101848	COMMAND DISCIPLINE B	O	NO DISCIPLINE	
107	Jason Rago	DET	202106215	CHARGES	F	INSTRUCTIONS	Closed: Previously adjudicated, with discipline
108	Ronald Ramos	CPT	202003717	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
109	Nicholas Rios	PO	202004183	CHARGES	F/A	FORFEIT VACATION: 10 DAYS	Closed: Retained, with discipline
110	Daniel Rivera	PO	202003903	COMMAND DISCIPLINE B	A	COMMAND DISCIPLINE - B (VACATION: 6 DAYS)	
111	Hansel Rocha	PO	202005664	CHARGES	F	NO DISCIPLINE	Closed: Retained, without discipline
112	Jan Rogowski	PO	202004990	CHARGES	F/U		Charges served, awaiting initial court appearance
113	Arthur Roldan	PO	202003710	COMMAND DISCIPLINE A	A		
114	Danny Romero	PO	202004402	CHARGES	U		Charges served, awaiting initial court appearance
115	Robert Rufrano	PO	202004123	COMMAND DISCIPLINE A	A	FORMALIZED TRAINING	
116	Anthony Ruggiero	PO	202004780	COMMAND DISCIPLINE A	F	COMMAND DISCIPLINE - A	
117	Ramiro Ruiz	SGT	202100617	CHARGES	F/A		Charges served, awaiting initial court appearance
118	Majer Saleh	SGT	202003773	CHARGES	F		Previously adjudicated
119	Andrey Samusev	PO	202003710	CHARGES	F		Trial completed, awaiting verdict
120	Sindy Sanchez	SGT	202003715	CHARGES	F		Plea filed - awaiting approval by PC
121	Christopher Schmidt	LT	202106374	COMMAND DISCIPLINE A	D	NO DISCIPLINE	

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
122	Anthony Sclafani	PO	202003834	CHARGES	F/A		Charges served, awaiting initial court appearance
123	Junior Sesay	DET	202003854	CHARGES	A/U		Charges served, awaiting initial court appearance
124	Tarik Sheppard	CPT	202003980	CHARGES	F	NO DISCIPLINE	Closed: Retained, without discipline
125	Michael Sher	PO	202003703	CHARGES	F/A/D	DISMISSAL PROBATION	Closed: Previously adjudicated, with discipline
126	James Shouldis	PO	202004800	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
127	Eduardo Silva	LT	202003770	CHARGES	F		Verdict rendered - awaiting approval by PC
128	Steve Silverstein	PO	202006126	COMMAND DISCIPLINE B	F		Charges served, awaiting initial court appearance
129	Isaac Soberal	CPT	202004301	CHARGES	F	FORFEIT VACATION: 10 DAYS	Closed: Retained, with discipline
130	Ray Soriano	PO	202004203	CHARGES	F		Charges served, awaiting initial court appearance
131	Antony Stevens	PO	202004301	COMMAND DISCIPLINE A	D		
132	Adan Suazorodas	PO	202100617	CHARGES	F/A		Charges served, awaiting initial court appearance
133	Joseph Taylor	CPT	202003715	CHARGES	D/U		Charges served, awaiting initial court appearance
134	Joseph Taylor	CPT	202005365	COMMAND DISCIPLINE A	D	COMMAND DISCIPLINE - A	
135	Joseph Taylor	CPT	202008487	COMMAND DISCIPLINE A	D	COMMAND DISCIPLINE - A	
136	Christopher Treubig	CPT	202006494	CHARGES	A/D		Charges served, awaiting initial court appearance
137	Mohammed Uddin	PO	202004644	COMMAND DISCIPLINE A	A	COMMAND DISCIPLINE - A	
138	Curtis Valley	PO	202004679	COMMAND DISCIPLINE B	F/A/D	RETIRED	
139	Miguel Vanbrakle	PO	202003805	COMMAND DISCIPLINE B	F	NO DISCIPLINE	
140	Jerome Victor	DET	202004048	CHARGES	F	FORFEIT VACATION: 10 DAYS	Closed: Resolved by plea
141	Joel Witriol	LT	202004055	CHARGES	F		Verdict rendered - awaiting approval by PC
142	Robert Wong	SGT	202003969	CHARGES	F	NO DISCIPLINE	Closed: Retained, without discipline
143	Mateusz Wybraniec	PO	202005916	CHARGES	F/A		Charges served, awaiting initial court appearance

#	OFFICER	RANK	COMPLAINT	PENALTY RECOMMENDED	FADO & U	PENALTY IMPOSED	APU CASE STAGE
144	Vitaliy Zelikov	CPT	202004408	CHARGES	F		Charges served, awaiting initial court appearance
145	Elliot Zinstein	SGT	202004203	CHARGES	F		Charges served, awaiting initial court appearance
146	Elliot Zinstein	SGT	202004315	COMMAND DISCIPLINE B	F	COMMAND DISCIPLINE - B (VACATION: 5 DAYS)	

The following charts show the allegations dispositions for all fully investigated allegations in protest cases.

Appendix B Figure 2: Outcome of Fully Investigated Force Allegations in Protest Complaints

	Substantiated	Unable to Determine	Within NYPD Guidelines	Unfounded	Officer(s) Unidentified
Chokehold	2 (17%)	3 (25%)		1 (8%)	6 (50%)
Gun Pointed	1 (50%)		1 (50%)		
Handcuffs too tight					2 (100%)
Hit against inanimate object	4 (24%)	2 (12%)	6 (35%)	2 (12%)	3 (18%)
Less Than Lethal Force/Device	1 (100%)				
Nightstick as club (incl asp & baton)	34 (16%)	34 (16%)	36 (17%)	2 (1%)	109 (51%)
Nonlethal restraining device	1 (100%)				
Other	1 (13%)		1 (13%)		6 (75%)
Other blunt instrument as a club	3 (19%)	4 (25%)	3 (19%)	1 (6%)	5 (31%)
Pepper spray	28 (32%)	16 (18%)	9 (10%)	1 (1%)	33 (38%)
Physical force	59 (13%)	72 (16%)	110 (24%)	10 (2%)	213 (46%)
Police shield		2 (20%)			8 (80%)
Restricted Breathing		7 (33%)		2 (10%)	12 (57%)
Vehicle	6 (55%)	4 (36%)		1 (9%)	
Total	140 (16%)	144 (17%)	166 (19%)	20 (2%)	397 (46%)

Appendix B Figure 3: Outcome of Fully Investigated Abuse of Authority Allegations in Protest Complaints

	Substantiated	Unable to Determine	Within NYPD Guidelines	Unfounded	Officer(s) Unidentified
Electronic device information deletion					1 (100%)
Failure to provide RTKA card		1 (50%)			1 (50%)
Gun Drawn	1 (100%)				
Interference with recording	10 (40%)	3 (12%)	3 (12%)		9 (36%)
Other: Detainment	2 (13%)		13 (87%)		
Other: Obstructed Shield	13 (65%)	2 (10%)		2 (10%)	3 (15%)
Photography/Videography	2 (40%)		1 (20%)		2 (40%)
Property damaged	6 (21%)	6 (21%)	2 (7%)		14 (50%)
Question		1 (14%)	4 (57%)		2 (29%)
Refusal to obtain medical treatment	5 (21%)	11 (46%)		4 (17%)	4 (17%)
Refusal to provide name	2 (18%)	2 (18%)		6 (55%)	1 (9%)
Refusal to provide shield number	16 (50%)	5 (16%)		5 (16%)	6 (19%)
Refusal to show arrest warrant		1 (50%)			1 (50%)
Retaliatory arrest	2 (100%)				
Search (of person)					1 (100%)
Search of recording device					1 (100%)
Seizure of property	3 (38%)	1 (13%)			4 (50%)
Sexual Miscon (Inappropriate Touching)		1 (100%)			
Stop	1 (11%)		4 (44%)		4 (44%)
Strip-searched				1 (50%)	1 (50%)
Threat of arrest	1 (6%)		1 (6%)		15 (88%)
Threat of force (verbal or physical)	7 (13%)	6 (11%)	8 (14%)	4 (7%)	31 (55%)
Threat to damage/seize property					1 (100%)
Unlawful Arrest	1 (100%)				
Total	72 (26%)	40 (15%)	36 (13%)	22 (8%)	102 (38%)

Appendix B Figure 4: Outcome of Fully Investigated Discourtesy Allegations in Protest Complaints

	Substantiated	Unable to Determine	Within NYPD Guidelines	Unfounded	Officer(s) Unidentified
Action	4 (24%)	4 (24%)		2 (12%)	7 (41%)
Demeanor/tone		1 (50%)			1 (50%)
Gesture					1 (100%)
Other		1 (100%)			
Word	20 (11%)	23 (13%)	33 (19%)	10 (6%)	88 (51%)
Total	24 (12%)	29 (15%)	33 (17%)	12 (6%)	97 (50%)

Appendix B Figure 5: Outcome of Fully Investigated Offensive Language Allegations in Protest Complaints

	Substantiated	Unable to Determine	Officer(s) Unidentified
Gender	3 (18%)	8 (47%)	6 (35%)
Gender Identity	2 (67%)	1 (33%)	
Other	2 (25%)	4 (50%)	2 (25%)
Race	2 (29%)	1 (14%)	4 (57%)
Sexual orientation		2 (67%)	1 (33%)
Total	9 (24%)	16 (42%)	13 (34%)

Appendix B Figure 6: Outcome of Fully Investigated Untruthful Statement Allegations in Protest Complaints

	Substantiated	Unable to Determine
False official statement	13 (72%)	5 (28%)
Impeding an investigation	2 (100%)	
Misleading official statement	9 (90%)	1 (10%)
Total	24 (80%)	6 (20%)

Appendix B Figure 7: Other Possible Misconduct Allegations in Protest Complaints

Failure to prepare a memo book entry	48
Improper use of body-worn camera	101
Other Possible Misconduct	60
Total	209

APPENDIX C

POLICE COMMISSIONER DOWNWARD DEPARTURE LETTERS

As a result of the November 2019 New York City Charter amendments, the Police Commissioner must submit a letter to the CCRB explaining any downward departures from the Board's disciplinary recommendations¹.

Appendix C reproduces all of the departure letters related to protest complaints.

¹ New York City Charter §440(d)3



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

March 25, 2022

POLICE COMMISSIONER'S PENALTY DEPARTURE

Re: CCRB Case No. 202003707 regarding Police Officer Mohamed Elhanafi, Tax No. 955897 (DADS No. 2021-23660)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Police Officer Elhanafi do not rise to the level of actionable misconduct. Police Officer Elhanafi utilized his tactics and training in order to disperse an unruly crowd. The available video footage of the incident does not depict the totality of the incident and lacks any context that would allow the Police Commissioner to discern whether Police Officer Elhanafi's actions were improper.

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Elhanafi receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-02 (Use of Force).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office

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POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 17, 2021

POLICE COMMISSIONER'S PENALTY DEPARTURE

Re: CCRB Case No. 202003712 regarding Deputy Chief James McCarthy, Tax No. 885671 (DADS No. 2021-23467) and Police Officer Joshua Jiminez, Tax No. 963583 (DADS No. 2021-23465)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter in its entirety and determined that the actions of Deputy Chief McCarthy and Police Officer Joshua Jiminez do not rise to the level of actionable misconduct.

Deputy Chief McCarthy and Police Officer Jiminez were faced with a hostile and violent crowd. Deputy Chief McCarthy and Police Officer Jiminez, together with other members of service present at the protest, were under a constant barrage of projectiles, which included bricks and bottles. In the midst of this intense and chaotic situation, Deputy Chief McCarthy and Police Officer Jiminez provided security to their fellow officers who were affecting a lawful arrest.

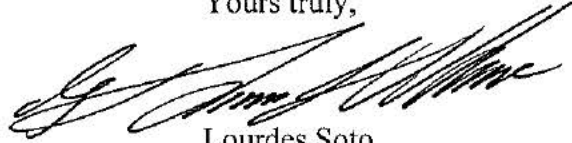
It was during this time that Deputy Chief McCarthy deployed his Oleoresin Capsicum Pepper Spray to keep back a violent crowd that was advancing upon the arresting officers. It was also during this time that Police Officer Jiminez utilized minimal force to ensure that neither he or his fellow officers were injured by a projectile that was moments earlier launched in their direction. In light of the foregoing facts, the Police Commissioner has determined that the force used by Deputy Chief McCarthy and Police Officer Jiminez does not warrant discipline.

Therefore, Deputy Chief McCarthy will receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-07 (Use of Oleoresin Capsicum Pepper Spray Devices).

Finally, Police Officer Jiminez will receive no disciplinary action for the alleged violation of Patrol Guide Procedures 221-01 (Force Guidelines) and 221-02 (Use of Force).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office





POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 17, 2021

POLICE COMMISSIONER'S PENALTY DEPARTURE

Re: CCRB Case No. 202003712 regarding Deputy Chief James McCarthy, Tax No. 885671 (DADS No. 2021-23467) and Police Officer Joshua Jiminez, Tax No. 963583 (DADS No. 2021-23465)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter in its entirety and determined that the actions of Deputy Chief McCarthy and Police Officer Joshua Jiminez do not rise to the level of actionable misconduct.

Deputy Chief McCarthy and Police Officer Jiminez were faced with a hostile and violent crowd. Deputy Chief McCarthy and Police Officer Jiminez, together with other members of service present at the protest, were under a constant barrage of projectiles, which included bricks and bottles. In the midst of this intense and chaotic situation, Deputy Chief McCarthy and Police Officer Jiminez provided security to their fellow officers who were affecting a lawful arrest.

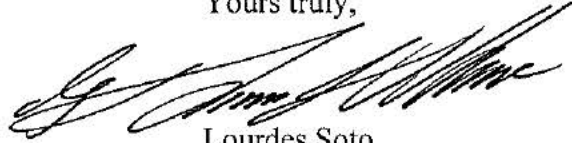
It was during this time that Deputy Chief McCarthy deployed his Oleoresin Capsicum Pepper Spray to keep back a violent crowd that was advancing upon the arresting officers. It was also during this time that Police Officer Jiminez utilized minimal force to ensure that neither he or his fellow officers were injured by a projectile that was moments earlier launched in their direction. In light of the foregoing facts, the Police Commissioner has determined that the force used by Deputy Chief McCarthy and Police Officer Jiminez does not warrant discipline.

Therefore, Deputy Chief McCarthy will receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-07 (Use of Oleoresin Capsicum Pepper Spray Devices).

Finally, Police Officer Jiminez will receive no disciplinary action for the alleged violation of Patrol Guide Procedures 221-01 (Force Guidelines) and 221-02 (Use of Force).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office





POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENT

Re: CCRB Case No. 202003717 regarding Captain Ronald Ramos, Tax No. [REDACTED] (DADS No. 2022-24869)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that no disciplinary action will be taken against Captain Ramos. In this matter, the Police Commissioner has reviewed the relevant available footage provided by the Civilian Complaint Review Board ("CCRB") and has determined that the actions of Captain Ramos do not rise to the level of actionable misconduct. As a result, the penalty proposed by the CCRB is incongruent with Captain Ramos' actions who will receive No Disciplinary Action for ordering his subordinate officers to discharge Oleoresin Capsicum Spray ("OC Spray") at a large and unruly crowd.

At the time of the underlying incident, Captain Ramos was assigned to the Strategic Response Group. Members of this unit are specially trained in deploying various crowd dispersal tactics, including discharge of OC Spray. The available video footage shows that the uniformed members of the service at the scene of the underlying protest were besieged by protesters who vastly outnumbered the members of the service. Also, it must be noted that the protesters were constantly pelting members of the service with projectiles, including water bottles. It was at this time that Captain Ramos correctly ordered his subordinate officers to discharge OC Spray in order to disperse the large and hostile crowd and to create a zone of safety for the NYPD personnel.

Therefore, based on the foregoing, the Police Commissioner has determined that Captain Ramos will receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-01 (Force Guidelines), Patrol Guide Procedure 221-02 (Use of Force), and Patrol Guide Procedure 221-07 (Use of Oleoresin Capsicum Pepper Spray Devices).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENT

Re: CCRB Case No. 202003805 regarding Police Officer Miguel Vanbrakle, Tax No. [REDACTED] (DADS No. 2022-24739) and Police Officer Brandon Patane, Tax No. [REDACTED] (DADS No. 2022-24737)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that no disciplinary action will be taken against Police Officer Vanbrakle and Police Officer Patane in connection with their utilization of their OC Spray during a dangerous confrontation with violent protestors.

A review of significant evidence which portrayed the extremely dangerous situation in which Officers Vanbrakle and Patane found themselves on May 30, 2020, provided sufficient context to conclude that the use OC Spray to deter further actions of violence against these officers and other officers alongside them was warranted.

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Vanbrakle and Police Officer Patane will receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-02 (Use of Force)

and Patrol Guide Procedure 221-07 (Use of Oleoresin Capsicum Pepper Spray Devices).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'Lourdes Soto', with a stylized flourish at the end.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENT

Re: CCRB Case No. 202003805 regarding Police Officer Miguel Vanbrakle, Tax No. [REDACTED] (DADS No. 2022-24739) and Police Officer Brandon Patane, Tax No. [REDACTED] (DADS No. 2022-24737)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that no disciplinary action will be taken against Police Officer Vanbrakle and Police Officer Patane in connection with their utilization of their OC Spray during a dangerous confrontation with violent protestors.

A review of significant evidence which portrayed the extremely dangerous situation in which Officers Vanbrakle and Patane found themselves on May 30, 2020, provided sufficient context to conclude that the use OC Spray to deter further actions of violence against these officers and other officers alongside them was warranted.

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Vanbrakle and Police Officer Patane will receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-02 (Use of Force)

and Patrol Guide Procedure 221-07 (Use of Oleoresin Capsicum Pepper Spray Devices).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', with a stylized flourish at the end.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

March 30, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202003842 regarding Police Officer Amel Cirikovic, Tax No. 958411 (DADS No. 2021-23573)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the proposed penalty outweighs the committed misconduct. Police Officer Cirikovic used minimal amount of force necessary against an individual who did not comply with plainly audible orders to disperse and thereafter resisted officers' attempts to handcuff him.

Police Officer Cirikovic's minimal use of force caused no discernable injuries to the individual who, it bears noting, never came forward as a complainant and did not appear to have sustained any injuries. Nonetheless, Police Officer Cirikovic stands to gain from additional training on the use of force during an arrest pursuant to Patrol Guide Procedure No. 221-02 (Use of Force).

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Cirikovic receive Formalized Training.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office

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POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 17, 2021

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004123 regarding Police Officer Robert Rufrano, Tax No. 961209 (DADS No. 2021-23365)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter in its entirety and determined that the recommended penalty of a Schedule "A" Command Discipline is not warranted.

Police Officer Rufrano arrested an individual and properly seized his bicycle. However, while the Police Commissioner acknowledges that Police Officer Rufrano had a responsibility to voucher or safeguard the bicycle, Police Officer Ruffrano's statement that the situation was unsafe to do so must be considered. Thus, the Police Commissioner has determined that Police Officer Ruffrano, who has no other substantiated CCRB complaints, would benefit from training in this matter as opposed to a command discipline.

Therefore, Police Officer Rufrano will receive Training from his Commanding Officer in Patrol Guide Procedure 208-03 (Arrests – General Processing).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
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POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 17, 2021

POLICE COMMISSIONER'S PENALTY DEPARTMENT

Re: CCRB Case No. 202004300 regarding Police Officer Ali Hassan, Tax No. [REDACTED] (DADS No. 2021-23024)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter in its entirety and determined that the recommended penalty of a Schedule "B" Command Discipline is not warranted.

Police Officer Hassan was alleged to have used improper force against two individuals by utilizing a baton during a protest, striking one individual in the thigh. It should be noted that one of the individuals has not been identified and thus did not provide further context or information. The sole identified individual was interviewed and stated that he was not injured and could not recall which thigh was actually struck with the baton.

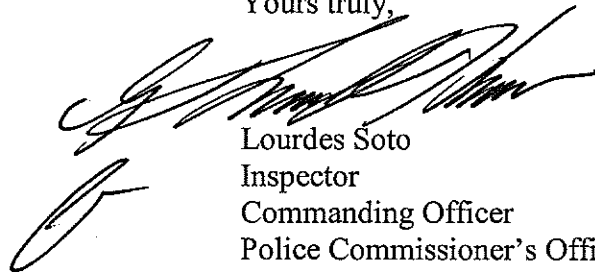
Police Officer Hassan stated that projectiles were being thrown at the officers and that the police van in which Police Officer Hassan was an occupant was struck by a projectile shattering its window. During the chaotic incident, Police Officer Hassan utilized his baton to move protestors off of the street, including the two subject individuals. It is apparent from the available video evidence that Police Officer Hassan did not intend to strike anyone with the baton. It should be noted that a thorough review of this incident was also conducted independently by the Department which found that Police Officer Hassan did not use unnecessary force when interacting with the two individuals. Thus, the Police Commissioner has determined that Police Officer Hassan will receive no disciplinary action for the use of the baton.

The CCRB also substantiated a misleading statement allegation against Police Officer Hassan for initially stating that he did not use his baton during the incident. After being shown video evidence during the same CCRB interview, Police Officer Hassan immediately corrected his statement to properly account for his actions. The Police Commissioner reviewed the statements made by Police Officer Hassan and does not agree that Police Officer Hassan attempted to intentionally mislead the CCRB investigators. Since the statement was not intentionally made to deceive the CCRB investigators, the Police Commissioner has determined that Police Officer Hassan will receive no disciplinary action for the alleged misleading statement.

Therefore, Police Officer Hassan will receive no disciplinary action for the alleged violation of Patrol Guide Procedures 212-01 (Force Guidelines), 221-02 (Use of Force), 212-123 (Use of Body-worn Cameras), and Administrative Guide Procedure 304-10 (False or Misleading Statements).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'Lourdes Soto', is written over the typed name and title. The signature is fluid and cursive.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

March 3, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004307 regarding Lieutenant Christopher Catalano, Tax No. 936323 (DADS No. 2021-23443)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that Lieutenant Catalano (then Sergeant) will receive no disciplinary action for this incident. In this matter, Lieutenant Catalano took hold of the complainant's arm in order to guide her to the ground so that she may be taken into custody by other officers due to her failure to adhere to the curfew order during a large scale protest.

Lieutenant Catalano's very brief encounter with the complainant, which lasted mere seconds, was a proper use of department tactics. As the video evidence demonstrated, the complainant began to move in the opposite direction from Lieutenant Catalano after he had already begun to approach her. In taking hold of the complainant's arm, Lieutenant Catalano was able to gain control of the complainant so that she could be guided to the ground and properly handcuffed. Ultimately, the complainant was issued a summons for the violation and was released.

Therefore, the Police Commissioner directs that Lieutenant Catalano receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-02 (Use of Force) and Patrol Guide Procedure 221-03 (Reporting and Investigation of Force Incident or Injury to Persons During Police Action/TRI Report).

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If you have any questions, please feel free to contact me at



Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', written over the printed name.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

March 30, 2022

POLICE COMMISSIONER'S PENALTY DEPARTURE

Re: CCRB Case No. 202004315 regarding Sergeant David Lamarre, Tax No. 947929 (DADS No. 2021-24429)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that Sergeant Lamarre's use of inappropriate language during a volatile arrest situation does not rise to the level of actionable misconduct. Sergeant Lamarre was faced with a chaotic situation and an individual who resisted officers' attempts to handcuff her. It was at this time that Sergeant Lamarre used inappropriate language, but only in order to convey to the detained individual that she must comply with the officers' orders.

Therefore, based on the foregoing, the Police Commissioner has determined that Sergeant Lamarre receive No Disciplinary Action for the alleged violation of Patrol Guide Procedure 200-02 (Mission, Vision, and Values of the New York City Police Department/Discourtesy) and Formalized Training in Patrol Guide Procedure 212-08 (Activity Logs).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office

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POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

March 30, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004474 regarding Police Officer Justin Adetimirin, Tax No. 965920 (DADS No. 2021-24270)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Police Officer Adetimirin do not rise to the level of actionable misconduct. Police Officer Adetimirin's actions, as captured by a bystander's hastily recorded cellphone video, lack any contextual reference upon which a determination as to their propriety may be made.

The underlying event occurred during a chaotic and violent situation; however, the available video footage is not clear and does not explain the reasons for Police Officer Adetimirin's actions, which may have been legitimate. Thus, without more evidence or context, it is not possible to discern the true reasons for Police Officer Adetimirin's actions and to determine whether or not such actions were improper.

It must be noted that this case lacks a true complainant as an aggrieved party never came forward and the bystander who recorded the incident contacted the CCRB about an unrelated matter.

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Adetimirin receive no disciplinary action for the alleged violation of Patrol Guide Procedure 221-02 (Use of Force).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004586 regarding Police Officer Glen Alava, Tax No. 949977 (DADS No. 2021-23648) and Police Officer Matthew Ansbro, Tax No. 954490 (DADS No. 2021-23650)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and agrees with the CCRB that Police Officer Glen Alava and Police Officer Matthew Ansbro did have their shield obstructed by their mourning bands. In light of similar matters, the Police Commissioner has determined Police Officer Alava and Police Officer Ansbro will each be issued a Schedule "A" Command with the forfeiture of three (3) vacation days, which is the presumptive penalty under the Disciplinary System Penalty Guidelines.

While the Police Commissioner is aware that a shield number can become obscured inadvertently during the course of a chaotic incident, in this matter, Police Officers Alava and Ansbro were made aware that their shields were obscured by the complainant. Thereafter, Police Officers Alava and Ansbro should have taken steps to ensure that their shield numbers were visible once a safe opportunity to do so presented itself.

The Police Commissioner has determined that the presumptive penalty of three vacation days, as proscribed for under the Disciplinary System Penalty Guidelines, is appropriate in this matter. It should be noted that the presumptive penalty of three vacation days is the same number of penalty days as requested by the CCRB.

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Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Alava and Police Officer Ansbro will each be issued a Schedule "A" Command with the forfeiture of three (3) vacation days.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004586 regarding Police Officer Glen Alava, Tax No. 949977 (DADS No. 2021-23648) and Police Officer Matthew Ansbro, Tax No. 954490 (DADS No. 2021-23650)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and agrees with the CCRB that Police Officer Glen Alava and Police Officer Matthew Ansbro did have their shield obstructed by their mourning bands. In light of similar matters, the Police Commissioner has determined Police Officer Alava and Police Officer Ansbro will each be issued a Schedule "A" Command with the forfeiture of three (3) vacation days, which is the presumptive penalty under the Disciplinary System Penalty Guidelines.

While the Police Commissioner is aware that a shield number can become obscured inadvertently during the course of a chaotic incident, in this matter, Police Officers Alava and Ansbro were made aware that their shields were obscured by the complainant. Thereafter, Police Officers Alava and Ansbro should have taken steps to ensure that their shield numbers were visible once a safe opportunity to do so presented itself.

The Police Commissioner has determined that the presumptive penalty of three vacation days, as proscribed for under the Disciplinary System Penalty Guidelines, is appropriate in this matter. It should be noted that the presumptive penalty of three vacation days is the same number of penalty days as requested by the CCRB.

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Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Alava and Police Officer Ansbro will each be issued a Schedule "A" Command with the forfeiture of three (3) vacation days.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 27, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004800 regarding Inspector Robert O'Hare, Tax No. 916960 (DADS No. 2022-25405), Police Officer Jonathan Dones, Tax No. 948203 (DADS No. 2022-25404), Police Officer James Shouldis, Tax No. 958068 (DADS No. 2022-25406) and Police Officer Kachun Cheung, Tax No. 963454 (DADS No. 2022-25407)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Inspector Robert O'Hare, Police Officer Dones, Police Officer Cheung, and Police Officer Shouldis do not rise to the level of actionable misconduct and similarly do not warrant an imposition of a Schedule "B" Command Discipline. These four uniformed members of the service were effecting lawful arrests stemming from commercial burglaries in the area when they were confronted by two individuals who were outside in direct violation of the Mayor's executive curfew. These two individuals were not essential workers and were thus not exempt from the restrictions of the executive curfew.

Inspector O'Hare, together with Police Officers Dones, Cheung, and Shouldis attempted to stop the two individuals and were met with non-compliance. As a result, for the safety of everyone present at the scene, Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis used the minimum force necessary to affect lawful arrests of the two individuals in question. Given the circumstances surrounding these arrests, and based on the available Body-Worn Camera footage evidence, the actions of Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis were altogether measured, reasonable, and appropriate. In short, the actions of these four uniformed members of the service are not actionable misconduct.


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Therefore, based on the foregoing, the Police Commissioner has determined that Inspector O'Hare, Police Officer Dones, Police Officer Shouldis, and Police Officer Cheung receive no disciplinary action.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', with a long horizontal flourish extending to the right.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 27, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004800 regarding Inspector Robert O'Hare, Tax No. 916960 (DADS No. 2022-25405), Police Officer Jonathan Dones, Tax No. 948203 (DADS No. 2022-25404), Police Officer James Shouldis, Tax No. 958068 (DADS No. 2022-25406) and Police Officer Kachun Cheung, Tax No. 963454 (DADS No. 2022-25407)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Inspector Robert O'Hare, Police Officer Dones, Police Officer Cheung, and Police Officer Shouldis do not rise to the level of actionable misconduct and similarly do not warrant an imposition of a Schedule "B" Command Discipline. These four uniformed members of the service were effecting lawful arrests stemming from commercial burglaries in the area when they were confronted by two individuals who were outside in direct violation of the Mayor's executive curfew. These two individuals were not essential workers and were thus not exempt from the restrictions of the executive curfew.

Inspector O'Hare, together with Police Officers Dones, Cheung, and Shouldis attempted to stop the two individuals and were met with non-compliance. As a result, for the safety of everyone present at the scene, Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis used the minimum force necessary to affect lawful arrests of the two individuals in question. Given the circumstances surrounding these arrests, and based on the available Body-Worn Camera footage evidence, the actions of Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis were altogether measured, reasonable, and appropriate. In short, the actions of these four uniformed members of the service are not actionable misconduct.


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Website: <http://nyc.gov/nypd>

Therefore, based on the foregoing, the Police Commissioner has determined that Inspector O'Hare, Police Officer Dones, Police Officer Shouldis, and Police Officer Cheung receive no disciplinary action.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', with a long horizontal flourish extending to the right.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 27, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004800 regarding Inspector Robert O'Hare, Tax No. 916960 (DADS No. 2022-25405), Police Officer Jonathan Dones, Tax No. 948203 (DADS No. 2022-25404), Police Officer James Shouldis, Tax No. 958068 (DADS No. 2022-25406) and Police Officer Kachun Cheung, Tax No. 963454 (DADS No. 2022-25407)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Inspector Robert O'Hare, Police Officer Dones, Police Officer Cheung, and Police Officer Shouldis do not rise to the level of actionable misconduct and similarly do not warrant an imposition of a Schedule "B" Command Discipline. These four uniformed members of the service were effecting lawful arrests stemming from commercial burglaries in the area when they were confronted by two individuals who were outside in direct violation of the Mayor's executive curfew. These two individuals were not essential workers and were thus not exempt from the restrictions of the executive curfew.

Inspector O'Hare, together with Police Officers Dones, Cheung, and Shouldis attempted to stop the two individuals and were met with non-compliance. As a result, for the safety of everyone present at the scene, Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis used the minimum force necessary to affect lawful arrests of the two individuals in question. Given the circumstances surrounding these arrests, and based on the available Body-Worn Camera footage evidence, the actions of Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis were altogether measured, reasonable, and appropriate. In short, the actions of these four uniformed members of the service are not actionable misconduct.

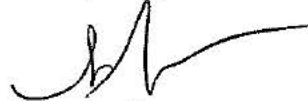
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Website: <http://nyc.gov/nypd>

Therefore, based on the foregoing, the Police Commissioner has determined that Inspector O'Hare, Police Officer Dones, Police Officer Shouldis, and Police Officer Cheung receive no disciplinary action.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', with a long horizontal flourish extending to the right.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 27, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202004800 regarding Inspector Robert O'Hare, Tax No. 916960 (DADS No. 2022-25405), Police Officer Jonathan Dones, Tax No. 948203 (DADS No. 2022-25404), Police Officer James Shouldis, Tax No. 958068 (DADS No. 2022-25406) and Police Officer Kachun Cheung, Tax No. 963454 (DADS No. 2022-25407)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Inspector Robert O'Hare, Police Officer Dones, Police Officer Cheung, and Police Officer Shouldis do not rise to the level of actionable misconduct and similarly do not warrant an imposition of a Schedule "B" Command Discipline. These four uniformed members of the service were effecting lawful arrests stemming from commercial burglaries in the area when they were confronted by two individuals who were outside in direct violation of the Mayor's executive curfew. These two individuals were not essential workers and were thus not exempt from the restrictions of the executive curfew.

Inspector O'Hare, together with Police Officers Dones, Cheung, and Shouldis attempted to stop the two individuals and were met with non-compliance. As a result, for the safety of everyone present at the scene, Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis used the minimum force necessary to affect lawful arrests of the two individuals in question. Given the circumstances surrounding these arrests, and based on the available Body-Worn Camera footage evidence, the actions of Inspector O'Hare and Police Officers Dones, Cheung, and Shouldis were altogether measured, reasonable, and appropriate. In short, the actions of these four uniformed members of the service are not actionable misconduct.

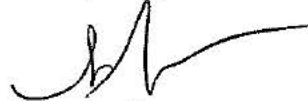
COURTESY • PROFESSIONALISM • RESPECT

Website: <http://nyc.gov/nypd>

Therefore, based on the foregoing, the Police Commissioner has determined that Inspector O'Hare, Police Officer Dones, Police Officer Shouldis, and Police Officer Cheung receive no disciplinary action.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', with a long horizontal flourish extending to the right.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENT

Re: CCRB Case No. 202005664 regarding Police Officer Anthony Buonomo, Tax No. [REDACTED]
(DADS No. 2022-25559)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that no disciplinary action will be taken against Police Officer Buonomo. In this matter, the Civilian Complaint Review Board ("CCRB") substantiated a single force allegation against Police Officer Buonomo. The CCRB provided video evidence, including cellphone recordings and Body-Worn Camera footage, to further bolster their findings. However, upon reviewing the provided footage, the Police Commissioner has determined that the actions of Police Officer Buonomo were altogether appropriate given the circumstances.

Police Officer Buonomo was at a scene of a demonstration during which demonstrators elected to block vehicular traffic. In doing so, the demonstrators blocked an emergency vehicle from responding to a priority call for help. This emergency vehicle was assigned to the 1st Precinct, in the confines of which the demonstration in question had occurred, and was not part of the NYPD contingent assigned to the demonstration detail. The emergency vehicle had its emergency lights activated and made every effort to go around the demonstrators who continuously refused to let the vehicle pass.

It was at this time that Police Officer Buonomo, together with additional officers, exercised minimal force to disperse the demonstrators—who had by then surrounded the front of the emergency vehicle—away from the street and vehicular traffic. Thus, Police Officer Buonomo's actions were in direct response to the unlawful actions of the demonstrators who had every opportunity to move out of the way of an emergency vehicle responding to an urgent call for help assignment.

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Buonomo will receive no disciplinary action for the sole physical force allegation.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

March 25, 2022

POLICE COMMISSIONER’S PENALTY DEPARTURE

Re: CCRB Case No. 202006547 regarding Police Officer Johnny Marquez, Tax No. 960876 (DADS No. 2021-23575)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions of Police Officer Marquez do not rise to the level of actionable misconduct. Police Officer Marquez was faced with a hostile crowd that refused the orders to disperse and instead hurled projectiles at the officers, including Police Officer Marquez. In the face of this threat, and in accordance with his training as member of the Strategic Response Group (“SRG”), Police Officer Marquez deployed his capsicum oleoresin spray (“OC spray”) in the direction of a group of protesters.

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Marquez receive no disciplinary action for the alleged violation of Patrol Guide Procedures 221-01 (Force Guidelines), 221-02 (Use of Force), and 221-07 (Use of Oleoresin Capsicum Pepper Spray Devices).

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner’s Office

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Website: <http://nyc.gov/nypd>



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 29, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202101848 regarding Police Officer Dynel Powell, Tax No. [REDACTED] (DADS No. 2022-25490)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions taken by Police Officer Powell do not constitute misconduct and, therefore, no disciplinary action will be taken against Police Officer Powell in connection with this matter.

In this case, Officer Powell was operating the prisoner transport vehicle and a line of arrestees were waiting to be searched and placed into the vehicle for transportation to the processing command as per Department procedure. A thorough review of the video evidence shows that a search was performed of each arrestee, by either a male or female officer. An arrestee whose turn it was to be searched had arrived at the front of the line, and the video evidence shows that the arrestee was asked "male or female" by Officer Powell. Officer Powell's actions in trying to ascertain whether an arrestee should be searched by a male or female officer did not constitute misconduct.

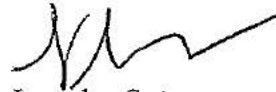
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Website: <http://nyc.gov/nypd>

Therefore, based on the foregoing, the Police Commissioner has determined that Police Officer Powell receive no disciplinary action for the allegation of the use of offensive language.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', with a long horizontal flourish extending to the right.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

April 28, 2022

POLICE COMMISSIONER'S PENALTY DEPARTMENTURE

Re: CCRB Case No. 202106374 regarding Lieutenant Christopher Schmidt, Tax No. [REDACTED] (DADS No. 2022-25494)

Dear Mr. Darche:

The Police Commissioner has reviewed the facts and circumstances in this matter and determined that the actions taken by Lieutenant Christopher Schmidt did not amount to actionable misconduct and therefore do not warrant the imposition of a Schedule "A" Command Discipline.

In this matter, Lieutenant Schmidt was making a courteous gesture by picking up and returning the protective facemask belonging to an individual who had been arrested and who was some distance away awaiting transport to the arrest processing site. Upon handing the facemask to the arrested individual, Lieutenant Schmidt acknowledged tapping him on the hip with his hand as a calming gesture. Lieutenant Schmitt's effort to calm the individual, after a tumultuous arrest and in the midst of a violent protest, could only be described as a courteous gesture, neither intended nor reasonably interpreted to be discourteous.

Therefore, based on the foregoing, the Police Commissioner has determined that Lieutenant Schmidt will receive no disciplinary action for the allegation of discourtesy.

If you have any questions, please feel free to contact me at [REDACTED]

Yours truly,



Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office

APPENDIX D

APU RETAINED CASE LETTERS

Retained cases are those APU in which the Department kept jurisdiction pursuant to Section 2 of the April 2, 2012 Memorandum of Understanding between the NYPD and the CCRB¹. When the Department retains a case it must issue a letter to the CCRB explaining its reasons for doing so.

Appendix D reproduces the retained case letters related to protest complaints.

¹ Section 2 of the MOU states, "...in those limited instances where the Police Commissioner determines that CCRB's prosecution of Charges and Specifications in a substantiated case would be detrimental to the Police Department's disciplinary process, the Police Commissioner shall so notify CCRB. Such instances shall be limited to such cases in which there are parallel or related criminal investigations, or when, in the case of an officer with no disciplinary history or prior substantiated CCRB complaints, based on such officer's record and disciplinary history the interests of justice would not be served." For the full text of the MOU, see http://www1.nyc.gov/assets/ccrb/downloads/pdf/about_pdf/apu_mou.pdf.



POLICE DEPARTMENT

April 28, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202101848 regarding Detective Robert Klein, Tax No. 936874

Dear Mr. Darche:

The Police Commissioner has reviewed the request for Charges/Specifications in connection with CCRB Case No. 202101848, pertaining to Detective Klein. Having analyzed the facts and circumstances of this matter, the Police Commissioner has determined that to pursue Charges/Specifications against Detective Klein would be detrimental to the Police Department's disciplinary process.

The Police Commissioner noted that, in this matter, the available video evidence clearly shows that Detective Klein was escorting an unruly arrestee, who had already demonstrated a propensity for violence and was making efforts to escape from his control, to a nearby prisoner transport vehicle. The allegation of discourtesy against Detective Klein was based on his order to the arrestee to "[expletive] relax" as the arrestee exhibited a continued effort to pull away from him. This single statement was made for emphasis in order to gain compliance from the arrestee, and, given the totality of the circumstances, did not constitute misconduct.

Then, upon arrival at the transport vehicle, a line of arresting officers and their arrestees had formed, and Detective Klein joined that line. It was clear in the video evidence that each arrestee was, appropriately, being searched prior to being placed into the vehicle. When they reached the front of the line, the officer assigned to the transport vehicle tried to ascertain whether the arrestee should be searched by a male or female officer, and the arrestee loudly complained about the question. After being passed over in favor of others waiting on the line, Detective Klein moved back into position with the arrestee for another opportunity to have the arrestee placed into the transport vehicle. This time, when asked again whether the arrestee wished to be searched by a "male or female," Detective Klein answered "go with female." This statement successfully led to a female officer searching the arrestee and the arrestee's placement into the transport vehicle. There was no offensive behavior exhibited by the Detective or any officers at the scene, rather there was merely an effort to comply with required safety protocols during an unusual large-scale arrest incident.

Page 1 of 2

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The Police Commissioner further noted that Detective Klein has no other substantiated CCRB allegations in his career, and has not received any formal discipline from the Department prior to this incident.

Therefore, as provided for within the 2012 Memorandum of Understanding between the CCRB and the Police Department, and based on the interests of justice, the Police Commissioner intends to retain jurisdiction over this matter and take no disciplinary action against Detective Klein.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', written in a cursive style.

Lourdes Soto

Inspector

Commanding Officer

Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 24, 2021

Re: CCRB Case No. 202003712 regarding Police Officer Evan Angels, Tax No. 965929 and Police Officer Vincent Harris, Tax No. 965173

Dear Mr. Darche:

The Police Commissioner has reviewed your letter, dated December 22, 2021, and considered the issues you raised concerning the CCRB case involving Police Officer Angels and Police Officer Harris.

Notwithstanding the concerns expressed in your response letter, the Police Commissioner maintains that it would be detrimental to the Police Department's disciplinary process to allow the Civilian Complaint Review Board to continue its prosecution of Police Officer Angels and Police Officer Harris for the reasons expressed in my December 17, 2021 letter.

Therefore, the Police Commissioner affirms his decision to exercise Provision Two of the Memorandum of Understanding and will direct that Police Officer Evan Angels and Police Officer Vincent Harris receive no disciplinary action in connection with this matter.

If you have any questions, please feel free to contact me at 646-610-8526.

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', is written over a light blue horizontal line.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

May 2, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202003797 regarding Police Officer Christian Chiqui, Tax No. 963456

Dear Mr. Darche:

The Police Commissioner has reviewed your reply letter dated April 28, 2022, in connection with CCRB Case No. 202003797, pertaining to Police Officer Chiqui. After reviewing your letter, the Police Commissioner has determined that as provided for within the Memorandum of Understanding (“M.O.U.”) between the CCRB and the Police Department and based on the interests of justice, the Police Commissioner will retain the current matter within the Police Department as expressed in the letter sent to you, dated April 27, 2022.

Police Officer Chiqui will receive no disciplinary action for the force allegation but will receive a Schedule “A” Command Discipline for refusing to provide his shield number with a penalty of three (3) vacation days.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner’s Office



POLICE DEPARTMENT

April 26, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202003879 regarding Police Officer Andre Gaddy, Tax No. 966581

Dear Mr. Darche:

The Police Commissioner has reviewed the Civilian Complaint Review Board's ("CCRB") request for Charges/Specifications in connection with CCRB Case No. 202003879, pertaining to Police Officer Gaddy. Having analyzed the facts and circumstances of this matter, the Police Commissioner has determined that to pursue Charges and Specifications against Police Officer Gaddy would be detrimental to the Police Department's disciplinary process.

The CCRB substantiated one force allegation against Police Officer Gaddy for utilizing his baton to push an individual to the ground at a time when said individual did not pose an immediate threat to Police Officer Gaddy or any other uniformed members of the service or individuals present at the scene. Police Officer Gaddy was at the scene of a large scale protest that had been declared an unlawful assembly. While at the scene, Police Officer Gaddy, together with other uniformed members of the service, was given an order to disperse the gathered crowd and to effectuate arrests of anyone who failed or refused to comply with the order to vacate the area. Police Officer Gaddy then moved in to disperse several members of the gathered crowd and in doing so utilized his baton inappropriately.

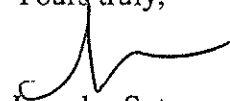
While wrong, the actions of Police Officer Gaddy do not rise to the level of misconduct where the issuance of Charges and Specifications is warranted. Instead, based on the totality of the circumstances, and in the interest of progressive discipline, an imposition of a Schedule "A" Command Discipline is the more appropriate penalty. Additionally, the relative inexperience of Police Officer Gaddy, as well as his unblemished record with the Department, must also be considered when determining a commensurate penalty.

Page 1 of 2

Therefore, as provided for within the 2012 Memorandum of Understanding between the CCRB and the Police Department, and based on the interests of justice, the Police Commissioner intends to retain jurisdiction over this matter and issue a Schedule "A" Command Discipline with the forfeiture of five (5) vacation days.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,

A handwritten signature in black ink, appearing to read 'Lourdes Soto', with a stylized flourish at the end.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 31, 2021

Re: CCRB Case No. 202003920 regarding Inspector Steven Ortiz, Tax No. 902895

Dear Mr. Darche:

The Police Commissioner has reviewed your letter and considered the issues you raised concerning the CCRB case involving Inspector Ortiz.

Notwithstanding the concerns expressed in your response letter, the Police Commissioner maintains that it would be detrimental to the Police Department's disciplinary process to allow the Civilian Complaint Review Board to continue its prosecution of Inspector Ortiz, for the reasons expressed in my December 23, 2021 letter.

Therefore, the Police Commissioner affirms his decision to exercise Provision Two of the Memorandum of Understanding and will direct that Inspector Steven Ortiz receive no disciplinary action in connection with this matter.

If you have any questions, please feel free to contact me at 646-610-8526.

Yours truly,

A handwritten signature in black ink, appearing to read "L. Soto".

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 22, 2021

Re: CCRB Case No. 202003969 regarding Sergeant Robert Wong, Tax No. 948442

Dear Mr. Darche:

The Police Commissioner has reviewed your letter, dated December 20, 2021, and considered the issues you raised concerning the CCRB case involving Sergeant Wong. Additionally, the Police Commissioner has reviewed the available video evidence showing the moments immediately preceding Sergeant Wong's deployment of the Oleoresin Capsicum Pepper Spray.

Notwithstanding the concerns expressed in your response letter, and based on his review of the available video evidence, the Police Commissioner maintains that it would be detrimental to the Police Department's disciplinary process to allow the Civilian Complaint Review Board to continue its prosecution of Sergeant Wong, for the reasons expressed in my December 17, 2021 letter.

Therefore, the Police Commissioner affirms his decision to exercise Provision Two of the Memorandum of Understanding and will direct that Sergeant Robert Wong receive no disciplinary action in connection with this matter.

If you have any questions, please feel free to contact me at 646-610-8526.

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

December 27, 2021

Re: CCRB Case No. 202003980 regarding Captain Tarik Sheppard, Tax No. 945351

Dear Mr. Darche:

The Police Commissioner has reviewed your letter, dated December 22, 2021, and considered the issues you raised concerning the CCRB case involving Captain Sheppard.

Notwithstanding the concerns expressed in your response letter, the Police Commissioner maintains that it would be detrimental to the Police Department's disciplinary process to allow the Civilian Complaint Review Board to continue its prosecution of Captain Sheppard, for the reasons expressed in my December 21, 2021 letter.

Therefore, the Police Commissioner affirms his decision to exercise Provision Two of the Memorandum of Understanding and will direct that Captain Tarik Sheppard receive no disciplinary action in connection with this matter.

If you have any questions, please feel free to contact me at 646-610-8526.

Yours truly,

A handwritten signature in black ink, appearing to read "L. Soto".

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office

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POLICE DEPARTMENT

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th floor
New York, NY 10007

May 2, 2022

Re: CCRB Case No. 202004183 regarding Police Officer Nicholas Rios, Tax No. 955377

Dear Mr. Darche:

The Police Commissioner has reviewed your letter, dated April 28, 2022, concerning the CCRB case involving Police Officer Nicholas Rios.

Accordingly, the Police Commissioner maintains that it would be detrimental to the Police Department's disciplinary process to allow the Civilian Complaint Review Board to continue its prosecution of Police Officer Rios, for the reasons expressed in my April 27, 2022 letter.

Therefore, the Police Commissioner affirms her decision to exercise Provision Two of the Memorandum of Understanding and now directs that Police Officer Nicholas Rios be issued a Schedule "B" Command Discipline with the forfeiture of ten (10) vacation days, in connection with this matter.

If you have any questions, please feel free to contact me at 646-610-8526.

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

May 2, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202004222 regarding Sergeant Daniel Nicoletti, Tax No. 942271

Dear Mr. Darche:

The Police Commissioner has reviewed your letter dated April 25, 2022, in connection with CCRB Case No. 202004222, pertaining to Sergeant Daniel Nicoletti. The Police Commissioner has reviewed your letter and considered the points expressed therein.

However, after careful consideration, the Police Commissioner has determined that the Police Department will retain jurisdiction over this matter and not pursue Charges/Specifications against Sergeant Nicoletti and take no disciplinary matter against him, as originally outlined in the letter sent to you dated April 15, 2022.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

May 2, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202004301 regarding Captain Isaac Soberal, Tax No. 943830

Dear Mr. Darche:

The Police Commissioner has reviewed your letter dated April 28, 2022, in connection with CCRB Case No. 202004301, pertaining to Captain Isaac Soberal. After a careful review of your letter, the Police Commissioner has determined that to pursue Charges and Specifications against Captain Soberal would be detrimental to the Police Department's disciplinary process as outlined in the letter sent to you, dated April 27, 2022.

Captain Soberal will instead be issued a Schedule "B" Command Discipline with the forfeiture of ten (10) vacation days as proscribed for under the Disciplinary System Penalty Guidelines for the cited misconduct.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,

A handwritten signature in black ink, appearing to read 'Lourdes Soto', written over a horizontal line.

Lourdes Soto
Inspector
Commanding Officer
Police Commissioner's Office



POLICE DEPARTMENT

April 28, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202005664 regarding Police Officer Justin Pichon, Tax No. 959894, and Police Officer Hansel Rocha, Tax No. 954279

Dear Mr. Darche:

The Police Commissioner has reviewed the request for Charges and Specifications in connection with CCRB Case No. 202005664, pertaining to Police Officer Pichon and Police Officer Rocha. Having analyzed the facts and circumstances of this matter, the Police Commissioner has determined that to pursue Charges and Specifications against Police Officer Pichon and Police Officer Rocha would be detrimental to the Police Department's disciplinary process. Rather, the Police Commissioner intends to retain jurisdiction of this matter and to have both officers receive No Disciplinary Action as a result of their underlying conduct.

In this matter, the Civilian Complaint Review Board ("CCRB") substantiated a single force allegation against Police Officer Pichon and a single force allegation against Police Officer Rocha. The CCRB provided video evidence, including cellphone recordings and officers' own Body-Worn Camera footage, to further bolster their findings. However, upon reviewing the provided footage, the Police Commissioner has determined that the actions of Police Officer Pichon and Police Rocha were altogether appropriate given the circumstances.

Police Officer Pichon and Police Officer Rocha were at a scene of a demonstration during which demonstrators elected to block vehicular traffic. In doing so, the demonstrators blocked an emergency vehicle from responding to a priority call for help. This emergency vehicle was assigned to the 1st Precinct, in the confines of which the demonstration in question had occurred, and was not part of the NYPD contingent assigned to the demonstration detail. The emergency vehicle had its emergency lights activated and made every effort to go around the demonstrators who refused to let the vehicle pass.

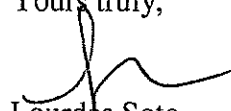
Page 1 of 2

It was at this time that Police Officer Pichon and Police Officer Rocha, together with additional officers, exercised minimal force to disperse the demonstrators—who had by then surrounded the emergency vehicle—away from the street and vehicular traffic. The officers' actions were in direct response to the unlawful actions of the demonstrators who had every opportunity to move out of the way of an emergency vehicle responding to an urgent call for help assignment.

Therefore, as provided for within the 2012 Memorandum of Understanding between the CCRB and the Police Department, and based on the interests of justice, the Police Commissioner intends to retain jurisdiction over this matter and take no disciplinary action against Police Officer Pichon and Police Officer Rocha.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,



Lourdes Soto

Inspector

Commanding Officer

Police Commissioner's Office



POLICE DEPARTMENT

April 28, 2022

Jonathan Darche
Executive Director
New York City Civilian Complaint Review Board
100 Church Street, 10th Floor
New York, NY 10007

Re: CCRB Case No. 202101848 regarding Detective Robert Klein, Tax No. 936874

Dear Mr. Darche:

The Police Commissioner has reviewed the request for Charges/Specifications in connection with CCRB Case No. 202101848, pertaining to Detective Klein. Having analyzed the facts and circumstances of this matter, the Police Commissioner has determined that to pursue Charges/Specifications against Detective Klein would be detrimental to the Police Department's disciplinary process.

The Police Commissioner noted that, in this matter, the available video evidence clearly shows that Detective Klein was escorting an unruly arrestee, who had already demonstrated a propensity for violence and was making efforts to escape from his control, to a nearby prisoner transport vehicle. The allegation of discourtesy against Detective Klein was based on his order to the arrestee to "[expletive] relax" as the arrestee exhibited a continued effort to pull away from him. This single statement was made for emphasis in order to gain compliance from the arrestee, and, given the totality of the circumstances, did not constitute misconduct.

Then, upon arrival at the transport vehicle, a line of arresting officers and their arrestees had formed, and Detective Klein joined that line. It was clear in the video evidence that each arrestee was, appropriately, being searched prior to being placed into the vehicle. When they reached the front of the line, the officer assigned to the transport vehicle tried to ascertain whether the arrestee should be searched by a male or female officer, and the arrestee loudly complained about the question. After being passed over in favor of others waiting on the line, Detective Klein moved back into position with the arrestee for another opportunity to have the arrestee placed into the transport vehicle. This time, when asked again whether the arrestee wished to be searched by a "male or female," Detective Klein answered "go with female." This statement successfully led to a female officer searching the arrestee and the arrestee's placement into the transport vehicle. There was no offensive behavior exhibited by the Detective or any officers at the scene, rather there was merely an effort to comply with required safety protocols during an unusual large-scale arrest incident.

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The Police Commissioner further noted that Detective Klein has no other substantiated CCRB allegations in his career, and has not received any formal discipline from the Department prior to this incident.

Therefore, as provided for within the 2012 Memorandum of Understanding between the CCRB and the Police Department, and based on the interests of justice, the Police Commissioner intends to retain jurisdiction over this matter and take no disciplinary action against Detective Klein.

If you have any questions, please feel free to contact me at 646-610-5577.

Yours truly,

A handwritten signature in black ink, appearing to read 'L. Soto', written in a cursive style.

Lourdes Soto

Inspector

Commanding Officer

Police Commissioner's Office

APPENDIX E

REDACTED CLOSING REPORTS

At the conclusion of an investigation, a closing report is prepared, summarizing the relevant evidence and providing factual and legal analysis of the allegations. The closing report is provided to the Board before it reaches a disposition.

Appendix E reproduces the closing reports for the CCRB case numbers mentioned in this report, excluding those complaints that are still being prosecuted by the APU.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jean Paul Lozada	Team: Squad #2	CCRB Case #: 202003703	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 5:26 PM	Location of Incident: Bedford Avenue and Tilden Avenue	Precinct: 70	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 10:42 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/31/2020 10:42 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Sher	07435	951244	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. Officers			
2. POM Dionnys Hernandez	03844	961814	070 PCT
3. POM Mdthowhed Talukder	26269	967364	067 PCT
4. POM Marc Fontana	16274	951741	070 PCT
5. POM Edward Obrien	03529	961548	070 PCT
6. POM Constantin Neamtu	03504	961000	070 PCT
7. POM Arthur Becerra	00279	961495	070 PCT
8. POM Justin Stewart	23742	962819	070 PCT
9. POM Anthony Carolei	11381	961670	070 PCT
10. POM Mateusz Wybraniec	07999	966402	070 PCT
11. LT William Cusack	00000	915539	070 PCT
12. POM Anthony Melidones	00870	961943	070 PCT
13. POM Salvatore Carcaterra	19393	962972	070 PCT
14. POM Tyler Bradshaw	02855	963411	070 PCT
15. POM Christophe Pierre	02499	962014	070 PCT
16. POM Jesus Carrillo	17946	923634	070 PCT
17. POM Daniston Swaby	17025	967699	070 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
18. POM Jay Huang	31783	965199	070 PCT
19. POM Yayonfrant Jeanpierre	02796	947104	070 PCT
20. POM Michael Digiovanna	12626	966033	070 PCT
21. SGT Imran Khan	05564	956020	070 PCT
22. SGT Lisa Matamoros	04517	949702	070 PCT
23. POM Anthony Martinez	18157	960883	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Sher	Discourtesy: Police Officer Michael Sher acted discourteously toward § 87(2)(b)	[REDACTED]
B.POM Michael Sher	Force: Police Officer Michael Sher used pepper spray against § 87(2)(b)	[REDACTED]
C.POM Michael Sher	Abuse: Police Officer Michael Sher did not obtain medical treatment for § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On May 31, 2020, witness § 87(2)(b) filed this complaint on behalf of § 87(2)(b) via the CCRB website (Board Review 01). Duplicate complaints were filed by reporting non-witnesses § 87(2)(b) and § 87(2)(b) via the CCRB website. This incident received media attention (Board Reviews 22, 23, 24) and was placed on the Agency's Sensitive Case List.

On May 30, 2020, at approximately 5:26 p.m., § 87(2)(b) attended an anti-police brutality protest that had marched to Bedford Avenue and Tilden Avenue in Brooklyn. Police officers surrounded a police vehicle and told the protesters to step back. § 87(2)(b) took one step back while both his arms were raised in the air. Police Officer Michael Sher, then of the 70th Precinct and currently assigned to the 62nd Precinct, pulled down § 87(2)(b)'s COVID-19 face mask (**Allegation A – Discourtesy: Action**, § 87(2)(g) and deployed pepper spray directly into § 87(2)(b)'s face (**Allegation B – Force: Pepper Spray**, § 87(2)(g). Police Officer Sher failed to obtain or attempt to obtain medical treatment for § 87(2)(b) after pepper spraying him (**Allegation C – Abuse of Authority: Refusal to Obtain Medical Treatment**, § 87(2)(g) and § 87(2)(g) § 87(2)(g), § 87(4-b)

This incident was captured on the body-worn cameras (BWC) of Police Officer Sher, Police Officer Mdthowmed Talukder, Police Officer Anthony Martinez, and Police Officer Dionnys Hernandez (Board Review 02, 03, 04, 05). The incident was also captured on a cellphone video filmed by § 87(2)(b)'s brother, § 87(2)(b) and posted to Twitter by § 87(2)(b)'s relative, non-witness § 87(2)(b) (Board Review 06).

Findings and Recommendations

Allegation (A) Discourtesy: Police Officer Michael Sher acted discourteously toward § 87(2)(b)

Allegation (B) Force: Police Officer Michael Sher used pepper spray against § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Michael Sher did not obtain medical treatment for § 87(2)(b)

§ 87(2)(g), § 87(4-b)

§ 87(2)(b)'s attorney, § 87(2)(b), did not allow the CCRB to interview § 87(2)(b) or his brother, § 87(2)(b) e-mailed a copy of § 87(2)(b)'s 50-H hearing transcript on January 20, 2021 (Board Review 07).

§ 87(2)(b) was interviewed on June 3, 2020 (Board Review 08). and provided a follow-up telephone statement on June 5, 2020 (Board Review 09). § 87(2)(b) was interviewed on June 5, 2020 (Board Review 10). § 87(2)(b) was interviewed on December 4, 2020 (Board Review 11).

It is undisputed that Police Officer Michael Sher pulled down § 87(2)(b)'s face mask and pepper sprayed him in his face.

The video filmed by § 87(2)(b) begins with § 87(2)(b) standing with both of his arms raised in the air and his palms open. At runtime 00:03, he is facing a group of uniformed officers who are standing in front of a police vehicle. A large crowd of civilians is present. Sirens are heard.

A male voice is heard repeatedly telling the crowd to “Stay back.” Police Officer Sher is seen slowly walking toward civilians with both his arms extended toward them. Police Officer Sher approaches § 87(2)(b) and places his right hand against § 87(2)(b) s chest. § 87(2)(b) takes one step back while keeping his arms raised. Police Officer Sher then grabs § 87(2)(b) s face mask with his right hand and lowers it off his face. Police Officer Sher then reaches toward § 87(2)(b) s bare face with his left hand and pepper sprays him. § 87(2)(b) recoils once he is pepper sprayed.

The incident is also captured in Police Officer Sher’s BWC footage at runtime 11:05, Police Officer Talukder’s BWC footage at runtime 21:03, Police Officer Martinez’s BWC footage at runtime 24:59, and Police Officer Hernandez’s BWC footage at runtime 06:24.

At runtime 01:07 into the subclip of the relevant portion of Police Officer Sher’s BWC footage (Board Review 25), § 87(2)(b) is heard saying, “Don’t touch me,” after Police Officer Sher places his hand on § 87(2)(b) s chest, before taking off his mask and pepper spraying him. At runtime 06:26 of the subclip, Police Officer Sher is heard telling another officer, “I took the guy’s goggles, I ripped the shit off and I used it,” while holding the pepper spray in his left hand.

§ 87(2)(b) s § 87(2)(b), § 87(2)(g) He noted that before he was pepper sprayed, officers tried to move a police vehicle through the crowd, and he walked with the crowd backwards in a northbound direction as the officers tried to drive out of the crowd. Approximately one week after the incident, § 87(2)(b) visited an unknown doctor and complained of pain in his eyes when he wore his contact lenses. The doctor told § 87(2)(b) to wait for the pain to subside, which it eventually did.

§ 87(2)(b) description of the incident was generally consistent with the events captured in § 87(2)(b) s video. § 87(2)(b) and § 87(2)(b) stated that they did not see § 87(2)(b) being pepper sprayed, but saw people rendering aid to him afterwards.

Police Officer Sher’s attorney, § 87(2)(b) of § 87(2)(b), sent the CCRB a copy of the Charges and Specifications served to Police Officer Sher by Deputy Inspector Larry Chambers of the Internal Affairs Bureau (Board Review 12). Count 1 of these charges alleges that Police Officer Sher “wrongfully and without just cause used force against one or more people, including pulling down glasses or other eyewear or face masks, and spraying the faces of said people with oleoresin capsicum pepper spray, causing said people to suffer pain and injury.” Count 2 alleges that Police Officer Sher “having used force against one or more people... wrongfully failed to obtain or to attempt to obtain any medical attention for any injured person, notify his immediate supervisor regarding his use of force and oleoresin capsicum pepper spray, document his use of force in his Activity Log, or prepare a ‘Threat, Resistance or Injury (T.R.I.) Interaction Report,’ as required.” § 87(2)(b) also sent the CCRB a copy of Police Officer Sher’s Negotiated Settlement (Board Review 13), in which Police Officer Sher pleaded guilty to both counts set forth in his Charges and Specifications.

Police Officer Sher’s memo book (Board Review 26) indicates that he responded to a request for assistance at Flatbush Avenue and Tilden Avenue, and the job was finalized as 10-91 (non-crime corrected) at 5:03 p.m. Police Officer Sher did not document his pepper spraying of § 87(2)(b) in his memo book.

As per Patrol Guide Procedure 200-02 (Board Review 14), the NYPD’s values include “maintain[ing] a higher standard of integrity than is generally expected of others because so much is expected of [them],” and, “valu[ing] human life, respect[ing] the dignity of each individual, and render[ing their] services with courtesy and civility.”

Patrol Guide Procedure 203-10 (Board Review 15) prohibits officers from “engaging in conduct prejudicial to the good order, efficiency, or discipline of the Department.”

Patrol Guide Procedures 221-01 (Board Review 16) and 221-02 (Board Review 17) state that officers may use force when it is reasonable to ensure officers’ or civilians’ safety, or when it is reasonable to place a person in custody or to prevent escape from custody. Officers’ use of force must be reasonable under the circumstances, and de-escalation techniques, which may reduce or eliminate the need for force by gaining the subject’s voluntary compliance, must be prioritized. Whenever an officer uses force, the officer must “inquire if the subject requires medical attention and document [the] response to [the] inquiry in [their] digital Activity Log.”

Patrol Guide Procedure 221-07 (Board Review 18) states, “O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons... O.C. pepper spray shall not be used in situations that do not require the use of physical force.” After deploying pepper spray, an officer must “request response of Emergency Medical Service (EMS) once the situation is under control.”

Patrol Guide Procedure 212-08 (Board Review 27) states that officers must record all tasks performed and enforcement actions taken in their memo books.

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

§ 87(2)(g), § 87(4-b)
[Redacted text block]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 19).
- Police Officer Sher has been a member of service for ten years and has been a subject in nine other CCRB complaints and 12 other allegations, none of which were substantiated. Police § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- § 87(2)(b) s 50-H hearing was held on § 87(2)(b) (Board Review 07). A copy of § 87(2)(b) s Notice of Claim has been requested from the NYC Comptroller’s Office and will be added to the case file upon receipt (Board Review 20).

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #7	CCRB Case #: 202003712	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/31/2020 9:51 PM	Location of Incident: Broadway between East 11th Street and East 13th Street	Precinct: 06	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/01/2020 9:40 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 06/01/2020 9:40 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Vincent Harris	22788	965173	046 PCT
2. POM Joshua Jiminez	06074	963583	046 PCT
3. POM Evan Angels	14528	965929	046 PCT
4. DC James Mccarthy	00000	885671	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Jorge Rodriguez	00000	918237	046 PCT
2. SGT Janielle Mendoza	04672	945429	046 PCT
3. POM Peter Esposito	16602	960509	046 PCT
4. POF Katherine Torres	04014	959309	046 PCT
5. POF Jazmine Cruz	22435	962998	046 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
6. POM Shahriar Hussain	26768	967117	046 PCT
7. POM Joel Milian	06760	966223	046 PCT
8. CPT Yerlin Moya	00000	937147	041 PCT

Officer(s)	Allegation	Investigator Recommendation
A.DC James Mccarthy	Force: Deputy Chief James Mccarthy used pepper spray against individuals.	[REDACTED]
B.POM Vincent Harris	Force: Police Officer Vincent Harris used pepper spray against individuals.	[REDACTED]
C.POM Vincent Harris	Force: Police Officer Vincent Harris used physical force against an individual.	[REDACTED]
D.POM Vincent Harris	Force: Police Officer Vincent Harris used pepper spray against an individual.	[REDACTED]
E.POM Vincent Harris	Abuse: Police Officer Vincent Harris threatened § 87(2)(b) [REDACTED] with the use of force.	[REDACTED]
F.POM Vincent Harris	Force: Police Officer Vincent Harris struck individuals with a baton.	[REDACTED]
G.POM Joshua Jiminez	Force: Officers struck individuals with batons.	[REDACTED]
H.POM Vincent Harris	Force: Police Officer Vincent Harris used pepper spray against individuals.	[REDACTED]
I.POM Vincent Harris	Force: Police Officer Vincent Harris pointed his gun at individuals.	[REDACTED]
J.POM Joshua Jiminez	Force: Police Officer Joshua Jiminez used force against individuals.	[REDACTED]
K.POM Evan Angels	Force: Police Officer Evan Angels used pepper spray against individuals.	[REDACTED]
L.POM Evan Angels	Discourtesy: Police Officer Evan Angels spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On June 1, 2020, § 87(2)(b) filed the following complaint using the CCRB website. § 87(2)(b) was a non-witnessing complainant who saw video of this incident on the Internet.

At approximately 9:50 p.m. on May 31, 2020, Deputy Chief James McCarthy of Patrol Boro Manhattan South, Captain Yerlin Moya of the 41st Precinct, and Lieutenant Jorge § 87(2)(b) Sergeant Janielle Mendoza, Police Officer Vincent Harris, Police Officer Joshua Jiminez, Police Officer Evan Angels, Police Officer Katherine Torres, Police Officer Jazmine Cruz, Police Officer Peter Esposito, Police Officer Joel Milian, and Police Officer Shahriar Hussain of the 46th Precinct followed a large protest to the southeast corner of East 12th Street and Broadway in Manhattan. There, Deputy Chief McCarthy and Captain Moya apprehended § 87(2)(b) for reportedly threatening property and people with a brick.

As Deputy Chief McCarthy and Police Officer Angels worked to handcuff § 87(2)(b) protesters surrounded all the officers and began throwing things at them. Deputy Chief McCarthy and Police Officer Harris discharged their pepper spray at crowd members (**Allegation A: Force: Pepper spray:** § 87(2)(g), **Allegation B: Force: Pepper spray:** § 87(2)(g)). An unknown civilian threw a traffic cone at Police Officer Harris, hitting him in the arm as he used his pepper spray. Police Officer Harris charged and shoved a different civilian, knocking them to the ground (**Allegation C: Force: Physical Force:** § 87(2)(g)), then immediately pepper sprayed another civilian at close range (**Allegation D: Force: Pepper spray:** § 87(2)(g)). Police Officer Harris then aimed his pepper spray at and charged towards § 87(2)(b) a civilian who recorded this portion of the incident (**Allegation E: Abuse of Authority: Threat of force:** § 87(2)(g)).

Police Officer Harris and Police Officer Jiminez approached a section of the crowd while swinging and pushing at civilians with their batons (**Allegation F: Force: Nightstick as club:** § 87(2)(g), **Allegation G: Force: Nightstick as club:** § 87(2)(g)). Police Officer Harris then discharged his pepper spray again at the crowd (**Allegation H: Force: Pepper spray:** § 87(2)(g)). A civilian threw a brick at Police Officer Harris, which struck his helmet. Police Officer Harris drew his gun and pointed it towards the brick thrower while walking towards him (**Allegation I: Force: Gun pointed:** § 87(2)(g)). As the brick thrower fled, Police Officer Harris holstered his gun and returned to his fellow officers' position.

A civilian threw a garbage bag towards the officers, and Police Officer Jiminez threw it back over people's heads into the crowd (**Allegation J: Force:** § 87(2)(b) § 87(2)(g)). Having handcuffed § 87(2)(b) the officers began to retreat east along the southern sidewalk of East 12th Street. The crowd pursued them, and a civilian reportedly threw a traffic cone, hitting Police Officer Angels in the leg. Police Officer Angels pepper sprayed this civilian (**Allegation K: Force: Pepper spray:** § 87(2)(g)) before continuing to retreat. § 87(2)(b) dropped his weight towards the ground, slowing the officers' progress away from the crowd. Police Officer Angels shouted at him, saying "Get the fuck up! Get the fuck up and walk like a man!" (**Allegation L: Discourtesy: Word:** § 87(2)(g)).

The investigation obtained three civilian-recorded videos of this incident. The news website Gothamist uploaded an anonymously sourced video to their YouTube and Twitter accounts and within their written articles (**Board Review 01**, referred to throughout this report as “**Gothamist**”). § 87(2)(b) gave the CCRB a cellphone video they recorded during the incident (**Board Review 02**, referred to throughout this report as § 87(2)(b)). An unidentified Twitter user uploaded a third video (**Board Review 03**, referred to throughout this report as “**Twitter**”).

The investigation obtained BWC video of this incident from Police Officer Jiminez (**Board Review 04**, referred to throughout this report as “**BWC**”). The investigation also obtained BWC videos recorded shortly after this incident from other involved officers, but these videos do not contain information relevant to the analysis of FADO allegations and have not been marked for Board review.

While the investigation did not obtain video capturing the very beginning of this incident, the available video metadata and combined civilian and officer testimony strongly indicate that the available video captures most of the incident (which lasted approximately three minutes). Using the file creation timestamp from § 87(2)(b) the internal, watermarked timestamp from **BWC**, and multiple synchronization points (moments within the videos where multiple videos capture the same distinctive audio and visual events), the investigation was able to establish a detailed timeline of relevant events and FADO allegations. While timestamps are provided within this report whenever video is discussed for a specific allegation, a full timeline is also available as **Board Review 05** and may be a useful reference.

Findings and Recommendations

Allegation A – Force: Pepper spray: Deputy Chief James McCarthy used pepper spray against individuals.

§ 87(2)(b) provided a statement over the phone on June 15, 2020 (**Board Review 06**). Police Officer Harris was interviewed at the CCRB on August 11, 2020 (**Board Review 07**). Police Officer Jiminez and Police Officer Angels were interviewed at the CCRB on September 15, 2020 (**Board Review 08**, **Board Review 09**). Deputy Chief McCarthy was interviewed on October 14, 2020 (**Board Review 10**).

All four interviewed officers provided consistent accounts of how they came to be at the incident location. On the incident date, the NYPD assembled Mobile Field Forces (MFFs) to stand by in case large protests happened. All the involved officers from the 46th Precinct were assigned to an MFF together, and on the incident evening they received orders to travel to downtown Manhattan. Upon arriving in the incident vicinity, they encountered other MFFs from other Bronx Precincts staging in the same area. Deputy Chief McCarthy led the 46th Precinct officers and Captain Moya north along Broadway as a large crowd walked up the street. Officers variously estimated the crowd as consisting of between 200 and 1000 people, and unanimously described it as hostile. Civilians chanted political slogans, shouted and cursed at officers, and threw objects in various directions (though not yet at the officers themselves).

Deputy Chief McCarthy stated that as he approached the incident intersection, he clearly saw § 87(2)(b) throw a brick through a business’ front window. The other interviewed officers consistently described seeing Captain Moya and Deputy Chief

McCarthy bring § 87(2)(b) to the ground and begin arresting him. The other interviewed officers all stated that they did not observe § 87(2)(b) prior to Deputy Chief McCarthy and Captain Moya apprehending him.

It is undisputed that as officers began to apprehend § 87(2)(b) the crowd collectively focused on and approached this conflict. The earliest available incident video is **Gothamist**, and as the video begins, the recording civilian and other people are moving towards § 87(2)(b) who is face down on the sidewalk with Captain Moya and Police Officer Angels handcuffing him. In his interview, Deputy Chief McCarthy explained that at the start of this video (0:01) he is visible deploying pepper spray with one hand while calling “10-13” over the radio in his other hand (requesting backup immediately). At 0:04, a civilian in a white shirt appears to be affected by pepper spray; between 0:04 and 0:18 they quickly move away from Deputy Chief McCarthy, sit down on the sidewalk, remove their backpack, take out a plastic water bottle, and pour water into their eyes.

Deputy Chief McCarthy stated that once the crowd approached the officers, they began to throw bottles. Deputy Chief McCarthy could not describe the bottles or their contents. The video shows that § 87(2)(b)'s arrest took place under a multi-story construction scaffolding, some of which is reinforced with x-shaped cross struts. Officers consistently testified that this scaffolding offered incomplete cover from thrown objects, and they could hear items hitting the scaffolding above them at different points in the incident. **Gothamist** first shows a civilian throwing something towards the officers at 0:14, when someone throws a large, blue, plastic sign and it is blocked by the scaffolding cross struts. Prior to this, the video does not show civilians throwing anything, including bottles, at the officers, moving rapidly towards the officers, or otherwise attacking the officers. Later sections of multiple videos show thrown objects approaching or hitting officers, indicating that the scaffolding offered, at best, partial cover from projectiles.

During this incident, Deputy Chief McCarthy carried a normal, belt mounted pepper spray canister of the type carried by non-specialized patrol officers. Deputy Chief McCarthy deployed his pepper spray to keep people away from him. Deputy Chief McCarthy recalled using his pepper spray multiple times, but was unsure of the relative timing of the sprays (back to back, on multiple separate occasions, etc.) and the manner in which he directed the spray (in a circle, side-to-side, up and down, etc.). In response to the pepper spray, the crowd backed up a couple of feet. Deputy Chief McCarthy believed that one or two people were affected by the spray because they were wiping their eyes, but he did not know what happened to them. Deputy Chief McCarthy was unable to recall or describe any specific civilian within the crowd as dangerous or memorable. He did not recall if he ever targeted a specific civilian with the pepper spray but recalled using it to move the crowd in general backwards.

During his tenure in the Police Department, Deputy Chief McCarthy had been assigned to numerous protests and demonstrations (including, but not limited to, the 2004 RNC protests and Occupy Wall Street). As of the incident date, Deputy Chief McCarthy had been a member of service of 36 years and 20 of those years were in the rank of Captain and above. Deputy Chief McCarthy has undergone Disorder Control training and SRG trainings from the Police Academy. Deputy Chief McCarthy did not recall when he received the most recent trainings regarding protests but said that it was within the last five years.

Under NYPD Patrol Guide procedure 221-01, officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise

protect life. In determining whether the use of force is reasonable, members of the service should consider the following: the nature and severity of the crime and circumstances, actions taken by the subject, the immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, the number of subjects in comparison to the number of MOS, and the presence of hostile crowd or agitators. Members of service shall not use any level of force to punish or retaliate (**Board Review 11**).

Under NYPD Patrol Guide procedure 221-07, officers may use pepper spray to gain or maintain control of persons who are exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. Active aggression means a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Officers must avoid discharging pepper spray indiscriminately over a large area for disorder control. Members who are specifically trained in the use of pepper spray for disorder control may use pepper spray in accordance with their training, and within Department guidelines, and as directed by supervisors. (**Board Review 12**).

The NYPD’s SRG training materials (modules 4 and 5) describe the proper use of pepper spray for crowd control. Supervisors may authorize the use of Sabre MK-9 pepper spray to disperse a crowd if an immediate life safety emergency exists that requires this action to be taken. The MK-9 pepper spray is used to create a zone of safety around the officers and is never used at a range of less than 6 feet, as such use can cause tissue damage. The Sabre MK-9 pepper spray canister is 10.5” tall and contains 16 oz of chemical irritant (**Board Review 17**).

§ 87(2)(g) [Redacted]

During this incident, Deputy Chief McCarthy targeted the entire crowd with his pepper spray and had no recollection of a specific civilian(s) being dangerous. Deputy Chief McCarthy has undergone SRG training and has significant experience supervising large, political protests. § 87(2)(g) [Redacted]

[Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Force: Pepper spray: Police Officer Vincent Harris used pepper spray against individuals.

Allegation C – Force: Physical force: Police Officer Vincent Harris used physical force against § 87(2)(b)

Allegation D – Force: Pepper spray: Police Officer Vincent Harris used pepper spray against § 87(2)(b)

Allegation E – Abuse of authority: Threat of force: Police Officer Vincent Harris threatened to use force against § 87(2)(b)

At 0:22 of **Gothamist**, Police Officer Harris is briefly visible deploying pepper spray towards the crowd. This same moment is more clearly captured from 0:00 to 0:09 of § 87(2)(b). In that video, Police Officer Harris is visible deploying his pepper spray in the general direction of officers and the crowd. He begins deploying the spray when he is approximately two steps behind the scaffolding, several feet away from the crowd. Several officers standing closer to the crowd do not deploy their spray. As he sprays, Police Officer Harris steps toward the scaffolding, moving his right arm in broad, sweeping motions as he continues to discharge the pepper spray.

At 0:07 of § 87(2)(b) an orange traffic cone flies from off-screen, hits Police Officer Harris from behind in the right hand, and then lands on the ground. Upon being hit with the cone, Police Officer Harris immediately turns to his right, pauses very briefly, and charges approximately three steps towards a civilian. Police Officer Harris, still moving forward, uses both hands to shove the stationary civilian in the upper body, immediately knocking them off their feet and on to their back. As Police Officer Harris shoves forward, the civilian has both their arms held closely to their stomach or chest. The civilian does not move towards or attack Police Officer Harris in any visible way.

As the first civilian falls, Police Officer Harris turns to his right (now facing towards the camera) and pepper sprays a red-haired civilian as they move left to right across the video frame. This civilian is only visible on video briefly but does not appear to attack Police Officer Harris either.

As Police Officer Harris continues to move towards the camera with his pepper spray still in-hand, the video appears to swing around rapidly before becoming unintelligible. In his sworn statement, § 87(2)(b) said that Police Officer Harris

appeared to be about to pepper spray him, so he quickly turned and ran east along East 12th Street.

In his interview, Police Officer Harris did not mention this portion of the incident in either his initial narrative or upon detailed questioning. When first asked, Police Officer Harris stated that he never pushed or shoved any civilians back away from him during the incident. However, upon being shown § 87(2)(b) Police Officer Harris identified himself as the involved officer. He stated that at this point in the incident, people were too close to the officers, throwing things at them, and outnumbered the officers. Police Officer Harris felt that it was not safe to go into the crowd, but still needed to back the crowd up. He decided that pepper spray would be the safest way to get the crowd to back up. At 0:11, Police Officer Harris acknowledged that the video shows him knocking someone to the ground. He had no independent recollection of doing this, but, based on the video, said that he did this for crowd control. He provided no other justification for this use of force, did not recall that person doing anything specific, and could not elaborate on this interaction. At 0:11, Police Officer Harris confirmed that the video shows him pepper spraying the red-haired civilian. He had no recollection of this action but justified it as “crowd control.” At this point in the incident, Police Officer Harris said that he was moving back anyone who was too close to the officers. Police Officer Harris did not recall what the redhead was doing specifically, and the video did not refresh his memory, but he stated that there must have been a reason to use pepper spray.

Prior to this incident, Police Officer Harris had not received any training on using pepper spray specifically for crowd control.

Under NYPD Patrol Guide procedure 221-01, officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life. The Department examines the reasonableness of force viewed from the perspective of a member with similar training and experience placed into the same circumstances as the incident under investigation. Members of service shall not use any level of force to punish or retaliate (**Board Review 11**).

Under NYPD Patrol Guide procedure 221-07, officers may use pepper spray to gain or maintain control of persons who are exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. Active aggression means a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Officers must avoid discharging pepper spray indiscriminately over a large area for disorder control. Members who are specifically trained in the use of pepper spray for disorder control may use pepper spray in accordance with their training, and within Department guidelines, and as directed by supervisors. (**Board Review 12**)

As Police Officer Harris began using his pepper spray, the closest civilians were multiple steps away, on the opposite side of the scaffolding. Multiple other officers were closer to the civilians than Police Officer Harris and did not deploy their spray at this point.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

Allegation F – Force: Nightstick as club: Police Officer Vincent Harris struck individuals with a baton.

Allegation G – Force: Nightstick as club: Police Officer Joshua Jiminez struck individuals with a baton.

Allegation H – Force: Pepper spray: Police Officer Vincent Harris used pepper spray against individuals.

Gothamist (0:40), **BWC** (0:18), and **Twitter** (0:08) all show officers rushing as a group toward civilians. In these videos, Police Officer Jiminez and Police Officer Harris move together, running from the crosswalk area on the eastern edge of the intersection towards the denser crowd surrounding and approaching § 87(2)(b)'s arrest. The videos collectively show Police Officer Jiminez pushing a civilian with his hands and possibly his baton (the videos are not clear on this issue), then moving away from the civilian to face the front row of the crowd. Almost immediately after Police Officer Jiminez first touches the civilian, Police Officer Harris arrives alongside him, swinging his baton at people. Both officers acknowledged performing these actions in their interviews, with Police Officer Jiminez describing himself as gripping his baton between his hands and using it to push outward, away from his body and into multiple civilians. In his interview, Police Officer Jiminez stated that with hundreds of civilians surrounding the eight officers, it was important that he keep the crowd from getting too close to § 87(2)(b). He used his baton to push the crowd back, and he described this technique as effective.

In his interview, Police Officer Harris said that he saw Police Officer Jiminez surrounded by the crowd for approximately three seconds. Police Officer Harris drew his baton, approached the crowd, and swung his baton several times at the crowd members to drive the crowd away from Police Officer Jiminez. Police Officer Harris wanted the crowd to back up because they were threatening to the officers arresting § 87(2)(b) and because he could not tell if anyone was attacking Police Officer Jiminez. Police Officer Harris did not strike anyone with his baton at this point. Swinging his baton effectively moved the crowd backwards.

At 0:50 in **Gothamist** and 0:18 in **Twitter**, Police Officer Harris is visible pepper spraying the crowd. Collectively, the videos show him deploy the spray toward the front row of protesters, then turn, step further into the crowd, and deploy it toward civilians several steps away from the front row. In his interview, Police Officer Harris stated that he sprayed “a couple individuals” to back them up and protect the officers arresting § 87(2)(b). As he drew his pepper spray, the front line of the crowd was less than a foot away from him. Police Officer Harris was not aware of any procedural standard for how far away civilians should stand from him during an ongoing arrest but said that he felt that six feet was a reasonable, safe distance. Police Officer Harris aimed the spray at a single male civilian based on his walking towards the arrest at a standard walking pace. Police Officer Harris did not recall anything else about the civilian’s behavior leading up to the pepper spraying. Police Officer Harris sprayed the civilian when he was less than an arm’s length away from him. In response to being sprayed, the civilian tripped, then left the area. Police Officer Harris acknowledged that the spray affected him and may have affected other nearby people but stated that he did not aim or intentionally spray it at anyone else. Prior to this incident, Police Officer Harris had not received any training on using pepper spray specifically for crowd control.

Under NYPD Patrol Guide procedure 221-01, officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life (**Board Review 11**).

Under NYPD Patrol Guide procedure 221-07, officers may use pepper spray to gain or maintain control of persons who are exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. Active aggression means a threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Officers must avoid discharging pepper spray indiscriminately over a large area for disorder control. (Members who are specifically trained in the use of pepper spray for disorder control may use pepper spray in accordance with their training, and within Department guidelines, and as directed by supervisors.) (**Board Review 12**)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation I – Force: Gun pointed: Police Officer Vincent Harris pointed his gun at individuals.

Twitter (0:27) show the next portion of this incident most clearly. After pepper spraying portions of the crowd (see **Allegation H**), Police Officer Harris walks to the southeast corner of the intersection and faces north. A civilian wearing a white t-shirt, black shorts, and a black backpack steps into the crosswalk facing south, towards Police Officer Harris. From approximately 10 to 15 feet away, the civilian then throws a brick toward Police Officer Harris with a wide, overhand motion. While the video quality makes it impossible to track the projectile’s exact path, Police Officer Harris flinches almost immediately after the civilian finishes their throwing motion. The civilian then runs north, away from Police Officer Harris and out of the video frame.

While the **Twitter** camera angle then becomes unintelligible (apparently due to the recorder running away from the incident), **Gothamist** shows the subsequent moments clearly (1:03). Police Officer Harris draws and points his pistol forward (north) while walking several steps forward. He then stops, turns around, and holsters his pistol as Lt.

§ 87(2)(b) approaches him.

In his interview, Police Officer Harris stated that he saw the brick-throwing civilian holding the brick as though he was about to throw it. The civilian threw the brick and it hit Police Officer Harris on the very top of his helmet. Police Officer Harris felt a “tap” on the top of his head that was hard enough to jerk his head back. Police Officer Harris wanted to apprehend the civilian because throwing a brick at someone represents a serious use of force. Police Officer Harris took his gun out to attempt to apprehend the civilian and no one else. Police Officer Harris drew his gun and not another weapon because he was concerned that someone who would throw a brick at him might be capable of using other dangerous tactics or weapons against him. No further factors motivated Police Officer Harris’s decision to draw his gun or to select his gun as opposed to another weapon.

As he drew the gun, Police Officer Harris could see the civilian and there was no one and nothing between them. There were other crowd members nearby. It would have been physically possible for Police Officer Harris to fire a bullet from his position and hit the civilian. This line of sight existed for approximately four seconds in total. Police Officer Harris walked towards the crowd, but the civilian turned and fled, leaving Police Officer Harris’s view. Police Officer Harris decided it was not safe to go into the crowd to further pursue the civilian. Police Officer Harris did not know if the other officers knew where he was going and worried that they would not be able to assist him if something happened. He stopped, turned around, and holstered his gun. Police Officer Harris did not use his pointed gun to back the crowd up. Rather, the crowd was nearby as he attempted to pursue and catch the brick-throwing civilian.

Under NYPD Patrol Guide Procedure 221-01, an officer’s decision to display or draw a firearm should be based on an articulable belief that the potential for serious physical injury is present. When a uniformed member of the service determines that the potential for serious physical injury is no longer present, the uniformed member of the service will holster the firearm as soon as practicable (**Board Review 11**).

§ 87(2)(g)

Allegation J – Force: Other: Police Officer Joshua Jiminez used force against individuals.

As shown in both **BWC** (1:14) and **Gothamist** (1:37), a civilian standing several rows back in the crowd throws a large, black garbage bag over other civilians’ heads toward Police Officer Jiminez. The bag lands next to Police Officer Jiminez’s feet, and he immediately throws it back toward where it came from, over the heads of several civilians. It appears to land on the ground, and someone throws it back at him again.

In his interview, Police Officer Jiminez stated that he threw the trash bag into the crowd to clear the area around himself and the nearby officers. He was concerned that with so many objects laying around the officers’ feet, someone could have tripped or fallen over it. He was not trying to hit anyone with the thrown bag and had no further reason to throw the bag. He believed that it contained garbage but was not sure what was in it. He never observed anything that led him to believe the bag contained an explosive or firework (the presence of smoke, the production of any sound, suspicious smells, etc.).

Under NYPD Patrol Guide procedure 221-01, officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life (**Board Review 11**).

§ 87(2)(g)

[Redacted text block]

Allegation K – Force: Pepper spray: Police Officer Evan Angels used pepper spray against individuals.

After approximately two minutes of dealing with the crowd on the intersection's southeast corner, the officers began to retreat east along the southern sidewalk of East 12th Street. **Gothamist** (1:51) and **BWC** (2:09) show the beginning of this retreat, though **Gothamist** ends before the following FADO allegation occurs. In their statements, the interviewed officers all explained that they had § 87(2)(b) in custody at this point and needed to leave the area quickly for their and his safety.

In his interview, Police Officer Angels viewed portions of **BWC** and explained what happened during the incident. At 2:08 in **BWC**, Police Officer Angels is visible standing between two other officers (Police Officer Milian and Police Officer Torres). He is the shortest of the three officers with their backs to the camera, walking backwards as the crowd follows the officers down the block. Police Officer Angels stated that at this point in the incident, a black man in his 30s wearing a red shirt threw a large traffic cone at him from approximately 10 to 15 feet away, hitting him directly in the upper left thigh hard enough to eventually leave a large bruise. The impact did not cause PO Angels to fall or stumble and he did not end up missing work because of this injury. The black man did not do anything else to threaten Police Officer Angels. Police Officer Angels then stepped forward and discharged his pepper spray one time at the man. While a person wearing a red shirt is visible standing near the officers at 2:04 of **BWC** (just before the pepper spraying), his apparent race and age cannot be determined from the video and he is not recorded holding or throwing anything. Rather, in the moment he is visible, he is holding both hands up above his head with his palms open and flat toward the camera. While the investigation was unable to locate the reportedly thrown cone at any point in this portion of the video, the position of the camera behind Police Officer Angels means that an object thrown at his lower body may not have been recorded. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Police Officer Angels' statement and the video are consistent in showing that at this point, there was another civilian standing right next to the black man. Police Officer Angels did not see the spray land on the black man because at the moment he discharged it, other officers pulled him away so that they could all continue retreating as a group (note the officer shouting "Evan!" at 2:08 in **BWC**). However, Police Officer Angels believed the spray hit the black man because he stopped following the police. Regarding the nearby bystander, Police Officer Angels believed the spray "could have easily gotten on them." Leading up to the discharge, the bystander was screaming but not throwing anything and the black man was the only person Police Officer Angels saw who he felt warranted being sprayed. Police Officer Angels did not mean to spray the bystander.

Under NYPD Patrol Guide procedure 221-01, officers may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life. The Department examines the reasonableness of force viewed from the perspective of a member with similar training and experience placed into the same circumstances as the incident under investigation. Members of service shall not use any level of force to punish or retaliate (**Board Review 11**).

Under NYPD Patrol Guide procedure 221-07, officers may use pepper spray to gain or maintain control of persons who are exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. Active aggression means a threat or overt act of an assault (through physical or verbal

means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent. Officers must avoid discharging pepper spray indiscriminately over a large area for disorder control. (Members who are specifically trained in the use of pepper spray for disorder control may use pepper spray in accordance with their training, and within Department guidelines, and as directed by supervisors.) **(Board Review 12)**

§ 87(2)(g)

Allegation L – Discourtesy: Word: Police Officer Evan Angels spoke discourteously to

§ 87(2)(b)

The next portion of the incident is depicted from 2:22 to 2:37 of **BWC**. As the officers walk down the street, § 87(2)(b) appears to fall or go limp, with his body visibly leaning or sinking toward the ground. Two officers are escorting and supporting him at this point, one on each side, and one of them appears to speak to him. However, the audio is not intelligible. The camera then rotates to show Police Officer Angels, who shouts at § 87(2)(b) to “Get the fuck up.” As the camera rotates back to show § 87(2)(b) walking quickly between the two escorting officers, Police Officer Angels shouts “Get the fuck up and walk like a man!”

In his interview, Police Officer Angels said that he used this language because it was “an intense moment.” Both the officers and § 87(2)(b) were in danger from thrown objects § 87(2)(b) especially, given that he had no helmet), and Police Officer Angels needed § 87(2)(b) to get up and walk immediately. Police Officer Angels said his language was a “heated response,” and that he had no further reasons for speaking this way.

Under NYPD Patrol Guide procedure 200-02, officers must treat every citizen with compassion, courtesy, professionalism, and respect (**Board Review 13**). According to DAO-DCT Case Number 2017-17276, language which would ordinarily be inappropriate in dealing with civilians may be excused during a violent confrontation (**Board Review 18**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 14**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 15**).
- Police Officer Harris has been a member of service for two years and this is the first CCRB complaint in which he has been subject.
- Police Officer Jiminez has been a member of service for three years and has been a subject in two other CCRB complaints and three other allegations, none of which were substantiated. § 87(2)(g)
- Police Officer Angels has been a member of service for two years and this is the first CCRB complaint in which he has been subject.
- Deputy Chief McCarthy has been a member of service for 35 years and has been a subject in four other CCRB complaints and six allegations, one of which was substantiated. § 87(2)(g)
 - CCRB complaint number 8801204 involved a substantiated allegation of Abuse of Authority (property damaged) against Deputy Chief McCarthy. The Board recommended Charges but the CTS database does not note what penalty, if any, the NYPD enforced.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- A request for any Notice of Claim regarding this incident has been submitted to the New York City Comptroller’s Officer, and the results will be added to the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (**Board Review 16**).

Squad No.: 7

Investigator:	<u>Matthew Chaves</u> Signature	<u>SI Matthew Chaves</u> Print Title & Name	<u>02/11/2020</u> Date
Squad Leader:	_____ Signature	Manager Vanessa Rosen _____ Print Title & Name	02/11/2021 _____ Date
Reviewer:	_____	_____	_____

Signature

Print Title & Name

Date

Officer(s)	Allegation	Investigator Recommendation
E. Officers	Discourtesy: At 620 Atlantic Avenue in Brooklyn, officers spoke discourteously to individuals.	[REDACTED]
F.INS Frank Digiacomio	Force: At 620 Atlantic Avenue in Brooklyn, Inspector Frank Digiacomio used physical force against § 87(2)(b)	[REDACTED]
G.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)	[REDACTED]
H.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman struck § 87(2)(b) with a baton.	[REDACTED]
I.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman attempted to strike § 87(2)(b) with a baton.	[REDACTED]
J.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman attempted to strike individuals with a baton.	[REDACTED]
K.POM Jason Goodman	Discourtesy: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman spoke discourteously to § 87(2)(b)	[REDACTED]
L.INS Frank Digiacomio	Discourtesy: At 620 Atlantic Avenue in Brooklyn, Inspector Frank Digiacomio spoke discourteously to § 87(2)(b)	[REDACTED]
M. An officer	Force: At 620 Atlantic Avenue in Brooklyn, an officer used physical force against § 87(2)(b)	[REDACTED]
N. An officer	Force: At 620 Atlantic Avenue in Brooklyn, an officer struck § 87(2)(b) with a baton.	[REDACTED]
O. Officers	Force: At 620 Atlantic Avenue in Brooklyn, officers used physical force against individuals.	[REDACTED]
P.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman used physical force against individuals.	[REDACTED]
Q.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)	[REDACTED]
R.POM Jason Goodman	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman attempted to strike § 87(2)(b) with a baton.	[REDACTED]
S.COD Terence Monahan	Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against individuals.	[REDACTED]
T.COD Terence Monahan	Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against § 87(2)(b) topher § 87(2)(b)	[REDACTED]
U.CPT Ronald Ramos	Force: At 620 Atlantic Avenue, Captain Ronald Ramos authorized the use pepper spray against individuals.	[REDACTED]
V.CPT Ronald Ramos	Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use pepper spray against § 87(2)(b) topher § 87(2)(b)	[REDACTED]
W.LT Jason Cortes	Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes authorized the use of pepper spray individuals.	[REDACTED]
X.LT Jason Cortes	Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes authorized the use of pepper spray against § 87(2)(b) topher § 87(2)(b)	[REDACTED]
Y.POM Rafael Morla	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Rafael Morla used pepper spray against individuals.	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
Z.POM Rafael Morla	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Rafael Morla used pepper spray against § 87(2)(b) topher § 87(2)(b)	[REDACTED]
2A.COD Terence Monahan	Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against § 87(2)(b)	[REDACTED]
2B.COD Terence Monahan	Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against individuals.	[REDACTED]
2C.CPT Ronald Ramos	Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against § 87(2)(b)	[REDACTED]
2D.CPT Ronald Ramos	Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against individuals.	[REDACTED]
2E.LT Jason Cortes	Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes used pepper spray against § 87(2)(b)	[REDACTED]
2F.LT Jason Cortes	Force: At 620 Atlantic Avenue in Brooklyn Lieutenant, Jason Cortes used pepper spray against individuals.	[REDACTED]
2G.COD Terence Monahan	Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against individuals.	[REDACTED]
2H.CPT Ronald Ramos	Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against individuals.	[REDACTED]
2I.LT Jason Cortes	Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes authorized the use of pepper spray against individuals.	[REDACTED]
2J.POM Carl Becker	Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Carl Becker used pepper spray against individuals.	[REDACTED]
2K. Officers	Force: At 620 Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b)	[REDACTED]
2L. Officers	Force: At 620 Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b)	[REDACTED]
2M. Officers	Force: At Flatbush Avenue and Pacific Street in Brooklyn, officers used physical force against § 87(2)(b) topher § 87(2)(b)	[REDACTED]
2N.CPT Ronald Ramos	Untruthful Stmt.: Captain Ronald Ramos provided a false official statement to the CCRB.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

Between May 30, 2020 and June 10, 2020, § 87(2)(b) and § 87(2)(b) filed this complaint on behalf of themselves, § 87(2)(b) a protester who § 87(2)(b) spoke with after the incident, and unidentified individuals.

On May 29, 2020, at about 7:20 p.m., § 87(2)(b) and § 87(2)(b) attended a Black Lives Matter protest in front of the Barclays Center, located at 620 Atlantic Avenue in Brooklyn. PO Jason Goodman of the 78th Precinct allegedly threatened § 87(2)(b) with the use of force and spoke discourteously to him by saying, “I’m going to get you, motherfucker” (**Allegations A-B, Abuse of Authority/Discourtesy**, § 87(2)(g)). Officers allegedly swung their batons at and punched unidentified protesters (**Allegations C-D, Force**, § 87(2)(g)). Officers allegedly called unidentified protesters “motherfuckers” (**Allegation E, Discourtesy**, § 87(2)(g)). Inspector Frank Digiacomio of the Technical Assistance Response Unit allegedly grabbed § 87(2)(b) hands and pulled them (**Allegation F, Force**, § 87(2)(g)). PO Goodman allegedly pulled § 87(2)(b) toward him and hit him with a baton (**Allegation G-H, Force**, § 87(2)(g)). PO Goodman attempted to strike § 87(2)(b) with a baton (**Allegation I: Force**, § 87(2)(g)). PO Goodman attempted to strike unidentified protesters with a baton (**Allegation J, Force**, § 87(2)(g)). PO Goodman and Inspector Digiacomio allegedly called § 87(2)(b) a “motherfucker” (**Allegations K-L, Discourtesy**, § 87(2)(g)). An officer allegedly punched § 87(2)(b) in the chest and an officer allegedly struck § 87(2)(b) with a baton (**Allegations M-N, Force**, § 87(2)(g)). Officers allegedly pushed unidentified protesters (**Allegation O: Force**, § 87(2)(g)). PO Goodman allegedly pushed unidentified protesters and § 87(2)(b) (**Allegation P: Force**: § 87(2)(g); **Allegation Q: Force**: § 87(2)(g)). PO Goodman allegedly swung his baton at § 87(2)(b) (**Allegation R: Force**: § 87(2)(g)). Chief Terence Monahan, formerly of the Office of the Chief of Department, authorized the use of pepper spray against protesters and § 87(2)(b) (**Allegation S-T: Force**: § 87(2)(g)). Captain Ronald Ramos and Lieutenant Jason Cortes, both of the Strategic Response Group (SRG), authorized the use of pepper spray against § 87(2)(b) and unidentified protesters (**Allegations U-X, Force**, § 87(2)(g)). PO Rafael Morla, of SRG, used pepper spray against unidentified protesters and § 87(2)(b) (**Allegation Y-Z, Force**, § 87(2)(g)). Chief Monahan authorized the use of pepper spray against protesters and § 87(2)(b) (**Allegation AA-AB: Force**: § 87(2)(g)). Captain Ramos authorized the use of pepper spray against § 87(2)(b) and unidentified protesters, and Lieutenant Cortes used pepper spray against § 87(2)(b) and unidentified protesters (**Allegations AC-AF, Force**, § 87(2)(g)). Chief Monahan authorized the use of pepper spray against unidentified protesters (**Allegation AG, Force**, § 87(2)(g)). Captain Ramos and Lieutenant Cortes authorized the use of pepper spray against unidentified protesters (**Allegations AH-AI, Force**, § 87(2)(g)). PO Carl Becker, of SRG, used pepper spray against unidentified protesters (**Allegation AJ, Force**, § 87(2)(g)). Officers used pepper spray against § 87(2)(b) and § 87(2)(b) (**Allegations AK-AL, Force**, § 87(2)(g)). At Flatbush Avenue and Pacific Street, across the street from the Barclays Center, officers allegedly performed a forcible takedown of § 87(2)(b) (**Allegation AM, Force**, § 87(2)(g)). On October 13, 2020, Captain Ramos provided a false official statement to the CCRB (**Allegation AN, False Official Statement**, § 87(2)(g)). § 87(4-b), § 87(2)(g). No arrests were made or summonses issued to any of the identified victims of this complaint.

Body-worn camera (BWC) footage was received from NYPD Legal. The footage is attached to IAs# 39-63, 114-140, 175-189, 198, 200, 204-206, 246-247, and 253 (**Board Review 1-75**) and summarized in IAs#142, 168, 190, 199, and 201. Surveillance video was obtained from the

Barclays Center. The surveillance video is attached to IAs#90 and 338 (**Board Review 81-82**) and is summarized in IA#94 (**Board Review 83**). Cell phone video was obtained from online social media platforms (Vimeo.com) and from § 87(2)(b). The cell phone videos are attached to IAs#231 and 148-154 (**Board Review 84-91**) and summarized in IA#337 (**Board Review 86**).

Findings and Recommendations

Allegation (C) Force: At 620 Atlantic Avenue in Brooklyn, officers attempted to strike individuals with batons.

Allegation (D) Force: At 620 Atlantic Avenue in Brooklyn, officers used physical force against individuals.

Allegation (E) Discourtesy: At 620 Atlantic Avenue in Brooklyn, officers spoke discourteously to individuals.

Allegation (M) Force: At 620 Atlantic Avenue in Brooklyn, an officer used physical force against § 87(2)(b).

Allegation (N) Force: At 620 Atlantic Avenue in Brooklyn, an officer struck § 87(2)(b) with a baton.

Allegation (O) Force: At 620 Atlantic Avenue in Brooklyn, officers used physical force against individuals.

Allegation (AK) Force: At 620 Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b).

Allegation (AL) Force: At 620 Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b).

Allegation (AM) Force: At Flatbush Avenue and Pacific Street in Brooklyn, officers used physical force against § 87(2)(b).

Known facts and general descriptions

§ 87(2)(b) testified that he was at the protest and stood in front of the entrance to the Barclays Center, in front of a row of barricades that separated protesters from officers posted in front of the doors (**Board Review 93**). § 87(2)(b) was at the protest with a group of friends whom he refused to identify. While chanting near the row of barricades, someone behind him, he did not know who, threw a plastic water bottle toward the officers ahead of him. Suddenly, the officers in front of § 87(2)(b) who were behind the barricades started swinging their batons at people in the crowd, punching people, and calling protesters “motherfuckers.” Aside from describing them as white men, § 87(2)(b) could not describe these officers further. PO Goodman grabbed § 87(2)(b) and struck him with a baton (addressed below in Allegation F-H). An officer who § 87(2)(b) could not describe punched § 87(2)(b) in the chest and struck him in the left arm with a baton. § 87(2)(b) backed away from the row of barricades.

§ 87(2)(b) testified that officers he could not describe pushed various unidentified protesters who got close to the barricades (**Board Review 94**). Eventually, officers fired a stream of pepper spray into the crowd which also struck § 87(2)(b) in the face. § 87(2)(b) backed away and someone helped flush out his eyes.

§ 87(2)(b) testified that she was at the protest in front of the arena entrance (**Board Review 95**). After about an hour, she observed a stream of pepper spray go over her head into the crowd. § 87(2)(b) backed away from the front of the Barclays Center. She saw several people whom she did not know on the ground receiving help from other protesters after having been pepper sprayed. § 87(2)(b) heard a broadcast message which warned protesters to leave or be arrested. § 87(2)(b) left the protest to avoid being arrested.

§ 87(2)(b) testified that he left the front of the Barclays Center and walked across the street because he wanted to get away from what was happening in front of the arena (**Board Review 96**). Suddenly, an officer (described by § 87(2)(b) as black male wearing a uniform who stood 6'0" tall, with a muscular build) grabbed him from behind and started pulling his arms behind his back. Two other officers (both described as white men who stood about 5'11" tall and were wearing uniforms with white shirts) also grabbed § 87(2)(b) by the arms. § 87(2)(b) not knowing what was happening, ran backwards and broke free from the officers' grasps. The three officers chased him, grabbed a hold of his arms, and pulled him to the ground. § 87(2)(b) was handcuffed and brought to an MTA bus. After about an hour, the officers on the bus, who were uninvolved in his apprehension, let § 87(2)(b) go because they did not know who his arresting officer was. § 87(2)(b) was not arrested or summonsed.

Cell phone video of the incident obtained from social media captures PO Goodman swinging his baton toward § 87(2)(b) (addressed below within Allegations G-H) (**Board Review 84**). The video is 19-seconds long, does not capture what happens after PO Goodman swings his baton, and does not show if any officer punched § 87(2)(b) or hit him with a baton.

Surveillance video was obtained from the Barclays Center (**Board Review 81**). The camera angle captures the space in front of the entrance to the Barclays Center from overhead. A large gathering of protesters has formed on one side of the barricades and a group of roughly 50 officers has formed on the other side. The group of officers grows as time goes by. At various moments in the video (see for example, at 10:00, 14:00), sudden large movements of officers and protesters at specific areas along the row of barricades are captured. However, due to the distance of the video and the number of people involved, specific individuals or actions cannot be discerned. Throughout the video, various objects are seen moving through the air toward the officers (see for example, at 19:50). The video captures the use of pepper spray by officers against the crowd (see at 20:56, 22:03, and 23:24), which are addressed below.

Cell phone video was obtained from § 87(2)(b) which he obtained from unknown social media sites and which captures § 87(2)(b) being taken into police custody (**Board Review 85**). The video shows officers, a black male wearing a blue uniform, and two white men wearing uniforms with white shirts, approach § 87(2)(b) (who is a white man who was not wearing a shirt during the incident) and grab his arms. § 87(2)(b) breaks free of the officers, runs a short distance down the street, and is caught by the officers and brought to the ground. The video does not reveal any identifying information for these officers. The cell phone video was presented during each officer interview conducted for this case. However, none of the officers could identify the officers who apprehended § 87(2)(b) and they all denied witnessing this aspect of the incident.

BWC

Four BWC requests were submitted to the NYPD Legal Bureau for BWC footage related to this incident. The requests listed various criteria, including the time, date, and location of the incident, the names of identified civilians involved in the incident, and the names of officers identified via detail rosters as having been posted at the location. These requests returned 75 videos from 57 different officers. None of these videos capture the incidents involved in these allegations. Numerous videos capture interactions at locations in the vicinity of the Barclays Center, however most were unrelated to the specific areas where these allegations occurred.

NYPD Documents Reviewed

A request to Patrol Borough Brooklyn South for detail rosters related to coverage of the protest at the Barclays Center returned 22 pages of rosters (**Board Review 97**). The detail roster pages list various assignments for the officers at specific intersections and other landmarks in the vicinity of

the Barclays Center. Only one page lists a total of eight officers who were assigned to a post in front of the entrance to the Barclays Center within the barricades. Regarding the incident involving § 87(2)(b) across the street from Flatbush Avenue and Pacific Street, one page lists eight officers who were posted at that intersection. Only one of these officers was a black man, Det. Orrin Cox of the 106th Precinct. The detail roster did not identify any officers posted at the location who were white men and would have been wearing a white shirt.

No Threat, Resistance, and Injury Reports were prepared regarding § 87(2)(b) or § 87(2)(b). Given that no other victims of these allegations could be identified, records requests could not be made to identify other potential victims.

Concurrent Investigations

No concurrent investigations were pursued regarding the allegations involving § 87(2)(b) or § 87(2)(b).

An investigation was conducted by the NYPD Patrol Borough Brooklyn South Investigation Unit specifically regarding PO Goodman's use of a baton against § 87(2)(b) (address below in Allegation H). The case is closed and the allegation against PO Goodman was closed as unsubstantiated. The case file was received and did not contain any information regarding any of the other allegations involving § 87(2)(b) or any other identified victim in this case, and it did not provide any additional leads toward identifying other officers who interacted with § 87(2)(b) (Board Review 130).

Ranking Officers

Chief of Patrol Terence Monahan, the highest-ranking NYPD officer on scene at the protest, testified that he arrived at the Barclays Center at about 4:00 p.m., where about 500-1000 protesters had gathered (Board Review 100). There were about 150 officers standing in front of the entrance to the Barclays Center where a perimeter of barricades had been established. By 6:00 p.m., the size of the crowd in front of the Barclays Center and on the adjacent streets had grown to thousands of people. The crowd in front of the Barclays Center became unruly, set off fireworks, and threw various objects at the officers posted in front of the Barclays Center, including water bottles and bottles containing unknown liquids, screws, bolts, and other objects. Protesters repeatedly attempted to lift and break the row of barricades. Officers pushed back at the barricades as protesters pushed the barricades forward into the officers. During one of these confrontations at the barricades when Chief Monahan was present, Chief Monahan instructed officers to "hold the line" but did not provide any further instruction. Chief Monahan did not see any officer punch or swing their fist at protesters and did not see any officer use their baton against any protesters. At some point as the crowd grew, Chief Monahan requested that additional personnel, both patrol officers and SRG officers, respond to the Barclays Center. At about 6:00 p.m. or 6:30 p.m., Chief Monahan deemed the assembly to be unlawful because the protesters had become violent. A recorded dispersal message and verbal commands to disperse were repeated to protesters beginning at 6:30 p.m. Chief Monahan denied hearing any officer make any verbal threats or use any profanity toward protestors and he denied doing so himself.

Officers Interviewed

Inspector Digiaco and PO Zakie Karimzada of the 83rd Precinct were identified via cell phone video as officers who were standing next to PO Goodman after PO Goodman swung his baton toward § 87(2)(b) (Board Review 101-102). Inspector Digiaco and PO Karimzada denied punching § 87(2)(b) denied hitting anyone with their batons or swinging their batons at anyone, and denied using any profanity toward any protester. Inspector Digiaco and PO Karimzada denied seeing any other officer commit any of these actions. Neither of them knew who

was standing around them while they were posted in front of the Barclays Center because there were officers from all over the city posted there.

Captain Ramos, Lieutenant Cortes, PO Becker, and PO Morla testified that they were all working as members of a bicycle squad at the protest (**Board Review 103-106**). All four were posted in front of the entrance to the Barclays Center and were consistent in describing that there was a large crowd in front of the building which eventually started attempting to break the row of barricades. Lieutenant Cortes, PO Becker, and PO Morla used pepper spray against the crowd (addressed below). All four officers denied using a baton against any protester, denied pushing or punching any protesters, and denied using any profanity toward protesters. They all denied seeing any other officer commit any of these actions.

PO Goodman testified that he was posted in front of the Barclays Center alongside officers whom he did not know (**Board Review 107**). On several occasions, protesters disrupted the row of barricades which resulted in officers attempting to hold the barricades in place. PO Goodman did not see other officers push or punch any protesters. Other officers, PO Goodman, did not know who, swung their batons at protesters. PO Goodman said that due to the chaotic circumstances, he could not describe these instances in more detail.

As noted above in the section on police documents, Det. Cox was interviewed as a potential subject officer based on the detail roster which listed him as having been posted at the intersection where § 87(2)(b) was apprehended. During his CCRB interview, Det. Cox acknowledged being posted on Flatbush Avenue, but also noted that he and the officers who were with him from his command were moved to various locations around the Barclays Center during the night (**Board Review 108**). Det Cox denied that he made any arrests during his tour and denied performing a forcible takedown on any protester. Det. Cox denied being any of the officers captured in the cell phone video and did not know who any of the officers were. Det. Cox denied that he was ever posted in front of the entrance to the Barclays Center.

Allegation Recitation and Disposition

There is no BWC video capturing any of the allegations discussed above. The surveillance video from the Barclays Center does not capture the interactions involved here and due to the distance of the overhead cameras, did not assist with officer identification. Regarding the pepper spray allegations involving § 87(2)(b) and § 87(2)(b) the investigation found that pepper spray was used against the crowd multiple times (addressed below), however, the investigation could not determine based on the video, when or where § 87(2)(b) or § 87(2)(b) were pepper sprayed, and was unable to determine who pepper sprayed them and whether these actions were justified. The cell phone video of the incident did not assist with officer identification and does not capture FADOs aside from those by PO Goodman, which are addressed below. No records were identified which documented any use of force against § 87(2)(b) or § 87(2)(b). The detail roster listed a small number of officers who were posted at the two incident locations (in front of the entrance to the Barclays Center and at Flatbush Avenue and Pacific Street). However, given the scale of the protest, and the corresponding police response, the detail rosters did not meaningfully assist with officer identification because they did not reflect the arrival of additional officers or the movements of officers from one location to another as the events of the protest unfolded. For these reasons, the investigation could not identify the subject officers of these allegations. § 87(2)(g)

Allegation (A) Abuse of Authority: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman threatened § 87(2)(b) with the use of force.

Allegation (B) Discourtesy: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that he was standing near the front of the crowd and a row of barricades in front of the entrance to the Barclays Center. Everyone at the front of the crowd started getting bumped forward by other protesters behind them into the barricades in front of them. § 87(2)(b) put his hands up to indicate to the officers in front of him that he was not trying to disrupt the barricades. § 87(2)(b) and PO Goodman became involved in a heated verbal exchange, the substance of which § 87(2)(b) did not remember. PO Goodman pointed at § 87(2)(b) and said, “I’m going to get you, motherfucker.”

§ 87(2)(b) testified that he saw PO Goodman shouting at protesters, but he was never close enough to hear what PO Goodman was saying to them. § 87(2)(b) did not hear PO Goodman use profanity toward anyone.

There is no video evidence of this aspect of the incident. PO Goodman testified that his BWC became dislodged from his body at some point during the protest § 87(4-b), § 87(2)(g)

PO Goodman testified that he was posted in front of the entrance to the Barclays Center where there were 200-250 officers at most, in comparison to the crowd of protesters which grew to be over 2000 people. The protesters grew increasingly hostile and violent toward the officers. The protesters made various threatening remarks against the lives of officers and their families. The protesters threw various objects including glass bottles, bricks, rocks, bleach, and other unknown liquids at officers. Various supervisors on scene, PO Goodman did not know specifically who, gave the officers orders to hold the barricades and to keep the protesters back. PO Goodman gave protesters numerous orders to back up. PO Goodman denied telling any protester, “I’m going to get you, motherfucker.” He denied verbally threatening any protester and he denied using any profanity toward any protesters. PO Goodman provided testimony regarding an incident during which § 87(2)(b) was present and was captured on cell phone video (see Allegations G-J). However, PO Goodman did not recognize § 87(2)(b) specifically based on seeing him in the video and did not recall any specific interactions he had with specific protesters.

§ 87(2)(g)

Allegation (F) Force: At 620 Atlantic Avenue in Brooklyn, Inspector Frank Digiacomio used physical force against § 87(2)(b)

Allegation (G) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)

Allegation (H) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman struck § 87(2)(b) with a baton.

Allegation (I) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman attempted to strike § 87(2)(b) with a baton.

Allegation (J) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman attempted to strike individuals with a baton.

Allegation (K) Discourtesy: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman spoke discourteously to § 87(2)(b)

Allegation (L) Discourtesy: At 620 Atlantic Avenue in Brooklyn, Inspector Frank Digiacomio spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that while he was chanting amongst the other protesters with his hands up in front of him, someone behind him threw a plastic water bottle toward the officers in front of him.

Suddenly, unidentified officers in front of § 87(2)(b) who were behind the barricades started swinging their batons at protesters in the crowd, punching protesters, and calling protesters “motherfuckers.” An officer, identified by the investigation as Inspector Digiaco, grabbed § 87(2)(b) hands and pulled them down, which § 87(2)(b) believed was an attempt to prevent him from protecting himself. Inspector Digiaco called § 87(2)(b) “motherfucker.” PO Goodman reached over the barricade, grabbed § 87(2)(b) by his shoulder with his left hand, and pulled him toward the barricade. PO Goodman swung his baton at § 87(2)(b) and struck him under his right eye. PO Goodman called § 87(2)(b) “motherfucker.” At this time, an unidentified officer punched § 87(2)(b) in the chest and an unidentified officer hit him in the arm with their baton (see Allegations M-N above). § 87(2)(b) backed away from the barricades. He did not sustain any visible physical injuries as a result of PO Goodman striking him with the baton. He sustained a bruise on his left arm from being hit by the unidentified officer’s baton. § 87(2)(b) did not obtain medical treatment for this injury.

§ 87(2)(b) did not see officers use their batons against anyone and did not see officers push anyone.

A request to the NYPD Legal Bureau did not return any videos from PO Goodman’s BWC related to this incident (see OMN).

A photograph obtained from an unknown source was submitted to the CCRB by § 87(2)(b) (**Board Review 129**). The image depicts PO Goodman with his right arm raised while holding his baton. § 87(2)(b)’s empty right hand is raised chest level and his left hand is not visible in the photo but is down by his left side. Officers in front of § 87(2)(b) are captured reaching near § 87(2)(b) left side, though the image does not depict toward what they are reaching for. An unidentified individual (wearing a white hoodie) standing behind § 87(2)(b) is holding an unknown black rectangular object in his right hand.

A 19-second cell phone video of the incident was obtained from Vimeo.com and captures PO Goodman swinging his baton toward § 87(2)(b) (**Board Review 84**). The video starts with PO Goodman (seen wearing sunglasses) standing in front of the recorder. Standing to PO Goodman’s right is Inspector Digiaco (in a white polo shirt and a baseball cap). At 00:03, § 87(2)(b) who is standing to the left of the recorder (wearing a blue shirt around his head and neck), has his right arm raised upward. § 87(2)(b) is not visible in the video again until 00:11, when his right hand is seen in the air on the left side of the screen. At 00:10 and at 00:12, liquid is captured at the top left corner of the video flying through the air toward officers, though the video does not capture who throws the liquid. The video is focused on the officers standing in front of the recorder and does not capture the actions of other protesters. At 00:13, PO Goodman swings his right hand, which is holding a baton, downward toward § 87(2)(b) who is standing in front of him (wearing a blue shirt and ski goggles over his head). At 00:14, § 87(2)(b) empty left hand is captured raised at his side before he backs away into a crowd of protesters behind him. The video does not capture if PO Goodman struck § 87(2)(b) with the baton. Inspector Digiaco’s right arm is outstretched in front of him and reaching over the barricade in front of him, but the video does not show if he made physical contact with § 87(2)(b). As § 87(2)(b) disappears into the crowd, other protesters who were next to § 87(2)(b) quickly move into the space he had occupied. The camera falls to the ground and the video ends.

PO Goodman testified that throughout the protest, protesters were throwing various objects at officers. After reviewing the cell phone video noted above during his CCRB interview, PO Goodman provided the following information regarding this aspect of the incident: A protester in the crowd threw bleach that went overhead and behind PO Goodman. The protester threw a second

volley of bleach from a cup that hit PO Goodman and officers next to him, and subsequently caused staining to his uniform. PO Goodman and other officers saw the protester in the crowd holding cups. PO Goodman swung his baton at the protester in order to dislodge the cups containing the chemical and to prevent further harm to himself and other officers. PO Goodman did not know what happened to the protester who threw the cups. He did not remember if § 87(2)(b) (apparent in the video wearing ski goggles) was the protester who threw the cups. PO Goodman denied that he hit § 87(2)(b) with his baton or pulled § 87(2)(b) toward him and he did not see any other officer so do. PO Goodman explained that protesters repeatedly threw bottles, rocks, and containers filled with chemicals at officers. At numerous points in time, it was apparent to PO Goodman based on the smell and feel of the liquids, that it was bleach being thrown at the officers, who did not have any shields or other protective equipment. In order to protect himself and other officers from the various projectiles being thrown, PO Goodman swung his baton on other occasions to dislodge the object from the protester's hands. PO Goodman denied that he used any profanity toward any protester, and he did not hear any officer do so. PO Goodman did not have any BWC recordings because his camera became dislodged at some point during the protest.

Inspector Digiacoimo's statement was consistent with PO Goodman's in describing that protesters continuously threw various objects and liquids at officers. When shown the cell phone video referenced above during his CCRB interview, Inspector Digiacoimo did not recall the specific encounter depicted and did not recognize § 87(2)(b). Inspector Digiacoimo did not recall using any force against § 87(2)(b) or any other protester and did not know if § 87(2)(b) was hit with a baton. Inspector Digiacoimo denied using any profanity toward protesters and he did not recall if any other officer did so.

Chief Monahan, Captain Ramos, Lieutenant Cortes, PO Becker, PO Morla, and PO Karimzada all denied seeing any officer hit any protester with a baton, swing their baton at any protester, or pull any protester toward the barricades. They all denied hearing any officer use any profanity toward any protester.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable given the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 109**). Members of service should not use impact weapons on persons who are passively resisting. NYPD Patrol Guide, Procedure 221-02 (**Board Review 110**).

Inspector Digiacoimo did not recall if he made physical contact or used any physical force against § 87(2)(b). The cell phone video shows Inspector Digiacoimo reaching over the barricades but does not show if he made physical contact or used any force against § 87(2)(b). None of the other officers interviewed acknowledged seeing Inspector Digiacoimo use any force against § 87(2)(b).
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

The cell phone video does not capture whether PO Goodman struck § 87(2)(b) with his baton or used any other type of force against him. Further, § 87(2)(b) said he sustained no physical injury to his eye as a result of being struck with PO Goodman's baton, and that he did not seek medical treatment as a result of the encounter. None of the other officers interviewed acknowledged seeing PO Goodman use any force against § 87(2)(b) § 87(2)(g).
§ 87(2)(g)

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

Allegation (P) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman used physical force against individuals.

Allegation (Q) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman used physical force against § 87(2)(b)

Allegation (R) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Jason Goodman attempted to strike § 87(2)(b) with a baton.

§ 87(2)(b) testified that he was standing amongst a large crowd of protesters near the row of barricades discussed in the previous section. PO Goodman pushed protesters who got close to the barricades in the chest. He also swung his baton at protesters, though § 87(2)(b) did not know if PO Goodman's baton made contact with any protesters as a result of him swinging it. After protesters near the front backed away, other protesters stepped forward. This happened repeatedly until § 87(2)(b) was eventually in front of the barricades. PO Goodman placed one hand on § 87(2)(b) chest and pushed him backward. With his other hand, PO Goodman swung his baton toward § 87(2)(b) it did not hit § 87(2)(b) § 87(2)(b) described himself to the CCRB as a § 87(2)(b). [He refused to provide a photo of himself to the investigation.]

§ 87(2)(b) testified she did not see officers use their batons against anyone and did not see any officers push anyone.

PO Goodman testified that on several occasions, protesters unhooked the barricades and pushed themselves into the officers standing on the other side. Supervisors on scene, PO Goodman did not know who, shouted orders to hold the barricades and keep the protestors back. PO Goodman approached the row of barricades, put his hands on them, and pushed the barricades back into place. He gave verbal orders to protesters to back up and they did not comply. PO Goodman used his hands to push people back away from the barricades. Over the span of a few hours, PO Goodman approached the row of barricades several times to assist in holding them in place, with periods in between where the protesters were not pushing the barricades. In trying to prevent the protesters from disrupting the row of barricades, PO Goodman was pepper sprayed by protesters, bleach and other chemicals were thrown at him, he was punched in the face, and he was spit on. As described above, PO Goodman swung his baton at individuals when he saw someone throw objects at officers in order to dislodge the objects that were being thrown and to protect himself and other officers from the projectiles.

PO Goodman acknowledged pushing protesters who were close to the barricades, pushing the barricades, and refusing to comply with orders to move back. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (S) Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against individuals.

Allegation (T) Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against § 87(2)(b)

Allegation (U) Force: At 620 Atlantic Avenue, Captain Ronald Ramos authorized the use of pepper spray against individuals.

Allegation (V) Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against § 87(2)(b)

Allegation (W) Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes authorized the use of pepper spray against individuals.

Allegation (X) Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes authorized the use of pepper spray against § 87(2)(b)

Allegation (Y) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Rafael Morla used pepper spray against individuals.

Allegation (Z) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Rafael Morla used pepper spray against § 87(2)(b)

[REDACTED] testified that he was at the protest by himself, standing in front of the row of barricades in front of the Barclays Center. Protesters behind him threw water bottles at officers in front of him. Officers fired pepper spray into the crowd, at § 87(2)(b) and other nearby protesters who were not throwing objects or being violent.

As described above, the surveillance video from the Barclays Centers shows a large crowd of protesters gathered in front of the Barclays Center (**Board Review 81**). At the 19:56 minute mark on the media player (visible at the bottom of the screen), the camera zooms in on a section of the barricades. § 87(2)(b) is visible in the middle of the frame (he is a white man with short brown hair wearing no shirt). At 20:29, protesters in the front of the crowd move forward toward the barricades. Officers push the barricades toward the protesters. Arms on the protesters' side of the barricades are seen holding onto the barricades while officers continue holding the barricades as well. At 20:46, the camera zooms out and three bicycle unit officers (wearing neon green shirts) approach the barricades. At 20:56, officers deploy MK-9 Oleoresin Capsicum (OC) pepper spray from a large blue canister, against the crowd. The crowd retreats and officers realign the barricades.

Chief Monahan said he spoke with a supervisor, he did not remember who, from the Disorder Control Unit/SRG and told him, "If they break the barriers, you can use it," in reference to officers using the MK-9 OC spray against the crowd. During the protest, Chief Monahan walked around to observe various areas around the Barclays Center and did not personally observe the use of the MK-9 OC spray against anyone.

Captain Ramos, Lieutenant Cortes, PO Becker, and PO Morla, who were all working at this protest as members of a bicycle unit, provided the following consistent testimony: The officers reported to the area in front of the Barclays Center where other patrol officers were also posted. The officers at this post were vastly outnumbered by protesters who were positioned in front of the row of barricades mentioned above. Protesters threw various objects at officers including bottles, bricks, paint buckets, and other assorted hard objects. The protesters also disrupted the row of barricades by unhooking the individual pieces of the barricades, pushing them, standing on them, and throwing them at officers. Due to the size and violent nature of the crowd and the disruption to the row of barricades, the MK-9 OC Spray was utilized as a method of crowd control in order to back the crowd up, create space for the officers, and allow them to solidify the protective row of barricades. Captain Ramos, Lieutenant Cortes, PO Becker, and PO Morla are all trained in the use of the MK-9 OC spray.

Lieutenant Cortes, PO Becker, and PO Morla testified that the use of the MK-9 was authorized by Captain Ramos. Captain Ramos acknowledged that the MK-9 OC spray was used, but he denied that he instructed officers to use it against the crowd and he denied that he used pepper spray against any protesters.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable given the circumstances. NYPD Patrol Guide, Section 221-01 (**Board Review 109**).

According to NYPD training materials, the MK-9 OC spray can be utilized when danger is perceived or threatened to the bicycle squad and there is no other alternative to ending the threat or danger. The MK-9 OC spray can be utilized to create a zone of safety for the bicycle squad. If the MK-9 OC spray is to be utilized to disperse a violent and/or tumultuous crowd, it must be authorized by a supervisor. Trained personnel may discharge OC spray in a controlled manner towards a threat area containing numerous individuals if there is a need to create a zone of safety (**Board Review 111**).

According to the NYPD's Department Advocate Office, Chief Monahan retired from service as of March 29, 2021 (**Board Review 112**). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (AA) Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against § 87(2)(b)

Allegation (AB) Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against individuals.

Allegation (AC) Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against § 87(2)(b)

Allegation (AD) Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against individuals.

Allegation (AE) Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes used pepper spray against § 87(2)(b)

Allegation (AF) Force: At 620 Atlantic Avenue in Brooklyn Lieutenant, Jason Cortes used pepper spray against individuals.

§ 87(2)(b) testified that he remained in the crowd near the barricades and continued protesting after the incident described above involving PO Goodman, Inspector Digiacomio, and other officers. While standing about five feet away from the barricades and with his hands up, officers behind the barricades who § 87(2)(b) could not describe, pepper sprayed the crowd, including § 87(2)(b) § 87(2)(b) backed away from the crowd and removed the ski goggles he was wearing, which caused the pepper spray to land in his eyes. The pepper spray also caused § 87(2)(b) § 87(2)(b) face to break out in scabs and acne; he did not seek medical treatment for these injuries.

Lieutenant Cortes' BWC video shows him standing amongst other officers in front of the entrance to the Barclays Center behind the row of barricades (**Board Review 68**). From the start of the video through the 30-second mark of the media player timestamp (visible at the bottom of the screen), numerous objects are seen being thrown in the direction of the officers. At 00:37, Lieutenant Cortes approaches the row of barricades as protesters stand on the other side of them. Officers stand behind the barricades and most are positioned a small distance from the barricades. There is no physical confrontation between officers and protesters, in contrast to what occurred during the previous use of the MK-9 OC spray. At 00:38, Lieutenant Cortes raises a blue MK-9 canister and sprays it at the protesters in front of him, several of whom back away. At 00:43, the spray goes toward § 87(2)(b) (wearing a white t-shirt, with a blue face covering and ski goggles), who is standing in front of the barricades with his hands up. Lieutenant Cortes turns around and walks back toward the Barclays Center entrance.

In the Barclays Center surveillance video, the first use of MK-9 OC spray is captured at the 20:56

minute mark of the media player timestamp (visible at the bottom of the screen) (**Board Review 81**), and in response, the crowd backs away from the barricades. Numerous objects continue to be thrown in the direction of the officers. Starting at 21:28, a crowd begins to return toward the barricades and two clusters of protesters assemble, one in the middle and one at the bottom of the video. In the middle of the screen, protesters stand in the front of the barricades with their arms up. Objects are being thrown in the direction of officers from protesters who are further back from the line of barricades. Officers are also near the barricades; some officers are at arm's length from the barricades with one arm in front of them and a hand on the barricades while others are standing further away from the barricades. At 21:43, protesters visible at the bottom of the screen push a barricade, which appears to prompt a couple officers to step toward that area. The protesters pushing the barricade back away into the crowd and the officers take no further action. At 22:03, officers deploy MK-9 OC spray at the crowd in the middle of and at the bottom of the screen. Both clusters of protesters in front of the barricades are captured standing and most of the protesters have their arms raised over their heads. Numerous protesters back away from the barricades. At 22:11, § 87(2)(b) is still near the barricades with his hands up (near the middle of the screen, wearing a white shirt and ski goggles over a blue face covering). The video does not capture § 87(2)(b) actions or whereabouts before the utilization of the pepper spray addressed above in Allegations S-Z, but § 87(2)(b) is visible in the video at several moments leading up to the pepper spray discharge addressed in this section, and screenshots of those moments are included in Board Reviews 131-135, at 21:35 (**Board Review 131**), 21:45 (**Board Review 132**), 21:55 (**Board Review 133**), 21:59 (**Board Review 134**), and 21:10 (**Board Review 135**). Throughout this period, § 87(2)(b) is captured pacing ahead of the line of barricades with his hands above his head amongst the crowd of protesters in the middle of the screen. Starting at 22:18, a crowd of protesters returns near the barricades. Objects continue being thrown in the direction of officers. At 22:36, at the bottom of the screen, protesters kicks at the barricades repeatedly. At 22:54, a protester with a bag at their side who is visible near the middle of the screen (next to the barricades) appears to shout at officers while walking up and down the row of barricades. At 23:09, a protester near the middle of the screen lifts a barricade and throws it at officers.

Lieutenant Cortes testified that he is trained to use MK-9 OC spray, and that he used his MK-9 OC spray after receiving authorization from Captain Ramos. The MK-9 OC spray was used against the violent crowd of protesters which had been throwing objects at officers, pushing officers who were on the opposite side of the barricades, and separating the barricades from each other. Lieutenant Cortes used his MK-9 OC spray to establish a zone of safety in which the officers could protect the line of barricades and push the line of barricades further away from the doors of the Barclays Center.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable given the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 109**).

According to NYPD training materials, MK-9 OC spray may be utilized when danger is perceived or threatened to the bicycle squad and there is no other alternative to ending the threat or danger. The MK9 OC spray should be utilized to create a zone of safety for the bicycle squad. If the MK-9 OC spray is to be utilized to disperse a violent and/or tumultuous crowd, this must be authorized by a supervisor. Trained personnel may discharge OC spray in a controlled manner towards a threat area containing numerous individuals if there is a need to create a zone of safety (**Board Review 111**).

According to the NYPD's Department Advocate Office, Chief Monahan retired from service as of

Lieutenant Cortes' BWC video and the surveillance video show that a crowd re-formed in front of the barricades and that protesters persisted in throwing objects at officers after the first use of MK-9 OC spray. § 87(2)(g)

Allegation (AG) Force: At 620 Atlantic Avenue in Brooklyn, Chief Terence Monahan authorized the use of pepper spray against individuals.

Allegation (AH) Force: At 620 Atlantic Avenue in Brooklyn, Captain Ronald Ramos authorized the use of pepper spray against individuals.

Allegation (AI) Force: At 620 Atlantic Avenue in Brooklyn, Lieutenant Jason Cortes authorized the use of pepper spray against individuals.

Allegation (AJ) Force: At 620 Atlantic Avenue in Brooklyn, Police Officer Carl Becker used pepper spray against individuals.

At the start of PO Becker's BWC video, he is captured standing behind the row of barricades (Board Review 69). At 00:38, a protester picks up and throws a barricade at officers. Officers run into the crowd in pursuit of the protester. PO Becker walks in front of the barricades behind other officers. At 00:49, he raises a blue MK-9 OC spray canister and sprays protesters to the right and in front of him. When the sound on the BWC activates at 01:00, PO Becker is heard saying, "Get back. Back up. Back up. Back up." PO Becker and the other officers begin backing away from the crowd. Objects continue being thrown toward the officers.

This same aspect of the incident is captured in the Barclays Center surveillance video starting at 23:09, when a protester is seen throwing a barricade at officers (Board Review 81). Officers pursue the protester into the large crowd. The camera turns away from the row of barricades to the right. At 23:24, the camera turns back toward the barricade and captures PO Becker using the MK-9 OC spray. The barricades behind PO Becker and the other officers are on the ground and are being picked up by officers.

PO Becker testified that protesters knocked down a line of barricades that had been setup in front of the Barclays Center. Separately, the protesters were throwing bottles and other objects at officers posted in front of the arena. PO Becker was instructed by Lieutenant Cortes that Captain Ramos instructed them to use the MK-9 OC spray against the crowd in order to push the crowd back and to allow officers the opportunity to put the barricades back in place. PO Becker used the MK-9 OC spray against the protesters in front of where the barricades were knocked down. PO Becker was trained regarding the use of the MK-9 OC spray as part of his training to become an SRG bicycle officer.

Force may be used when it is reasonable to ensure the safety of a member of service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable given the circumstances. NYPD Patrol Guide, Procedure 221-01.

According to NYPD training materials, MK-9 OC spray can be utilized when danger is perceived or threatened to the bicycle squad and there is no other alternative to ending the threat or danger. The MK9 OC spray can be utilized to create a zone of safety for the bicycle squad. If the MK-9 OC spray is used to disperse a violent and/or tumultuous crowd, this must be authorized by a supervisor. Trained personnel may discharge OC spray in a controlled manner towards a threat area containing numerous individuals if there is a need to create a zone of safety.

According to the NYPD's Department Advocate Office, Chief Monahan retired from service as of March 29, 2021 (**Board Review 112**). § 87(2)(g)

As captured in the BWC and surveillance videos, a crowd re-formed in front of the barricades after the second use of MK-9 OC spray described above, objects continued to be thrown at officers, and specific protesters became particularly aggressive by kicking and throwing barricades. PO Becker's use of MK-9 OC spray occurred after an officer suddenly ran into the large crowd to pursue the protester who threw the barricade, thus breaking the row of barricades that separated the officers from the large crowd and from the other officers who followed behind the first officer. § 87(2)(g)

Allegation (AN) Untruthful Statement: Captain Ronald Ramos provided a false official statement to the CCRB.

On October 13, 2020, Captain Ramos testified that officers in front of the Barclays Center used the MK-9 OC spray against protesters. He denied that he issued any instructions to officers to use the MK-9 OC spray. However, as described above, Lieutenant Cortes, PO Morla, and PO Becker all testified that they utilized their MK-9 OC spray against protesters after receiving instruction to do so from Captain Ramos.

A false statement is an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement is made. A material fact is a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. Intentionally making a false official statement regarding a material matter will result in separation from the Department, absent extraordinary circumstances. NYPD Patrol Guide, Procedure 203-08 (**Board Review 125**).

§ 87(2)(g)
[Redacted]

§ 87(4-b), § 87(2)(g)
[Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been party (**Board Review 113-114**)
- § 87(2)(b)
[Redacted]
- § 87(2)(b)
[Redacted]
- PO Goodman has been a member of service for 14 years and has been a subject in seven other CCRB complaints involving 14 allegations, one of which was substantiated.
 - In CCRB 201904872, the Board substantiated a retaliatory arrest allegation and recommended Charges. The NYPD has not yet imposed discipline.
 - § 87(2)(g)
[Redacted] Case #202003728 and case #202004426 involved allegations against PO Goodman which were also related to the May 29, 2020 Barclays Center protest. In case #202003729, the Board unsubstantiated an allegation that PO Goodman struck an individual with a baton. In CCRB 202003729, the Board exonerated an allegation of physical force against PO Goodman.
- Lt. Cortes has been a member of service for 17 years and this is the first complaint to which he has been a subject.
- Captain Ramos has been a member of service for 17 years and has been a subject in four other CCRB complaints involving four allegations, none of which were substantiated.
- § 87(2)(g)
[Redacted]
- PO Becker has been a member of service for eight years and has been a subject in one prior CCRB complaint involving one allegation which was not substantiated. § 87(2)(g)
[Redacted]

- PO Morla has been a member of service for seven years and has been a subject in two prior CCRB complaints involving two allegations, neither of which were substantiated. § 87(2)(g)
- Inspector Digiacomo has been a member of the service for 27 years and this is the first CCRB complaint to which he has been a subject.
- Chief Monahan was a member of service for 39 years and had been a subject in four prior CCRB complaints involving five allegations, none of which were substantiated. § 87(2)(g)
 - As of the date of this report, Chief Monahan is listed as a subject in nine open CCRB complaints involving multiple incidents related to the Black Lives Matter protests.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- According to the NYC Office of the Comptroller, no Notice of Claim was filed by § 87(2)(b) or § 87(2)(b) regarding this incident (**Board Review 117**).
- A Notice of Claim was filed by § 87(2)(b) in which he alleged that he was physically assaulted. Specifically, he alleges that PO Goodman and several other officers grabbed, punched, and hit him with their batons, and that he was pepper sprayed. § 87(2)(b) is seeking redress of \$1 million. No 50-H hearing has been scheduled (**Board Review 118**).
- A Notice of Claim was filed by § 87(2)(b) in which he alleges that he was assaulted during the protest. Specifically, he alleges he was pepper sprayed, thrown to the ground, and handcuffed. § 87(2)(b) is seeking redress of \$1 million. No 50-H hearing has been scheduled (**Board Review 119**).
- According to the Office of Court Administration (OCA), as of July 19, 2021, § 87(2)(b) and § 87(2)(b) have no history of convictions in New York City (**Board Review 120-123**).

Squad: 13

Investigator:	<u>Rolando Vasquez</u> Signature	<u>SI Rolando Vasquez</u> Print Title & Name	<u>12/15/21</u> Date
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Squad Leader:	<u>Laura Kastner</u> Signature	<u>IM Laura Kastner</u> Print Title & Name	<u>12/15/2021</u> Date
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CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Michael Miskovski	Team: Squad #3	CCRB Case #: 202003730	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 10:45 PM, Friday, 05/29/2020 11:00 PM, Saturday, 05/30/2020	Location of Incident: 411 Lafayette Avenue; 388 Lafayette Avenue; 88th Precinct stationhouse at 298 Classon Avenue.	Precinct: 88	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 2:10 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 2:10 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LSA Michael Doyle	00000	917072	CRM CTL
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Duggan	06001	948475	TB DT32
2. POM Wilman Gutama	06100	967537	PSA 9
3. POM Leif Tjornhom	06010	945054	S.I. CT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: On May 29, 2020, in the vicinity of 411 Lafayette Avenue, an officer used physical force against § 87(2)(b)	
B. An officer	Force: On May 29, 2020, in the vicinity of 411 Lafayette Avenue, an officer used physical force against § 87(2)(b)	
C. LSA Michael Doyle	Discourtesy: On May 29, 2020, in the vicinity of 388 Lafayette Avenue, Lieutenant Michael Doyle spoke discourteously to Individuals.	
D. LSA Michael Doyle	Force: On May 29, 2020, in the vicinity of 388 Lafayette Avenue, Lieutenant Michael Doyle used physical force against § 87(2)(b)	
E. LSA Michael Doyle	Abuse: On May 30, 2020, in the vicinity of 394 and 435 Lafayette Avenue, Lieutenant Michael Doyle refused to provide his tax identification number to § 87(2)(b)	
F. LSA Michael Doyle	Abuse: On May 30, 2020, at the 88th Precinct stationhouse, Lieutenant Michael Doyle issued a summons to § 87(2)(b)	

Case Summary

On May 30, 2020, § 87(2)(b) filed this complaint via the CCRB website. On June 4, 2020, reporting non-witness § 87(2)(b) filed a duplicate complaint on behalf of an unknown individual (the investigation determined him to be § 87(2)(b) via the CCRB website.

On May 29, 2020, at approximately 9:10 p.m., § 87(2)(b) joined the protests against police brutality in Brooklyn along Lafayette Avenue and Classon Avenue. At approximately 10:45 p.m., near 411 Lafayette Avenue, an unidentified officer shouted at the crowd to back up and pushed § 87(2)(b) as the group of officers walked closer to Classon Avenue; the officers again commanded the crowd to back up and the same officer pushed § 87(2)(b) again (**Allegations A and B: Force**; § 87(2)(g)). At approximately 11:00 p.m., § 87(2)(b) continued to stay near the same intersection and was near 388 Lafayette Avenue. § 87(2)(b) began to speak with Lieutenant Michael Doyle of Criminal Control. While they conversed, another individual somewhere in the crowd threw a bottle at the officers. The officers began to run at the crowd, and Lt. Doyle shouted, “Get out of the fucking street!” (**Allegation C: Discourtesy**, § 87(2)(g)). § 87(2)(b) stood near the edge of the sidewalk to avoid the officers as they ran past, but Lt. Doyle turned to § 87(2)(b) and pushed § 87(2)(b) on the chest, causing him to fall onto the street (**Allegation D: Force**, § 87(2)(g)). Later in the night, at approximately 12:00 a.m. on May 30, 2020, near 435 Lafayette Avenue, § 87(2)(b) saw Lt. Doyle, who was speaking with another officer in a white shirt, again and asked him for his shield number. Lt. Doyle did not provide any identifying information to § 87(2)(b) in response to his requests (**Allegation E: Abuse of Authority**, § 87(2)(g)). Lt. Doyle then walked over to § 87(2)(b) and said, “You want my attention baby? You got it,” handcuffed § 87(2)(b) escorted him to the 88th Precinct stationhouse, and issued him criminal court summons #4441880724 for disorderly conduct (**Allegation F: Abuse of Authority**, § 87(2)(g)) (**12 Board Review**). Once he issued § 87(2)(b) the summons, Lt. Doyle informed him that lieutenants do not have shield numbers.

A request for body-worn camera (BWC) footage returned negative results (**BR 01**). § 87(2)(b) provided links to Twitter and Reddit videos capturing parts of the video (**02 and 04 Board Review**). He also provided his own cellphone footage of parts of the incident (**03 Board Review**). A request for TARU footage yielded negative results (**20 Board Review**).

Findings and Recommendations

Allegation (A) Force: On May 29, 2020, in the vicinity of 411 Lafayette Avenue, an officer used physical force against § 87(2)(b)

Allegation (B) Force: On May 29, 2020, in the vicinity of 411 Lafayette Avenue, an n officer used physical force against § 87(2)(b)

On May 29, 2020, at approximately 10:45 p.m., during the protests at Lafayette Avenue and Classon Avenue in Brooklyn, § 87(2)(b) was moving eastward along the north side of Lafayette Avenue, closer to the building at 411 Lafayette Avenue. An unidentified officer pushed § 87(2)(b) with two hands, making contact near each armpit, while a small group of officers were walking past. The officer was shouting, “Move,” to no one in particular. The push did not cause § 87(2)(b) to step backwards nor did it cause him pain. § 87(2)(b) did not know what the officers were responding to, but there was a group of civilians behind him. § 87(2)(b) asked the officer for his shield number, but the officer said, “Not the time.” § 87(2)(b) rejoined the group of civilians. Approximately five minutes later, the same group of police officers on the south side of

Lafayette Avenue were moving the group of civilians back onto the sidewalk, and the same unidentified officer stood near § 87(2)(b). The officer extended his hands against § 87(2)(b) and pushed him, since the unidentified officer and the other officers were moving another building length. The officers then backed away. Once the officers stopped moving, § 87(2)(b) saw an unidentified officer standing about ten feet away and asked him for his shield number again. An unidentified stated that it was 6101. § 87(2)(b) described the officer as a white male, 6'3" tall, in his 30s, with a brown goatee, wearing a navy police uniform (**07 Board Review**).

CTS database revealed that Detective Joseph Higgins of Bronx Gang Squad is the only officer with the given shield number, and according to his MOS photo, he is a white male, 5'8" tall, § 87(2)(b) old, with black hair, and a mustache which does not match the description (**22 Board Review**). However, Bronx Gang Squad Tour 3 Roll Call for that day and Det. Higgins' memo book revealed that Det. Higgins was not working and was on his scheduled day off (**05 Board Review**). Furthermore, the Detail Rosters from Patrol Borough Brooklyn North for the protest do not show Bronx Gang Squad as one of the listed commands on duty for the night (**06 Board Review**). § 87(2)(g)

The Detail Rosters do not provide any information to assist with officer identification either (**06 Board Review**). The following commands are listed in the Rosters: Precincts 20, 23, 24, 25, 26, 28, 30, 32, 33, 34, 44, 75, 77, 79, 81, 83, 84, 88, 90, 94, 108, 109, 110, 111, 112, 114, 115, Patrol Borough Brooklyn North, and Critical Response Command. Bronx Gang is not listed among the commands. The locations listed in the Rosters are only the following: the Brooklyn Bridge [40 minutes away from incident location]; Brooklyn City Hall [35 minutes]; the Manhattan Bridge [40 minutes]; Cadman Plaza and Tillary Street [40 minutes]; and Jay Street/Metro Tech Station [30 minutes]. The incident location is not listed in the rosters. § 87(2)(g)

CTS officer identification tool revealed the following officers with the shield number similar to 6101: Det. Michael McFadden, a § 87(2)(b) old white male, shield number 6001, assigned to Financial Crimes Squad; PO Michael Duggan, a § 87(2)(b) old white male, shield number 6100, assigned to Transit District 32; PO Wilman Gutama, a § 87(2)(b) old Hispanic male, shield number 6100, assigned to PSA 9; Det. William Connick, a § 87(2)(b) old white male, shield number 1601, assigned to Detective Bureau Staten Island; Det. Edward Wilkowski, a § 87(2)(b) old white male, shield number 6110, assigned to Organized Crime Investigative Division; PO Leif Tjornhom, a § 87(2)(b) old white male, shield number 6010, assigned to Staten Island Court Section; PO Maximo Agront, a § 87(2)(b) old Hispanic male, shield number 601, of the 75th Precinct and Det. David Lambert, a § 87(2)(b) old Hispanic male, shield number 601 of the 79th Detective Squad (**09-10 Board Review**). None of these officers were in the Detail Roster for the protest either nor were their commands, except for PO Agront and Det. Lambert (**06 Board Review**). According to PO Agront's memo book for the day, he did not work during the protest (**23 Board Review**). According to Det. Lambert's memo book, he was performing administrative duties during the incident day (**24 Board Review**). Since PO Duggan, PO Gutama and PO Tjornhom have roughly similar descriptions to that of the subject officer, the investigation requested Roll Calls and memo books from their commands for the incident date. According to PO Duggan's memo book for the day, he was not present for the protest and was patrolling the subways away from the incident location (**28 Board Review**). According to PO Gutama's memo book, he was not present for the protests and was in the Bronx at the time (**29 Board Review**). According to the Roll Call for Staten Island Court Section, PO Tjornhom was not on duty during the protests (**30 Board Review**).

The CCRB investigated concurrent incidents at the same protest in cases # 202003698, #202003727, #202003733 and #202004761; however, none of these cases provided any new or relevant information in the current case (**31-33 Board Review**). Finally, as previously stated, the

BWC request returned negative results (**01 Board Review**).

Search for social media videos did not reveal any additional videos apart from the video provided by § 87(2)(b). The undersigned investigator also checked through the New York Times article containing a number of protest videos titled, "N.Y.P. D Says It Used Restraint During Protests. Here's What the Videos Show" and did not find any results aside from a video of Lt. Doyle pushing § 87(2)(b) in Allegation D, which was the same video § 87(2)(b) provided to the investigation (**25 Board Review**). § 87(2)(b)'s other video did not provide any information pertinent to the identification of this officer (**03 Board Review**). Search for local security cameras in the area returned negative results as well (**26 Board Review**).

§ 87(2)(g)

Allegation (C) Discourtesy: On May 29, 2020, in the vicinity of 388 Lafayette Avenue, Lieutenant Michael Doyle spoke discourteously to individuals.
Allegation (D) Force: On May 29, 2020, in the vicinity of 388 Lafayette Avenue, Lieutenant Michael Doyle used physical force against § 87(2)(b)

In his CCRB interview, § 87(2)(b) stated that by approximately 11:00 p.m., between 30 to 70 protestors remained in the area. § 87(2)(b) stood by several officers at the intersection of Lafayette Avenue and Classon Avenue at the south end of the sidewalk, near the building at 388 Lafayette Avenue. He spoke with a lieutenant who identified himself as Lt. Doyle who told § 87(2)(b) to leave the area because he could be hurt by his fellow protestors. § 87(2)(b) responded that the protestors would not be throwing anything if the police were not there. § 87(2)(b) exchanged some words with Lt. Doyle but could not remember the entire conversation. A few minutes afterward, someone in the crowd threw a bottle at the officers standing by § 87(2)(b). The group of officers started to run at the crowd while § 87(2)(b) ran from them in an attempt to get out of the way. Lt. Doyle shouted, "Get out of the fucking street" toward no one in particular. § 87(2)(b) ran to the right of Lt. Doyle, but Lt. Doyle turned to his own right side, put his hands on § 87(2)(b)'s chest and pushed § 87(2)(b) there. § 87(2)(b) attempted to keep his footing but lost his balance and fell from the sidewalk onto the road, hurting his left shoulder from the impact to the ground. An unknown civilian bystander helped § 87(2)(b) to stand up, and the two of them ran eastward toward the corner of Lafayette Avenue and Franklin Avenue. § 87(2)(b) did not seek medical attention for his shoulder (**07 Board Review**).

An 11-second video from § 87(2)(b), attached to IA#45, partially captures Lt. Doyle pushing § 87(2)(b) (**02 Board Review**). § 87(2)(b) also provided a link to the tweet. In the video, Lt. Doyle and other officers run close to the sidewalk near a parked white SUV. At 00:02 seconds, § 87(2)(b) stands in front of the SUV by the sidewalk. The video frame moves away from the front of the vehicle for a partial second. At 00:03 seconds, § 87(2)(b) is seen falling down onto the street. At 00:04 seconds, Lt. Doyle is directly next to § 87(2)(b). His right arm is extended, and he then brings it back to his torso. Lt. Doyle and the other officers continue to run down the sidewalk, while an unidentified male bends over toward § 87(2)(b). The videographer follows Lt. Doyle and the video ends at 00:11 seconds (**02 Board Review**). There are no other videos of this interaction.

§ 87(2)(b) refused to provide a statement to the CCRB § 87(2)(b)

(**11 Board Review**).

As of August 12, 2020, Lt. Doyle has retired from the NYPD (**21 Board Review**). § 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: On May 30, 2020, in the vicinity of 394 and 435 Lafayette Avenue, Lieutenant Michael Doyle refused to provide his tax identification number to § 87(2)(b)

Allegation (F) Abuse of Authority: On May 30, 2020, at the 88th Precinct stationhouse, Lieutenant Michael Doyle issued a summons to § 87(2)(b)

In his verified statement to the CCRB, § 87(2)(b) stated that once the officers regrouped after Lt. Doyle had pushed him, he saw Lt. Doyle near 394 Lafayette Avenue. § 87(2)(b) shouted to him and asked for his shield number. § 87(2)(b) was unsure if Lt. Doyle heard him but believed that he did. § 87(2)(b) could not estimate how far Lt. Doyle was from his position. § 87(2)(b) attempted to cross Lafayette Avenue when the crosswalk light turned green, but he was unable to see Lt. Doyle's shield. He shouted to Lt. Doyle, but Lt. Doyle did not pay attention. § 87(2)(b) recorded his question on his cell phone (**07 Board Review**). The short video footage provided by § 87(2)(b) contained in IA#47, shows him asking this question while crossing the sidewalk between 2:59 and 3:10 minutes (**03 Board Review**). On May 30, 2020, at 12:00 a.m., Lt. Doyle and several officers stood across from the park at 435 Lafayette Avenue. § 87(2)(b) walked up to two uniformed officers and asked them if they could speak with him, explaining that he needed help getting Lt. Doyle's information. § 87(2)(b) pointed at Lt. Doyle, since he stood about ten feet behind them in the middle of the intersection. Lt. Doyle made eye contact with § 87(2)(b) as he was pointing. Lt. Doyle walked over with another officer in a white shirt. § 87(2)(b) then said, "Sgt. Doyle, can I have your badge number please?" Lt. Doyle responded, "You wanted my attention baby? You got it." Lt. Doyle and the other officer then pressed § 87(2)(b) against the hood of a vehicle and handcuffed him. Lt. Doyle did not explain he does not have a shield number nor did he provide his tax identification number to § 87(2)(b) when asked. § 87(2)(b) noted that the push was not hard and did not cause him any pain. The officers finished handcuffing him and then helped him stand. Later at the 88th Precinct stationhouse, Lt. Doyle informed § 87(2)(b) that lieutenants do not have shield numbers. Lt. Doyle issued § 87(2)(b) criminal court summons #§ 87(2)(b) for § 87(2)(b) with Lt. Doyle's name and tax identification number on the summons (**12 Board Review**). § 87(2)(b) stated that when Lt. Doyle provided the summons, only then did he inform § 87(2)(b) that lieutenants did not have shield numbers and that his identifying information would be on the summons (**07 Board Review**).

§ 87(2)(b) who did not know § 87(2)(b) witnessed Lt. Doyle handcuffing § 87(2)(b) and provided a statement to the investigation consistent with § 87(2)(b)'s statement. However, § 87(2)(b) admitted that he was too far from the group to hear anything being said but alleged that he saw Lt. Doyle punch § 87(2)(b) in the chest in the process of handcuffing him (**13 Board Review**). However, § 87(2)(b) recorded the incident on his phone and uploaded the footage to § 87(2)(b) (**04 Board Review**). The 33-second video, found in IA #46, shows this part of the incident. The video opens with § 87(2)(b) speaking with two uniformed police officers in the middle of the intersection of Lafayette Avenue and Classon Avenue in Brooklyn, across from the park at 435 Lafayette Avenue. § 87(2)(b) points at Lt. Doyle who is behind the officers. § 87(2)(b) can be heard saying, "His name is Sergeant Doyle, do you think you could [inaudible]." One of the officers shakes his head. Lt. Doyle and a fellow officer in a white shirt then compress their asps against the ground and walk toward § 87(2)(b). At 00:17 seconds, as they get closer, § 87(2)(b) says, "Sergeant, I would like to ask your badge number sir." Lt. Doyle immediately grabs § 87(2)(b)'s right arm and places a handcuff on it, while the second officer grabs the left arm and places his hand on § 87(2)(b)'s chest. While holding his arms, they walk him five feet to a parked vehicle, place him chest-down on the trunk and handcuff his other wrist. At 00:28 seconds, they lift § 87(2)(b) and Lt. Doyle says, "You want my attention baby? You got it." They then walk him across the intersection, and the video ends (**04 Board Review**).

§ 87(2)(g)

[Redacted]

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (**14 Board Review**)
- Lt. Doyle has since retired from the NYPD (**08 Board Review**), but during his tenure, he has been a subject in 16 complaints with 29 allegations, three of which were substantiated.
 - 201308582 involved a substantiated allegation of entry and search against Lt. Doyle. The Board recommended Formalized Training, and the NYPD imposed the recommended discipline.
 - 201503932 involved a substantiated allegation of entry and search against Lt. Doyle. The Board recommended Formalized Training, and the NYPD imposed Instructions.
 - 201509361 involved a substantiated allegation of a question against Lt. Doyle. The Board recommended Formalized Training, and the NYPD imposed the recommended discipline.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On § 87(2)(b), § 87(2)(b) has filed a Notice of Claim with the City of New York claiming emotional and mental distress, physical pain and suffering, humiliation, embarrassment, indignity and the loss of liberty and civil rights, and seeking \$1,000,000 as redress (**16 Board Review**). According to the Office of the Comptroller, a 50-H hearing took place on § 87(2)(b) (**27 Board Review**). The investigation has requested a transcript of the hearing from § 87(2)(b)'s attorney and will be added to the case file upon receipt.
- Neither § 87(2)(b) nor § 87(2)(b) have any history of criminal convictions in New York City (**17-18 Board Review**).

Squad No.: 3

Investigator:	<u>Michael Miskovski</u>	<u>Inv. Michael Miskovski</u>	<u>06/21/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Olga Golub</u>	<u>SL Olga Golub</u>	<u>06/22/2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #14	CCRB Case #: 202003743	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 10:40 PM	Location of Incident: In front of 242 Flatbush Avenue	Precinct: 78	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 9:12 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 05/31/2020 9:12 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Jose Dejesus	29842	967034	078 PCT
3. SGT Thomas Chan	01232	941535	078 PCT
4. COD Terence Monahan	00000	876747	CD OFF

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SSA Angelo Pirozzi	03390	919567	078 PCT
2. CCA Jeffrey Maddrey	00000	899501	C A B

Officer(s)	Allegation	Investigator Recommendation
A. COD Terence Monahan	Force: Chief of Department Terence Monahan authorized the use of physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. An officer	Force: An officer used physical force against § 87(2)(b)	
D. An officer	Force: An officer used physical force against § 87(2)(b)	
E. An officer	Abuse: An officer refused to provide his name to § 87(2)(b)	
F. An officer	Abuse: An officer refused to provide his shield number 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)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On May 31, 2020, § 87(2)(b) filed this complaint via the CCRB’s online website.

On May 29, 2020, at approximately 10:40 p.m., § 87(2)(b) was on his way home from his job as a security worker when he saw a vandalized marked SUV on the southwest corner of Flatbush Avenue and 6th Avenue in Brooklyn. At the same time, former Chief of Department Terence Monahan, who was supervising the dispersal of a large crowd at the nearby Barclays Center, authorized the use of force against civilians in the vicinity of Flatbush Avenue and 6th Avenue in Brooklyn (**Allegation A: Force** – § 87(2)(g)). § 87(2)(b) took a video recording on his phone of the vandalized SUV when approximately 15 officers in riot gear ran towards § 87(2)(b) from the north side of the street corner. An unidentified officer grabbed § 87(2)(b) by his backpack and pulled him to the ground (**Allegation B: Force** – § 87(2)(g)). Several officers then handcuffed § 87(2)(b) while an unidentified officer knelt § 87(2)(b) in the head (**Allegation C: Force** – § 87(2)(g)). After § 87(2)(b) was handcuffed but while he was still on the ground, an unidentified officer punched § 87(2)(b) on the left side of his head (**Allegation D: Force** – § 87(2)(g)). Officers then stood § 87(2)(b) up. § 87(2)(b) asked the officer who had punched him for his name and shield number, but the officer did not respond to § 87(2)(b)’s request (**Allegations E-F: Abuse of Authority** – § 87(2)(g)).

§ 87(2)(b) was arrested for disorderly conduct (fighting/violent behavior) and transported to the 78th Precinct stationhouse. § 87(2)(b) was thereafter released without any charges and § 87(2)(b)’s arrest report was voided (BR 01).

§ 87(4-b), § 87(2)(g)

The investigation received BWC footage from the NYPD, the contents of which will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Force: Chief of Department Terence Monahan authorized the use of physical force against § 87(2)(b)

As noted above, § 87(2)(b) alleged that at approximately 10:40 p.m. on May 29, 2020, at the corner of Flatbush Avenue and 6th Avenue in Brooklyn, unidentified officers pulled him to the ground, knelt him in the head, and punched him in the head.

The CCRB determined that former Chief of Department Monahan was the highest-ranking officer present during the protests at Barclays Center on May 29, 2020. Chief Monahan testified (BR 14) that he determined the assembly at the Barclays Center to be unlawful due to the violence of the crowd, namely throwing objects at officers and reports of injuries. Chief Monahan told Deputy Chief John Dadamo of the Strategic Response Group (SRG) to “clear the streets,” including Atlantic and Flatbush Avenues, and arrest anyone that refused to disperse from the area if necessary. At approximately 10:40 p.m., at Flatbush Avenue and Sixth Avenue in Brooklyn, there were still civilians who had not yet dispersed from the protests at Barclays Center. Chief Monahan instructed officers on scene to “keep moving them along,” referring to the civilians who had not dispersed yet. Chief Monahan testified that SRG officers moved these civilians back to clear the area.

Per the CCRB’s Complaint Tracking System database, Chief Monahan’s was no longer an active member of the Department as of April 1, 2021.

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: An officer used physical force against § 87(2)(b)

Allegation (C) Force: An officer used physical force against § 87(2)(b)

Allegation (D) Force: An officer used physical force against § 87(2)(b)

Allegation (E) Abuse of Authority: An officer refused to provide his name to § 87(2)(b)

Allegation (F) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

Known Facts and General Descriptions

On May 29, 2020, at approximately 10:40 p.m., § 87(2)(b) said (BR 02-03) he stood in front of the shuttered Woodland Bar on the southwest corner of 6th and Flatbush Avenues in Brooklyn. § 87(2)(b) § 87(2)(b) § 87(2)(b) saw a vandalized marked SUV on the corner. § 87(2)(b) took a video of the SUV, as other civilians on the sidewalk were doing. As he stood on the sidewalk recording the marked SUV, § 87(2)(b) saw approximately 15 officers in riot gear run towards him from 6th Avenue. § 87(2)(b) could only describe these officers in riot gear as white males. Upon seeing these officers, § 87(2)(b) began to walk away from the marked SUV and dropped his phone. Other civilians ran away. Once the officers reached § 87(2)(b) one of the officers in riot gear grabbed § 87(2)(b) by his backpack and pulled him to the ground. Thereafter, four officers in riot gear handcuffed § 87(2)(b) and an officer in riot gear knelt him in the head. § 87(2)(b) further said that, once he was handcuffed but still on the ground, an officer punched him in the side of the head. The officer who punched § 87(2)(b) in the head appeared to be a Black male, approximately 5'6"-5'7", average build, late-20s-to-early-30s in age, with a Caesar haircut and a navy blue standard patrolman's uniform. Officers then stood § 87(2)(b) up. The officer who had punched § 87(2)(b) handed § 87(2)(b) his phone. § 87(2)(b) then asked the officer, "What's your name?" and asked for his shield number, but the officer did not respond. The officer placed § 87(2)(b) in a police van, and within minutes, § 87(2)(b) was driven to the 78th Precinct stationhouse for arrest processing.

A second officer, determined by the investigation to be PO Dejesus, then processed § 87(2)(b) at the 78th Precinct stationhouse. Between 12:30 a.m. and 1:00 a.m., § 87(2)(b) was released from the stationhouse without any charges. When § 87(2)(b) left the stationhouse, he looked in a car mirror and saw that the left side of his face was swollen. § 87(2)(b) went to § 87(2)(b) at approximately § 87(2)(b) on § 87(2)(b). Doctors told § 87(2)(b) that it was evident that someone had used force against § 87(2)(b)'s left eye and temple. Doctors also took x-rays of § 87(2)(b)'s ribs and back but revealed no bone damage.

§ 87(2)(b) sent the investigation a live photograph (BR 04) of the graffitied marked SUV on the southwest corner of Flatbush Avenue and 6th Avenue. The photograph did not feature any members of service.

§ 87(2)(b) sent the investigation a photograph (BR 05) of his hospital discharge sheet, which listed § 87(2)(b) as a victim of physical assault. The discharge sheet directed § 87(2)(b) to take Tylenol as needed for pain and further noted that medical professionals had taken a chest x-ray of § 87(2)(b). The CCRB requested § 87(2)(b) sign HIPAA forms, and § 87(2)(b) acceded, but never returned the completed forms.

BWC

The investigation made four BWC requests regarding this incident and received 67 videos, none of which corresponded with this incident (BR 06-10).

The NYPD first searched for footage corresponding to the following criteria: 12:00 a.m.-11:59 p.m. on May 29, 2020 and 12:00 a.m.-01:59 a.m. on May 30, 2020, for PO Dejesus, the 78th Precinct, and PSA 1, which returned negative results. The NYPD then independently searched for footage corresponding to the following criteria: 9:40 p.m. to 11:40 p.m. on May 29, 2020, for PO Dejesus, the 78th Precinct, Strategic Response Group 3, Critical Respond Command, and the Counterterrorism Bureau, which also returned negative results.

The investigation then requested that NYPD search the following parameters: 10:00 p.m. to 11:00 p.m. on May 29, 2020, for the 68th, 70th and 114th Precincts, as PO Dejesus testified (BR 11) that details from these precincts were in the general vicinity during this incident. This request returned negative results.

Furthermore, the investigation requested the NYPD query the following officers, who were identified in detail rosters and roll calls from the night of the incident: Sgt. Chan, Sergeant Paula Smith of the 78th Precinct, Police Officer Leonard Leslie of the 78th Precinct, Police Officer Aron Baksh of the 78th Precinct, Police Officer Daniel Alvarez of the 78th Precinct, Sergeant Alexander Wong of the 103rd Precinct, Police Officer Aphisith Usdonvudhikai of the 103rd Precinct, Police Officer Matthew Neubauer of the 103rd Precinct, Police Officer Kevin O’Shea of the 103rd Precinct, Police Officer Paul Brooks of the 103rd Precinct, Police Officer William Schoenewerk of the 103rd Precinct, Police Officer Richard Dudley of the 103rd Precinct, Police Officer Leonard Lazo of the 103rd Precinct, and PO Joel Bacchus of the 103rd Precinct. This third request returned positive results for PO O’Shea and PO Brooks, as well as Sgt. Viola of the 70th Precinct: seven videos in total. However, these results did not pertain to the incident.

Finally, the investigation requested the NYPD search the following parameters: all SRG commands between 10:00 p.m. to 11:00 p.m. This request returned 60 results, but none of the videos corresponded with this incident.

NYPD Documents Reviewed

No Threat, Resistance, and Injury Report Worksheet was prepared regarding § 87(2)(b)

As noted above, the investigation reviewed detail rosters created for the Barclays Center protests on May 29, 2020 (BR 12). These detail rosters included location-based assignments for each assigned command – the 103rd Precinct was stationed approximately two blocks away from Flatbush Avenue and 6th Avenue, in front of the 78th Precinct side entrance, and evenly spaced on 6th Avenue between Bergen and Dean Streets on the west side of the street. The investigation reviewed roll call for the 78th Precinct (BR 13), which listed five officers as assigned to a protest detail: PO Alvarez, PO Baksh, PO Leslie, PO Trafildo, and PO Dejesus.

The only NYPD documentation which directly referenced § 87(2)(b) were his voided arrest report (which listed PO Dejesus and Sgt. Pirozzi as the arresting officer and approving supervisor, respectively)(BR 01), and the 78th Precinct’s command log (which listed Sgt. Chan as the supervisor who verified § 87(2)(b) s arrest)(BR 13).

§ 87(2)(b) s voided arrest report did not further identify any officers involved in his arrest. The narrative only read as follows: § 87(2)(b), § 87(2)(a) 160.50

Concurrent Investigations

There are no concurrent investigations regarding the allegations levied by § 87(2)(b)

Ranking Officers

Specifically, for the protest detail at the 78th Precinct, Sgt. Chan was the highest-ranking officer. Regarding the larger surrounding protests at the Barclays Center, the CCRB determined that Chief of Department Terence Monahan was present on the night of May 29, 2020. Chief of Department Monahan testified (BR 14) that at approximately 10:40 p.m., at Flatbush Avenue and

Sixth Avenue in Brooklyn, there were still civilians who had not yet dispersed. SRG officers moved these civilians back to clear the area. Chief Monahan instructed officers on scene to “keep moving them along,” referring to the civilians who had not dispersed yet. Chief Monahan did not see an officer punch a black male civilian in the face.

Officers Interviewed

As PO Dejesus was § 87(2)(b)'s arresting officer, the investigation interviewed him. PO Dejesus (BR 11) testified that he had been assigned to stand at attention at Bergen Street and Flatbush Avenue beginning at 3:00 p.m. with PO Alvarez, PO Baksh, PO Leslie, and Sgt. Smith. At approximately 10:40 p.m., Sgt. Chan directed PO Dejesus to leave the line and go to a parked van in which § 87(2)(b) was seated alone. Sgt. Chan gave no additional information regarding § 87(2)(b) including who apprehended him and why he had been apprehended. PO Dejesus sat down in the van. PO Dejesus did not see § 87(2)(b)'s apprehension. PO Dejesus did not see any apparent injuries on § 87(2)(b). An unknown officer drove PO Dejesus and § 87(2)(b) to the 78th Precinct stationhouse. At the stationhouse, PO Dejesus testified, Sgt. Chan told PO Dejesus to void the arrest as PO Dejesus could not establish probable cause for disorderly conduct.

As PO Dejesus identified Sgt. Chan as the member of service who directed him to interact with § 87(2)(b) the investigation interviewed Sgt. Chan. Sgt. Chan testified (BR 15) that, throughout the evening of May 29, 2020, he walked in the vicinity of Flatbush Avenue and responded to various 10-85 calls for assistance. Sgt. Chan had no specific recollection of the incident regarding § 87(2)(b) and did not remember ever having any dialogue with PO Dejesus. Sgt. Chan did not see officers push § 87(2)(b) to the ground or punch him in the head. Sgt. Chan acknowledged that he was the supervising officer for § 87(2)(b)'s arrest on scene, as corroborated by the command log entry discussed above. Sgt. Chan testified that, on the night of May 29, 2020, he had directed officers to take apprehended civilians to the 78th Precinct stationhouse for processing but did not specifically remember § 87(2)(b)'s arrest.

As Sgt. Pirozzi was listed as the supervising officer on § 87(2)(b)'s voided arrest report, the investigation interviewed him. Sgt. Pirozzi testified (BR 16) that had no independent recollection of interacting with § 87(2)(b) on the night of the incident. Sgt. Pirozzi testified that he was the desk officer and did not recall if he ever left the precinct stationhouse during his tour. Sgt. Pirozzi never assisted in any arrests outside the precinct stationhouse. Sgt. Pirozzi testified that he instructed PO Dejesus to void § 87(2)(b)'s arrest as PO Dejesus could not articulate probable cause. Sgt. Pirozzi approved the voided arrest because it was his duty as the desk officer.

Chief Maddrey of the Community Affairs Bureau was interviewed regarding this case; at the time of this incident, Chief Maddrey testified (BR 17) that he was at the 88th Precinct stationhouse but testified that Chief of Department Monahan was on scene and the supervisor at the Barclays Center demonstration.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

[Redacted text block]

§ 87(4-b), § 87(2)(g)

[Redacted text block]

§ 87(4-b), § 87(2)(g)

[Redacted text block]

§ 87(4-b), § 87(2)(g)

[Redacted text block]

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 23).
- Chief Monahan was a member of service for 39 years and was named a subject in 13 cases and 32 allegations, none of which was substantiated. § 87(2)(g)
- PO Dejesus has been a member of service for two years and this is the first complaint to which he has been a subject.
- Sgt. Chan has been a member of service for 14 years and has been subject to nine prior complaints and ten allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- As of September 16, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 24).
- According to the Office of Court Administration, § 87(2)(b) has no history of convictions in New York City (BR 25).

Squad No.: 14

Investigator:	<u>Ethan C. Waterman</u>	<u>Inv. Ethan Waterman</u>	<u>June 23, 2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Cassandra Fenkel</u>	<u>IM Cassandra Fenkel</u>	<u>June 24, 2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noah Kim	Team: Squad #9	CCRB Case #: 202003753	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 7:26 PM	Location of Incident: Barclays Center	Precinct: 78	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 05/30/2020 9:00 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 05/30/2020 9:00 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Daniel Mendez	05665	956922	107 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Daniel Mendez	Force: Police Officer Daniel Mendez used physical force against § 87(2)(b)	
B.POM Daniel Mendez	Force: Police Officer Daniel Mendez struck § 87(2)(b) with a baton.	
C.POM Daniel Mendez	Abuse: Police Officer Daniel Mendez interfered with § 87(2)(b)'s use of a recording device.	

Case Summary

On May 30, 2020, § 87(2)(b) filed this complaint with the CCRB via on-line website [BR01].

On May 29, 2020, at approximately 7:26 p.m., at the Barclays Center in Brooklyn, § 87(2)(b) was attending a Black Lives Matter Protest. § 87(2)(b) took out her cell phone and began filming an officer who was arresting an unidentified female. Police Officer Daniel Mendez of the 107th Precinct allegedly ran toward § 87(2)(b) and used his asp to push her (**Allegation A: Force;** § 87(2)(g)). PO Mendez used his baton to hit § 87(2)(b) once on the left side of her body (**Allegation B: Abuse of Authority;** § 87(2)(g)). In doing so, PO Mendez allegedly interfered with § 87(2)(b) recording the arrest on her cell phone (**Allegation C: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) and PO Mendez then proceeded to walk away from each other. § 87(2)(b) was not arrested or issued a summons as a result of this incident.

§ 87(2)(b) provided cell phone footage of the incident [BR02]. A search for body-worn camera footage (BWC) for this incident yielded negative relevant results [BR03]. PO Daniel Mendez's camera ran out of battery which he noted in his memo book.

Findings and Recommendations

Allegation (A) Force: Police Officer Daniel Mendez used physical force against § 87(2)(b).

It is undisputed that PO Daniel Mendez pushed § 87(2)(b). § 87(2)(b) testified that on May 29, 2020, at approximately 7:26 p.m., she attended a Black Lives Matter protest at the Barclays Center in Brooklyn. § 87(2)(b) took out her cell phone and began filming an unidentified female who was being arrested by an officer. PO Mendez ran toward § 87(2)(b) took out his asp with his right hand and used it to push her in the chest. § 87(2)(b) was pushed backwards but did not fall. § 87(2)(b) attended the protest by herself [BR04].

PO Mendez testified that on May 29, 2020, at the Black Lives Matter protest at the Barclays Center in Brooklyn, he was standing behind metal barricades with approximately 200 police officers. PO Mendez was instructed to make sure protestors did not break through the barricades. PO Mendez estimated that there were approximately 1,000 protestors present. PO Mendez stated that he never removed his asp during the protest. PO Mendez had his baton out for the duration of the protest and used it approximately five times to push people away from the metal barricades. PO Mendez did this by holding his baton horizontally and placing one hand on each side of it. PO Mendez did not recall interacting with any females that matched the description § 87(2)(b) provided of herself. PO Mendez was shown cell phone footage of the incident taken by § 87(2)(b). PO Mendez identified himself in the footage but stated that the footage did not aid in his recollection of the incident [BR05].

PO Mendez's Memo Book from May 29, 2020 noted that his body-worn camera (BWC) died at 3:00 p.m. [BR06]. The Command Log from May 29, 2020 noted in an entry at 5:50 p.m. that PO Mendez's BWC had died [BR06].

§ 87(2)(b) provided cell phone footage that she took of the incident. At the beginning of the footage, two unidentified officers are leading an unidentified female away from the protestors with each officer holding one of her arms behind her back. § 87(2)(b) is approximately 10 feet away and begins to walk toward the unidentified officers and the unidentified female. § 87(2)(b) begins to walk by PO Mendez and an unidentified officer. A voice says, "back up, back up." Another voice says "ma'am, ma'am, ma'am." § 87(2)(b) is approximately one foot away from PO Mendez and the unidentified officer. At 00:04 seconds, PO Mendez extends his left hand and pushes § 87(2)(b) back [BR02].

Patrol Guide procedure 221-01 states that force can be used when it is rational to ensure the safety of a member of service and when it is reasonable to prevent someone's escape from custody. Any use of force must be reasonable under the circumstance. The list of factors to determine

reasonable use of force includes but is not limited to actions taken by the subject, immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, and presence of hostile crowd or agitators [BR10].

§ 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (B) Force: Police Officer Daniel Mendez struck § 87(2)(b) with a baton.

It is undisputed that PO Mendez struck § 87(2)(b) with a baton.

§ 87(2)(b) testified that a couple of seconds after PO Mendez pushed her, he swung his asp and hit § 87(2)(b) once. The asp strike contacted her left arm, ribs, and chest. § 87(2)(b) sustained a bruise to her arm and had the wind knocked out of her. PO Mendez stepped backward, and § 87(2)(b) walked away from PO Mendez [BR04].

In a follow up call conducted four months after her initial testimony, § 87(2)(b) testified that in the cell phone footage she provided, she was pushed at 00:04 seconds by PO Mendez and that he struck her with his asp at 00:06 seconds [BR12].

PO Mendez stated that he never struck anyone with his baton. PO Mendez stated that he never had his asp out during the protest [BR05].

The cell phone footage provided by § 87(2)(b) shows PO Mendez extend his left arm toward § 87(2)(b) who is approximately one foot away from him at 00:004 seconds. At 00:05 seconds, PO Mendez's right hand comes from above his shoulder down toward § 87(2)(b). There is a "thud" sound and the footage becomes blurry between 00:06 and 00:07 seconds. When the footage comes back into focus, § 87(2)(b) is approximately 10 feet away from PO Mendez. PO Mendez is holding his baton in his right hand. A voice asks, "Are you okay?" At 00:09 seconds, § 87(2)(b) walks back toward PO Mendez. Two unidentified officers step in between them. One extends his arm to PO Mendez's chest to stop him from moving toward § 87(2)(b). The other officer extends his arm in between the first unidentified officer and § 87(2)(b) [BR02]. The cell phone footage was also cut into a clip from 00:04 to 00:08 seconds and was slowed down to 6 frames per second [BR11].

Patrol Guide procedure 221-01 states that force can be used when it is rational to ensure the safety of a member of service and when it is reasonable to prevent someone's escape from custody. Any use of force must be reasonable under the circumstance. The list of factors to determine reasonable use of force includes but is not limited to the size of the subject in comparison to the member of service (MOS), actions taken by the subject, presence of hostile crowd or agitators, number of subjects in comparison to MOS, and immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders [BR10].

§ 87(2)(b) was approximately one foot away from PO Mendez when his right hand came down toward her. There was a thud sound consistent with a baton hitting a person. After the thud, the footage became momentarily blurry and § 87(2)(b) was suddenly a significant distance from PO Mendez. PO Mendez was seen holding his baton in his right hand. PO Mendez stated that he had his baton out throughout the protest, but only used it with two hands. § 87(2)(g)

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

§ 87(2)(g)

Allegation (C) Abuse of Authority: Police Officer Daniel Mendez interfered with § 87(2)(b)'s use of a recording device.

It remains disputed whether PO Mendez interfered with § 87(2)(b)'s use of a recording device.

§ 87(2)(b) testified that when she took her phone out to film the arrest of the unidentified female, PO Mendez ran at her, pushed her and hit her with his asp causing her to move backward and have the wind knocked out of her [BR04].

PO Mendez testified that there were hundreds of people present recording the protest. PO Mendez never told anyone to stop recording the protest. PO Mendez never interfered with anyone recording the protest [BR05].

Cell phone footage provided by § 87(2)(b) showed § 87(2)(b) attempt to walk past PO Mendez and an unidentified officer toward the unidentified female who was being arrested. PO Mendez pushed and struck § 87(2)(b) with his baton causing her to move backward and the footage to become blurry [BR02].

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Daniel Mendez has been a member of service for six years. During his tenure he has been the subject of three allegations in one prior complaint. § 87(2)(g)
 - CCRB 201608465 contained an allegation of Abuse of Authority: Other-Detention, which was substantiated and resulted in formalized training.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation as it was related to a 2020 police brutality protest.
- According to the New York City Office of the Comptroller, § 87(2)(b) had not filed a Notice of Claim regarding this incident as of August 26, 2020 [BR08].
- According to the Office of Court Administration (OCA), § 87(2)(b) has no criminal conviction history in New York City [BR09].

Squad No.: 9

Investigator:	<u>Noah Kim</u>	<u>Investigator Kim</u>	<u>10/29/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Ethan De Angelo</u>	<u>IM Ethan De Angelo</u>	<u>11/5/2020</u>
	Signature	Print Title & Name	Date

Reviewer:

Signature

Print Title & Name

Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Karina Herrera	Team: Squad #7	CCRB Case #: 202003765	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 05/31/2020 10:49 PM	Location of Incident: Fifth Avenue between East 39th Street and East 41st Street	Precinct: 14	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/01/2020 5:39 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 06/01/2020 5:39 PM		
Complainant/Victim	Type	Home Address			
[REDACTED]	[REDACTED]	[REDACTED]			
Witness(es)	Home Address				
[REDACTED]	[REDACTED]				
Subject Officer(s)	Shield	TaxID	Command		
1. An officer					
Officer(s)	Allegation	Investigator Recommendation			
A. An officer	Abuse: An officer threatened individuals with the use of force.	[REDACTED]			

Case Summary

On June 1, 2020, § 87(2)(b) filed the following complaint with the CCRB via the agency's website.

At approximately 10:49 p.m. on May 31, 2020, § 87(2)(b) was with her boyfriend, § 87(2)(b) and her friend, § 87(2)(b) when they saw a marked police van driving towards a crowd of protestors that were on Fifth Avenue between East 39th Street and East 41st Street in Manhattan (**Allegation A: Abuse of Authority - Threat of Force**, § 87(2)(g)). The police van did not hit any of the protestors and no one was arrested or issued a summons. Two surveillance videos and one cellphone video in regards to this incident were found during the course of the investigation (Board Review 01) (Board Review 02) (Board Review 03).

Allegation (A) Abuse of Authority: An officer threatened individuals with the use of force.

Known Facts and General Descriptions

§ 87(2)(b) stated that she saw a marked police van with license plate number “8944-17” driving towards a group of protestors that were at the incident location and the van made multiple turns while it was within the crowd, but it did not make any physical contact with the protestors (Board Review 04). § 87(2)(b) provided a photograph that she took of the van and it confirmed that the license plate number was accurate (Board Review 05). § 87(2)(b) described the driver as a § 87(2)(b) male in uniform, but she could not provide any other details because he was inside of a moving vehicle at the time she saw him, and since it was dark outside, the photograph that she took did not clearly show the driver either. § 87(2)(b) did not know anyone that was within the crowd of protestors during the incident.

§ 87(2)(b) stated that she also saw the same marked police van driving towards the protestors, but she did not know any of them (Board Review 06). Due to distance, § 87(2)(b) was unable to see inside of the police van during the incident, so she was unaware of how many people were in it and she could not provide a description of the driver.

§ 87(2)(b) was contacted by the investigation, but he was uncooperative, and the investigation was unable to identify any of the victims.

Two surveillance videos were provided by two commercial buildings located within the vicinity of the incident location, and both videos captured the entire incident, including the moment that the police van drove towards the protestors and made multiple U-turns within the crowd (Board Review 07) (Board Review 08). However, due to the quality of the videos and the distance of the camera, the investigation was unable to clearly see the physical appearance of the driver or any distinguishing features on the van. § 87(2)(b) provided a cellphone video that she recorded during the incident, but it is only four seconds long, so it did not capture the entire incident and it did not show any distinct factors pertaining to the van, including the driver (Board Review 09).

BWC

IAB identified this police van as being assigned to the 14th Precinct, which was where this incident occurred (Board Review 10). Therefore, a Body-Worn Camera (BWC) request for the incident location was submitted and it asked for any videos recorded by officers assigned to the 14th Precinct; it included the license plate number of the police van (Board Review 11). The NYPD Legal Department responded that they could not find any BWC videos related to this incident that were recorded by officers from the 14th Precinct, the Strategic Response Group (SRG), the Disorderly Conduct Unit (DCU), the SRG Anti-Crime Unit, or the Critical Response Command (CRC).

An AVL request was submitted to the 14th Precinct for all of the police van's whereabouts between 9:30 p.m. and 11:30 p.m. on the incident date (Board Review 12). The AVL search results showed that the van was mostly moving around downtown Manhattan and the only location that it remained at for an extended period of time - twenty minutes - was 289 West Broadway at approximately 9:30 p.m. Therefore, a second BWC request was submitted with 289 West Broadway listed as the incident location in case any of those videos showed which officers were utilizing the police van (Board Review 13). The NYPD Legal Department responded that it did not find any BWC videos corresponding to any officers assigned to SRG, the 14th Precinct, or the 1st Precinct, which was where 289 West Broadway was located.

NYPD Documents

The 14th Precinct provided the Detail Roster, the Daily Vehicle Assignment Sheet (DVAS), and the Command Log for the incident date, and none of them clearly showed who was assigned to the police van at the time of the incident (Board Review 14) (Board Review 15) (Board Review 16). The Detail Roster did not have any vehicle numbers listed for Tour 3, but Sergeant Jason Bryant from the 14th Precinct had his name and telephone number written at the top of the roster. The DVAS also had Sergeant Bryant's name listed as the desk officer for Tour 3, and the police van's license plate number was included on the sheet as well. It appears as though "SP" was written for the van's Tour 3 assignment, but that was not definitive because the writing looked faded and there was no indication of what that could potentially mean. The Command Log also showed that Sergeant Bryant was the desk officer beginning at 3:00 p.m., and at 4:05 p.m., he made an entry regarding police vehicles where he wrote, "Assigned and accounted for as per DVAS," but there were no entries specifically pertaining to police van #8944-17. In addition, the 14th Precinct provided the Roll Call, which did not have the police van listed (Board Review 17).

An EVENT Summary was provided by DAO, and a Resource Recap Log (RRL) was provided by IAB, but none of these showed any EVENTS that occurred at the incident location during the incident time (Board Review 18) (Board Review 10).

Concurrent Investigations

IAB was contacted in regards to any concurrent investigations they may have for this incident, and they said they had no complaints on file (Board Review 19).

Ranking Officers

A request was sent to the 14th Precinct specifically asking them to identify the officer that was assigned to the police van in question during the incident, and Lieutenant Scott McKeivitt from the 14th Precinct, who is the precinct's Integrity Commanding Officer (ICO), responded that the police van was assigned to the command at that time and it was taken out on the incident date, but the precinct did not document which officers took the van due to the chaos from the protests (Board Review 21).

Officers Interviewed

Sergeant Bryant was interviewed and he stated that he had no recollection of this incident (Board Review 20). As the desk officer, Sergeant Bryant would not have left the stationhouse at any point during the incident, but some of his responsibilities would have been to prepare documents such as the Detail Roster, the DVAS, the Roll Call, and the Command Log. Sergeant Bryant did not recall any specific paperwork that he created on the incident date, but as the desk officer during Tour 3, he would have been responsible for filling out the information on the DVAS during that platoon. The DVAS was shown to Sergeant Bryant during his interview and he believed that under the first platoon for police van #8944-17 it said it was assigned to "DTL," which means detail; under the

second platoon it said, “SH,” which means it was at the stationhouse. Sergeant Bryant could not determine what was written under the third platoon because the font was faint; when asked if he believed “SP” was written there, Sergeant Bryant said he did not believe so because that abbreviation did not refer to anything that he knows.

Sergeant Bryant did not recall if he made the 14th Precinct’s Detail Roster on the incident date, but when the page for Tour 3 was shown to him, he recognized his own handwriting. Sergeant Bryant explained that vehicle information could be included in the roster, but he was not sure if it was required. Sergeant Bryant acknowledged that the Detail Roster did not have any NYPD vehicle numbers listed, so he was unable to use it to determine who was assigned to the police van. Sergeant Bryant explained that sometimes the officers have to quickly mobilize, so the Detail Rosters are done last minute.

During his interview, the incident was explained to Sergeant Bryant, but he was unaware that this had happened. The video footage that was gathered by the investigation was presented to Sergeant Bryant, but it did not refresh his recollection of the incident, and he was unaware of any procedure that the police van may have been following given its movements. Ultimately, Sergeant Bryant did not know why he was unable to identify the officer who was assigned to that police van during the incident, and he did not know why the documents that he prepared did not include that information.

Allegation Recitation and Disposition

§ 87(2)(g)
[Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (Board Review 22) (Board Review 23).

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) and § 87(2)(b) have no histories of convictions in New York City (Board Review 24) (Board Review 25).
- On November 23, 2020, a Notice of Claim request was sent to the New York City Office of the Comptroller and the results will be included upon receipt.

Squad No.: 7

Investigator: Karina Herrera Inv. Karina Herrera 11/24/2020
Signature Print Title & Name Date

Squad Leader: _____ Manager Vanessa Rosen November 24, 2020
Signature Print Title & Name Date

Reviewer: _____ _____ _____
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sylvia Davidovicz	Team: Squad #12	CCRB Case #: 202003782	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 10:30 PM	Location of Incident: Church Avenue between Rogers Avenue and Bedford Avenue	Precinct: 67	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 10:06 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 05/31/2020 10:06 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against § 87(2)(b)	
B. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
C. An officer	Force: An officer used pepper spray against § 87(2)(b)	
D. Officers	Force: Officers used physical force against § 87(2)(b)	

Case Summary

On May 3, 2020, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System.

On May 31, 2020, at approximately 10:30 PM, at an unknown point on Church Avenue between Rogers Avenue and Bedford Avenue in Brooklyn, § 87(2)(b) who is a § 87(2)(b), was documenting an anti-police brutality protest. As she was walking on the sidewalk, an unknown number of unidentified officers pushed § 87(2)(b) to the ground from behind (**Allegation A - Force: Physical force,** § 87(2)(g)). As she fell, § 87(2)(b) dropped her phone and her camera. When she reached for her phone, an unidentified officer stepped on it in what § 87(2)(b) thought was an intentional manner and then kicked it out of § 87(2)(b)'s line of sight (**Allegation B - Abuse of Authority: Property damaged,** § 87(2)(g)). An unidentified officer deployed Oleoresin Capsicum (OC) spray at the back of § 87(2)(b)'s head (**Allegation C - Force: Pepper spray,** § 87(2)(g)). When § 87(2)(b) tried to turn around to retrieve her phone, officers pushed § 87(2)(b) forward with their legs until she was forced to stand up and walk away, leaving her phone and camera behind (**Allegation D - Force: Physical force,** § 87(2)(g)).

Pleading Language for all allegations to be closed as Officer Unidentified

Allegation (A) Force: Officers used physical force against § 87(2)(b)
Allegation (B) Abuse of Authority: An officer damaged § 87(2)(b)'s property.
Allegation (C) Force: An officer used pepper spray against § 87(2)(b)
Allegation (D) Force: Officers used physical force against § 87(2)(b)

Known facts and general descriptions

In her CCRB interview, § 87(2)(b) was not able to look directly at any of the subject officers during the incident. She was pushed and pepper-sprayed from behind and did not see if she was pushed by one or two officers. § 87(2)(b) only saw the legs of the officers who used their legs to shove her and the officer who kicked her phone. § 87(2)(b) stated that she believed that the subject officers were all male, wearing uniforms with vests and helmets, and possibly all above 5'10" tall, but could not provide any more identifying information. § 87(2)(b) was unable to confidently estimate the number of subject officers involved.

BWC

On June 24, 2020, the investigation received negative results for BWC video request based on a search for footage with the following parameters: 10:30 PM on May 30, 2020 through May 31, 2020 for the 67th Precinct, Critical Response Command, Strategic Response Group 3, and the Counterterrorism Bureau (Board Review 04).

A second BWC video request returned four BWC videos on July 15, 2020 (Board Review 06, 07, 08). None of these videos depict § 87(2)(b) or the incident.

A third BWC request returned eleven videos on September 3, 2020 (Board Review 14, relevant summaries in Board Review 17, 18). § 87(2)(b) is depicted in two of them, but she is not depicted interacting with any officers. All of the videos end before 10:30 PM.

A fourth BWC request calling only for videos depicting events at or after 10:30 PM returned

negative results on October 6, 2020 (Board Review 15).

NYPD Documents Reviewed

A handwritten detail roster from Patrol Bureau Brooklyn South lists the names of 24 officers from the 67th and 70th Precincts who were assigned to work on May 30, 2020 from approximately 7:00 AM to 3:45 PM (Board Review 03). The documents do not list a location, do not list officers from other commands, and do not indicate whether any of the listed officers were still working at 10:30 PM.

Requests for maps, pre-execution memoranda, and post-execution memoranda from Patrol Borough Brooklyn South returned negative results (Board Review 03). These requests also contained the detail rosters for May 29, 2020.

Other Evidence Reviewed

§ 87(2)(b) submitted four photographs to the investigation via email (Board Review 02). Two were screenshots of timestamped messages § 87(2)(b) sent to a friend before and after the incident. The message § 87(2)(b) stated was sent before the incident is timestamped 10:24 PM. The message § 87(2)(b) stated was sent after the incident is timestamped 10:51 PM. The third photo is a screenshot of a Google Streetview search depicting two buildings and labeled “2723 Church Ave.” § 87(2)(b) stated that this was the incident location. The fourth photograph depicts what § 87(2)(b) described as the knee contusion she sustained during this incident.

On June 15, 2020, Investigator Charlie Hartford performed fieldwork near the alleged incident location for CCRB 202003799, a complaint related to an incident that took place during the same protest on the night of May 30, 2020 (Board Review 05). Inv. Hartford canvassed buildings 2713, 2717, 2723, 2801, 2802, 2803, 2804, and 2812 Church Avenue for external surveillance cameras. Inv. Hartford did not recover any relevant surveillance footage.

Footage captured by TARU cameras located at the intersection of Church Avenue and Nostrand Avenue from 10:30 PM to 11:42 PM depicts no events relevant to the investigation (Board Review 09, 10).

Three cell phone videos originally submitted to the CCRB by a civilian for CCRB case 202004474 depict § 87(2)(b) standing near the intersection of Church Avenue and Bedford Avenue from 9:48 PM to 10:10 PM (Board Review 11, 12, 13). None of these videos depict § 87(2)(b) interacting with officers. Because the exact incident location is unknown, it cannot be determined how far § 87(2)(b) is from the incident location in these videos.

Concurrent Investigations

This complaint was made to the CCRB. There do not appear to be any concurrent investigations by any other agencies regarding this incident.

Ranking Officers

The detail roster lists the names of supervising officers from the 67th and 70th Precincts assigned to a detail at an unlisted location for a shift beginning at 7:05 AM and ending at 3:40 PM. It does not identify the ranking officer at the time of the incident or in the vicinity of the incident. The identity of the highest-ranking officer at the scene of the incident at 10:30 PM is unknown.

PO Marquez was the only officer identified by the investigation as being in the same area as § 87(2)(b) on the night of the incident. In his CCRB interview, PO Marquez stated that he received orders from a member of service whose name, rank, and command he did not know.

Officers Interviewed

Police Officer Johnny Marquez of SRG 3, shield number 13959, was interviewed on January 20, 2021. He was assigned to the 70th Precinct at the time of the incident. He was interviewed as a witness because his BWC video depicts § 87(2)(b) in the crowd of protesters at 9:47 PM.

In his CCRB interview, PO Marquez stated that he was stationed at the intersection of Church Avenue and Bedford Avenue on the night of the incident (Board Review 21). PO Marquez stated that he was positioned at the intersection with 50 to 60 other officers from the 70th Precinct or other precinct commands and that he did not believe any SRG officers responded to the protest. PO Marquez was shown clips from his BWC video in which § 87(2)(b) is depicted. PO Marquez stated that he did not interact with § 87(2)(b) on the night of the incident and did not witness any other officers interacting with § 87(2)(b). PO Marquez pushed about five civilians from the street to the sidewalk after receiving an order to remove civilians from the street. PO Marquez could not remember if any of the civilians he pushed fell to the ground. He did not push any civilians who were walking on the sidewalk and did not see any officers push civilians walking on the sidewalk to the ground. PO Marquez did not witness any incidents in which an officer stepped on and kicked a civilian's cell phone.

This interview did not lead to the identification of the subject officer. PO Marquez is not listed as a subject officer because there is no evidence suggesting that he interacted with § 87(2)(b) at any point in the night. There is no record of his activities after 10:12 PM.

Allegation Recitation and Disposition

The investigation made multiple efforts but was unable to obtain video depicting the incident, or video depicting the alleged incident location at the correct time. The NYPD did not provide a comprehensive list of all officers deployed to the protest. § 87(2)(b)'s statement contained no information that could be used to visually identify the subject officers. § 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)'s first complaint with the CCRB.
- The allegations in this case appear to be part of a larger pattern, in which CCRB investigations are unable to obtain adequate evidence toward the identification of officers in cases stemming from NYPD responses to the George Floyd and Black Lives Matter protests that occurred in the summer of 2020 due to unavailability of BWC video and lack of documentation.

Mediation, Civil and Criminal Histories

- Cases related to the George Floyd/Black Lives Matter/Anti-Police Brutality Protests of spring and summer 2020 were not eligible for mediation.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #2	CCRB Case #: 202003790	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:00 PM	Location of Incident: DeKalb Avenue and Flatbush Avenue Extension	Precinct: 88	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 05/31/2020 12:44 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 05/31/2020 12:44 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aaron Husbands	04274	965752	079 PCT
2. POM Stenley Succes	20458	965552	PB CAD
3. LT Anthony Vassallo	00000	946361	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	
C. An officer	Off. Language: An officer made remarks to § 87(2)(b) based upon race.	
D. An officer	Force: An officer struck § 87(2)(b) with a baton.	
E. An officer	Force: An officer used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint on May 31, 2020, via the call processing system.

On May 30, 2020, at approximately 11:00 p.m., § 87(2)(b) was in his car in front of the 7-11 just south of the intersection of DeKalb Avenue and Flatbush Avenue Extension in Brooklyn. § 87(2)(b)'s girlfriend, § 87(2)(b) arrived at the car saying she had just been groped and described the person who groped her. § 87(2)(b) drove north to DeKalb Avenue and exited the car. He noticed a large group of people walking quickly east on DeKalb Avenue but they were not doing anything of note. He approached an unidentified officer and said he had to report a crime, and the officer told him to "Get the hell out of here" (**Allegation A: Discourtesy- Word**, § 87(2)(g)). § 87(2)(b) explained what had happened to § 87(2)(b) and asked for the officer's "ID number," and the officer said, "Get out of here, you don't belong here (**Allegation B: Abuse of Authority- Refusal to Provide Shield Number, and Allegation C: Offensive Language- Race**, § 87(2)(g)). The officer then used his baton to push § 87(2)(b) on his chest, causing § 87(2)(b) to move back a few feet and lose his balance but not fall (**Allegation D: Force- Nightstick as club**, § 87(2)(g)), and **Allegation E: Force- Physical Force**, § 87(2)(g)). A few seconds later, the officer pushed him with the baton in the same way, but harder, causing § 87(2)(b) to fall onto his left wrist (**within Allegations D and E**). A large group of people then rushed toward the officers, so § 87(2)(b) left the scene quickly and went back to his car. He eventually went to the hospital and was diagnosed with a sprained wrist. § 87(2)(b) was not arrested or summonsed during this incident.

§ 87(2)(g)

Multiple requests to the NYPD for BWC footage at the date, time, and location across the four cases returned only one BWC video, taken by Lieutenant Anthony Vassallo, which was requested through related case #202005933; this footage does not show § 87(2)(b)'s incident (Board Review #30). Three BWC requests for this specific incident, and two requests through CCRB cases #202003881 and #202005933, were returned negative.

Findings and Recommendations

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

Allegation (C) Offensive Language: An officer made remarks to § 87(2)(b) based upon race.

Allegation (D) Force: An officer struck § 87(2)(b) with a baton.

Allegation (E) Force: An officer used physical force against § 87(2)(b)

Known Facts and General Description

§ 87(2)(b) was interviewed via telephone on June 5, 2020, and June 11, 2020 (Board Review #01, #02, #03). Contact attempts to § 87(2)(b) were unsuccessful, and § 87(2)(b) stated during his interview that she was too far away from the incident to have witnessed it. Police Officer Aaron Husbands of the 79th Precinct was interviewed for related case #202003881 on September 17, 2020 (Board Review #24, #25). Lieutenant Vassallo of the 88th Precinct was interviewed on January 21, 2021 (Board Review #21, #22). Police Officer Stanley Succes of the 77th Precinct was interviewed on February 24, 2021 (Board Review #36, 37).

§ 87(2)(b) approached an approximately 6'2" tall uniformed black male in his 30s or 40s with a

large build, mustache and other facial hair, and wearing a body camera and a helmet with the numbers “2,” “5,” and “8” on it, along with about three other numbers. The officer was standing on the sidewalk on the Northeast corner of DeKalb Avenue and Flatbush Avenue Extension. § 87(2)(b) § 87(2)(b) approached the officer with his arms up to appear unthreatening and told the officer he needed to report a crime. In response, the officer said, “Get the hell out of here.” § 87(2)(b) § 87(2)(b) pointed toward the individual who groped his girlfriend and said that he needed an officer to respond. The officer said, “You don’t belong here, get out of here.” § 87(2)(b) § 87(2)(b) then said, “Can I have your ID number?” The officer pushed § 87(2)(b) § 87(2)(b) s chest using his baton, causing § 87(2)(b) § 87(2)(b) to move back a couple of feet into the street. The officer then pushed § 87(2)(b) § 87(2)(b) again, but harder, causing § 87(2)(b) § 87(2)(b) to fall onto his left wrist. Suddenly, approximately 100 people, including a large number of civilians and approximately 30 to 50 officers, rushed toward § 87(2)(b) § 87(2)(b) and the officer. Given § 87(2)(b) § 87(2)(b) description of his surroundings and the information from cases at the same time and place as this case, the investigation determined that this incident occurred during a protest.

Body-Worn Camera Footage and Other Video Evidence

The investigation submitted, through this case, three separate requests to the NYPD’s Legal Bureau for body-worn camera (BWC) footage pertaining to this incident, which were all returned with negative results (Board Review #04, #05, #06). Two additional requests were sent through related case #202005933, one of which was returned negative (Board Review #07), and the other resulting in one video from Lieutenant Anthony Vassallo of the 88th Precinct (Board Review #30). Another request through case #202003881 was also returned negative (Board Review #08).

The first request for this case, which included the date, time, and location of occurrence, was returned negative after a search was conducted for commands SRG, Disorder Control, and the 70th Precinct (the initial complaint listed an incorrect location, which was in a different precinct) (Board Review #04). The second request included the name of a specific officer that was initially believed to be involved in the incident, in addition to searches from the 88th Precinct, SRG, and CRC, although the NYPD conducted the search for the incorrect date (Board Review #05). The third request included 41 different precincts and another specific officer’s name but still was returned negative (Board Review #06).

The first request for case #202005933, which included the name of a specific officer known to be at the protest, the number of the summons he issued to a civilian, the 84th and 88th precincts and a wide time range also came back negative (Board Review #07). Lieutenant Vassallo’s BWC, which was re-requested after his interview and then received on February 23, 2021, did not show § 87(2)(b) § 87(2)(b) s incident (Board Review #30).

The one request for case #202003881, which included a search for officers from the 88th precinct, nearby Brooklyn SRG commands, the time, date, and location of the incident, and the complainant’s social media accounts came back negative (Board Review #08).

The investigation was unable to obtain any other relevant footage. Footage from social media and the New York Times that was allegedly taken at the same approximate time and location of the incident was reviewed, but no officers who matched the description of the subject officer, nor civilians who appeared to be § 87(2)(b) § 87(2)(b) were seen. A request for handheld TARU footage was returned as negative on July 15, 2020 (Board Review #09). Stationhouse Footage from the 88th Precinct, received on June 30, 2020, did not show any officers who matched § 87(2)(b) § 87(2)(b) description of the subject leaving or entering the stationhouse (Board Review #10, #11). Fieldwork conducted on July 8, 2020 found that the Long Island University building at the exact incident location did not have footage and the Chinese restaurant “The Wei,” caddy-corner to the incident location, appeared

to be shut down (Board Review #12). A phone call on June 11, 2020 found that the cameras at the Junior's Cheesecake restaurant across Flatbush Avenue Extension from the incident location pointed away from the incident (Board Review #13). A phone call on July 1, 2020 found that the 7-11 near the incident did not have exterior cameras (Board Review #14). On August 25, 2020, video footage was received from the Applebee's restaurant across DeKalb Avenue from the incident location, but the footage was from the wrong date and the correct footage had already been deleted (Board Review #15).

NYPD Documents Reviewed

A search of the CTS database for black male officers in Brooklyn precincts with the numbers "2," "5," and "8" in their shields was conducted, which found 26 officers (Board Review #16, #17). All these officers' photos were either copied from past CCRB cases or requested from DAO. These officers' memo books were requested from their respective commands, none of which showed any relevant entries linking any of them to the time and location of the incident (Board Review #31-#35).

A request for any Threat, Resistance, and Injury Reports prepared involving § 87(2)(b) was returned with negative results (Board Review #18). The detail rosters from Patrol Borough Brooklyn North lists officers from the following commands as being present at the protest: 75, 77, 79, 81, 83, 84, 88, 90, 94, 109, 110, 79 PDU, 81 PDU, 94 PDU, DBBX, VCS, HOT, QTS, CRD, MRS, MTS, BxTS, BTS, 207, 208, 296, HB, PSA 1-9, 541 and the Disorder Control Unit (Board Review #19 & 38). However, few of the detailed lists from each individual command include vital information such as the exact location officers were stationed and what times they were present. On the rosters, the investigation found two black male officers with the numbers 2, 5, and 8 in their shields: Police Officer Isiah Spence of the 81st Precinct (shield 23588), and Police Officer Stanley Succes of the 77th Precinct (shield 20458). Police Officer Spence's memo book, received on February 3, 2021, showed that he ended his tour at 3:40 p.m. on May 30, 2020 and did not begin his next tour until 7:25 a.m. on May 31st (Board Review #28). Thus, the investigation determined that he was not working at the time of the incident.

The Event Summary listed EVENT #D200503027247 which appears to correspond to § 87(2)(b) 911 call to report both his and his girlfriend's incidents (Board Review #20). The EVENT stated the following: "12:45am: call from 12:04am female groped, male states he was assaulted by heavy set black officer with baton. AIDED male knocked to the floor by PD, bleeding from arm." The Resource Recap Log shows several officers from the 88th Precinct responded to the general location of the incident but none were black males with the numbers "2," "8," and "5" in their shields (Board Review #18). Neither the EVENT nor the Resource Recap Log offered details of the identity of the heavy-set black male officer mentioned. Additionally, it has been found, through this case and other protest cases, that the numbers on officers' helmets did not always correspond with their shield numbers, and therefore identification by helmet number is not always reliable.

Concurrent Investigations

The investigation is not aware of any concurrent investigations by outside agencies.

Ranking Officers

The lack of useful BWC footage from any command (or footage in general) and the sudden, unplanned nature of protest assignments make the task of identifying the highest-ranking officers at the protest extremely difficult. Nonetheless, one of the highest-ranking officers present was

Lieutenant Anthony Vassallo of the 88th Precinct, as confirmed in his interview (Board Review #21, #22). Lieutenant Vassallo stated that he did not know who the highest-ranking officer at the protest was because there were so many officers and many supervisors.

Officers Interviewed

Police Officer Aaron Husbands of the 79th Precinct was interviewed for related case #202003881 and stated that he did not recognize the individual in a photo of § 87(2)(b) and did not see anyone who looked like him at the protest (Board Review #24, #25). Lieutenant Vassallo of the 88th Precinct, who was interviewed on January 21, 2021, likewise did not recognize § 87(2)(b) nor did he witness his interaction with the subject officer (Board Review #21, #22). Police Officer Succes, who was interviewed on February 24, 2021, did not remember the incident, did not recognize § 87(2)(b) from his photograph, and denied taking any of the actions or making any of the statements alleged (Board Review #36, 37).

Allegation Recitation and Disposition

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (B) Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

Allegation (C) Offensive Language: An officer made remarks to § 87(2)(b) based upon race.

Allegation (D) Force: An officer struck § 87(2)(b) with a baton.

Allegation (E) Force: An officer used physical force against § 87(2)(b)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #26).

Mediation, Civil and Criminal Histories

- This complaint was not eligible for mediation given that it occurred during the 2020 Police Brutality Protests.
- As of January 27, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review #27).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review #29).

Squad No.: 2

Investigator: Esme Trontz Inv. Esme Trontz 03/04/21
Signature Print Title & Name Date

Squad Leader: Alexander Opoku-Agyemang IM Alexander Opoku-Agyemang 3/4/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 202003805	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 , Saturday, 05/30/2020 10:00 PM, Saturday, 05/30/2020 10:20 PM	Location of Incident: Church Avenue and Bedford Avenue; Church Avenue and Veronica Place; Unknown intersection	Precinct: 67	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/02/2020 12:21 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 06/02/2020 12:21 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Ricardo Martinez	19264	950834	067 PCT
4. SGT Michael Cozier	01144	943112	067 PCT
5. POM Brandon Patane	14765	961077	067 PCT
6. POM Miguel Vanbrakle	28743	955616	067 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Daniel Chin	16062	948524	C R C
2. POM Delio Fernandez	16156	957578	067 PCT
3. POM Denis Gamez	07601	949000	067 PCT
4. POM Michael Berndt	00513	961642	C R C
5. POF Christine Roman	18956	959153	067 PCT
6. POM Amine Azeddine	20237	958278	067 PCT
7. POM Anthony Diliberto	15189	926771	042 PCT
8. POM Javier Solis	22730	953425	C R C

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, officers struck individuals with police shields.	
B. Officers	Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, officers used pepper spray against individuals.	
C. SGT Michael Cozier	Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, Sergeant Michael Cozier used pepper spray against individuals.	
D. POM Brandon Patane	Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, Police Officer Brandon Patane used pepper spray against individuals.	

Officer(s)	Allegation	Investigator Recommendation
E.POM Miguel Vanbrakle	Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, Police Officer Miguel Vanbrakle used pepper spray against individuals.	[REDACTED]
F.POM Miguel Vanbrakle	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, Police Officer Miguel Vanbrakle used physical force against § 87(2)(b)	[REDACTED]
G.POM Ricardo Martinez	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, Police Officer Ricardo Martinez used physical force against § 87(2)(b)	[REDACTED]
H. Officers	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers used physical force against § 87(2)(b)	[REDACTED]
I. Officers	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers struck § 87(2)(b) with batons.	[REDACTED]
J. An officer	Discourtesy: At the intersection of Church Avenue and Veronica Place in Brooklyn, an officer spoke discourteously to § 87(2)(b)	[REDACTED]
K. An officer	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers used pepper spray against § 87(2)(b)	[REDACTED]
L. An officer	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, an officer struck § 87(2)(b) with a baton.	[REDACTED]
M. Officers	Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers struck § 87(2)(b) with a nightstick.	[REDACTED]
N. An officer	Abuse: At an unknown location in Brooklyn, an officer threatened § 87(2)(b) with the use of force.	[REDACTED]
§ 87(2)(b)	§ 87(4-b), § 87(2)(g)	[REDACTED]
§ 87(2)(b)	§ 87(4-b), § 87(2)(g)	[REDACTED]
§ 87(2)(b)	§ 87(4-b), § 87(2)(g)	[REDACTED]

Case Summary

On June 2, 2020, § 87(2)(b) filed this complaint with the CCRB via the on-line website.

On May 30, 2020, § 87(2)(b) joined a protest occurring at the intersection of Bedford Avenue and Church Avenue in Brooklyn. No curfew was in effect on the date of incident. At approximately 9:30 p.m. § 87(2)(b) observed unidentified officers push civilians with shields and deploy pepper spray while at the intersection (**Allegations A and B: Force, § 87(2)(g)**

Between 9:30 p.m. and 10:20 p.m., § 87(2)(b) moved east on Church Avenue, arriving at the intersection of Church Avenue and Veronica Place at approximately 10:20 p.m. During this time, Sgt. Michael Cozier; PO Brandon Patane, and PO Miguel Vanbrakle of the 67th Precinct moved east on Church Avenue, as they did so, they deployed pepper spray (**Allegations C, D and E: Force, § 87(2)(g)**). At this intersection, § 87(2)(b) observed officers identified by the investigation as PO Delio Fernandez, PO Miguel Vanbrakle, PO Brandon Patane, and PO Ricardo Martinez, under the supervision of Sergeant Michael Cozier, all of the 67th Precinct, arresting § 87(2)(b) using a physical takedown (**Allegations F and G: Force, § 87(2)(g)**). § 87(2)(b) observed officers who he could not clearly describe striking § 87(2)(b) with batons and with foot strikes (**Allegations H and I: Force, § 87(2)(g)**). While observing this, § 87(2)(b) moved towards where the arrest was taking place, multiple officers then advanced on § 87(2)(b) one of the officers stated, “Get the fuck back,” immediately afterward, a different officer deployed pepper spray (**Allegation J: Discourtesy, § 87(2)(g)** **Allegation K: Force, § 87(2)(g)**). As the officers closed the distance with § 87(2)(b) one of the officers struck him on the arm with a baton (**Allegation L: Force, § 87(2)(g)** § 87(2)(b) turned around and went to his knees, after which point officers struck § 87(2)(b) in the head and on his body with batons (**Allegation M: Force, § 87(2)(g)**). After ten to fifteen seconds, the officers stopped and left.

At an intersection § 87(2)(b) did not remember, between 10:45 p.m. and 10:50 p.m., after a brief interaction, an officer discharged a warning arc from his taser while interacting with § 87(2)(b) (**Allegation N: Abuse of Authority, § 87(2)(g)** § 87(2)(b) was not arrested or summonsed.

§ 87(2)(g), § 87(4-b)

Body-worn camera footage was recovered during this investigation and was summarized (BR8-13, BR17-22).

Findings and Recommendations

Allegation (A) Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, officers struck individuals with police shields.

Allegation (B) Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, officers used pepper spray against individuals.

§ 87(2)(b) testified that on May 30, 2020, § 87(2)(b) participated in a protest against police brutality in Brooklyn. Between 9:30 p.m. and 10:20 p.m., he moved east with other protesters through the intersection of Church Avenue and Bedford Avenue. While moving through this intersection, he observed officers shoving civilians with police shields and deploying pepper spray. § 87(2)(b) was too far away from these interactions to be able to provide descriptions of the physical choreography of these interactions, provide descriptions of officers or civilians involved in these interactions, or provide any specific information about what possibly caused these interactions.

A review of CTS did not yield duplicate complaints about alleged misconduct that occurred at this specific location (BR24).

On June 25, 2020, the undersigned spoke to § 87(2)(b) allowed the undersigned to review an app on his phone that was linked to his security system, which included exterior-facing cameras. The footage from these cameras was not retained from May 30, 2020, the only footage retained from that date was from inside the store. The undersigned spoke to an unidentified individual § 87(2)(b). This individual stated the store's exterior cameras were not functional. The undersigned spoke to an unidentified individual who managed the § 87(2)(b). This individual stated the deli did not have exterior video cameras. The undersigned also searched in the area for other individuals and locations that may have recovered video footage from the interaction on May 30, 2020. These searches were not successful in locating video footage.

The investigation received limited BWC footage regarding this incident, footage received did not cover this specific portion of the incident. Documents requested from TARU, the 67th Precinct, Patrol Borough Brooklyn South, and additional BWC requests were not provided to the investigation.

No duplicate complaints were located, no video footage capturing this specific portion of the incident was found, documents were not provided to the investigation which would allow the investigation to determine the identity of officers who allegedly engaged in these actions. Additionally, the investigation lacks a specific time and descriptions of officers or civilian § 87(2)(b)

Allegation (C) Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, Sergeant Michael Cozier used pepper spray against individuals.

Allegation (D) Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, Police Officer Brandon Patane used pepper spray against individuals.

Allegation (E) Force: At the intersection of Church Avenue and Bedford Avenue in Brooklyn, Police Officer Miguel Vanbrakle used pepper spray against individuals.

In his testimony to the CCRB, § 87(2)(b) reported that throughout the evening, there were protestors who threw projectiles – described as plastic and glass bottles – at police officers at the rate of one or two bottles every two to three minutes. § 87(2)(b) did not see any bottle strike a police officer. He further reported that civilians at the front of the group yelled towards the civilians towards the middle and rear of the crowd to not throw bottles. At one point, at approximately 10:00 PM, in the vicinity of Church Avenue somewhere east of Bedford Avenue and west of Veronica Place, § 87(2)(b) saw a lit firework thrown into the street, causing some of the flares shot out along the ground.

In his testimony to the CCRB, Sgt. Cozier reported that there were large crowds of civilians gathered north of the intersection on Bedford Avenue and east of the intersection on Church Avenue. After

some period of time, more projectiles began to be thrown at police officers. Sgt. Cozier and other officers organized officers into a group facing east on Church Street. A crowd gathered in front of the people who were throwing bottles, bricks, and incendiary devices at police officers. Members of the crowd also pointed flashlights and camera lights at officers to obstruct officers' ability to determine who was throwing the projectiles, and to complicate officers' efforts to evade projectiles being thrown at them. He identified one of the people shining lights in officers' faces as § 87(2)(b). He stated, "We had flashlights, cameras shined into our eyes so that we couldn't even make out who was throwing these projectiles." Sgt. Cozier testified that after helping to organize officers facing east on Church Avenue, Sgt. Cozier ordered officers to advance. While officers moved east on Church Avenue, civilians refused orders to disperse and officers were struck with projectiles directed at them. Sgt. Cozier stated, "I made the decision because we had to clear out the front row to get to the people who were throwing these objects at us, I would have to move east, proceed east, to get to these people. So instead of using my baton to strike people or get into a situation where it would have gotten confrontational with the front row, I did discharge mace to disperse this large crowd that was obstructing us from getting to the people who were assaulting us behind them." Sgt. Cozier deployed his Oleoresin Capsicum (OC) spray at these civilians. He deployed OC spray to cause civilians to disperse with minimum risk to himself and his officers. After deploying the OC spray, Sgt. Cozier and his officers continued moving east on Church Avenue. After he deployed the OC spray, no civilian approached Sgt. Cozier and requested medical attention. Sgt. Cozier guessed that other officers discharged their OC spray following his example. He did not issue instructions to officers to discharge OC spray. Sgt. Cozier estimated he deployed OC spray between two and four times as he and other officers moved east on Church. Sgt. Cozier stated that OC spray deployment in the context he deployed it was the minimum force possible to deploy. Sgt. Cozier received specialized training in the deployment of O.C. spray in crowd control situations (BR03).

In his testimony to the CCRB, PO Vanbrakle stated that he and other officers re-formed their line, and began to push east on Church Avenue, pushing with their batons when civilians failed to comply with orders. During this movement, Sgt. Cozier withdrew his OC spray and discharged it at a group of civilians who were repeatedly failing to comply with officers' orders to move. At the time that PO Vanbrakle deployed his OC spray, he and other officers were being struck with rocks and bottles. The civilians in front of PO Vanbrakle obstructed officers' ability to reach and detain the civilians throwing objects at officers. PO Vanbrakle received training in the use of OC spray at the police academy, the training was that OC spray was optimally deployed in a well-ventilated, open area, with individuals that pose an imminent physical threat to police officers. PO Vanbrakle stated he had limited options to disperse the crowd in front of him, and that if he had not used OC spray, his other options, to his analysis, all represented higher levels of force use. The options that PO Vanbrakle had available at the time, other than OC spray, included hand strikes, baton pushes, or baton strikes. PO Vanbrakle's deployment of OC spray at this time, based on his analysis, was the minimum possible force he could have deployed to achieve his aims (BR06).

PO Patane and other officers gave the civilians who were blocking their pathway to the individuals throwing objects multiple instructions to move out of the way. After repeated instructions, PO Patane decided to deploy his pepper spray. He deployed his pepper spray to induce civilians who were not complying with lawful orders to disperse. He did not recall how many times he deployed his pepper spray; it may have been one spray or multiple. Roughly simultaneously to his deployment, Sgt. Cozier deployed his OC spray as well. PO Patane did not testify to receiving specialized training in the use of OC spray (BR04).

No video evidence capturing this OC discharge was recovered. Officers testified that they did not activate their BWC as it was unsafe to do so at the time they began moving east on Church Street. As stated above, officers consistently testified to observing civilians throwing bottles, bricks, and

other objects towards police officers, and multiple officers testified to being struck with objects thrown by civilians.

NYPD Patrol Guide Procedure 221-07 discusses the use of O.C. spray. The procedure states: O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons. O.C. pepper spray may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance. O.C. pepper spray shall not be used in situations that do not require the use of physical force. Avoid discharging O.C. pepper spray indiscriminately over a large area for disorder control. (Members who are specifically trained in the use of O.C. pepper spray for disorder control may use O.C. pepper spray in accordance with their training, and within Department guidelines, and as directed by supervisors.) (BR23).

Patrol Guide Procedure 221-01 governing the use of force states that reasonable force can be used to ensure the safety of an officer or other person, to protect life, to place a person in custody, or to prevent escape from custody.

No curfew was in effect on the date of incident.

The investigation credits that the members of the crowd threw projectiles at officers since the presence of projectiles is corroborated by § 87(2)(b) s statement. Further, the investigation credited that the projectiles placed the officers at risk since at least one officer – PO Patane – was struck by a projectile and sustained an injury.

Sgt. Cozier stated that the officers had difficulty identifying the members of the crowd who were throwing projectiles due to civilians who shined lights in their face. Sgt. Cozier also stated that when he deployed the pepper spray, his aim was to strike the civilians who failed to disperse so that the officers could reach the protestors who were throwing projectiles. PO Vanbrakle and PO Patane stated that the civilians they pepper sprayed had only refused orders to disperse; neither PO Vanbrakle nor PO Patane claimed that the civilians had done anything else.

While Patrol Guide 221-01 establishes general guidelines for the use of force, Patrol Guide 221-07 sets a higher standard for when pepper spray can be deployed, most notably that pepper spray should be used against civilians to gain or maintain control of civilians, against civilians who actively resist arrest or custody, or against civilians who exhibit active aggression. Pepper spray can also be used to prevent civilians from physically injuring others. The procedure notes that pepper spray should never be used in situations that did not require the use of physical force. In this case, none of the officers reported that any of the individuals that they pepper sprayed were actively resisting arrest, exhibited active aggression, or demonstrated that they intended to injure themselves or anyone else. The officers reported that the pepper sprayed individuals blocked their ability to access the protestors who were throwing projectiles and refused orders to disperse, but did not report any other malfeasance. The officers did not state that they intended to arrest the civilians they pepper sprayed or otherwise gain control of them. Instead, the officers were attempting to get to the protestors who were throwing projectiles. § 87(2)(g)

Although Procedure 221-03 notes that there are circumstances where officers can use pepper spray for “disorder control” and Sgt. Cozier stated that he had received training regarding the use of

pepper spray in crowds § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Additionally, PO Patane and PO Vanbrakle stated that they had not received any training about the use of pepper spray to disperse crowds. § 87(2)(g) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation (F) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, Police Officer Miguel Vanbrakle used physical force against § 87(2)(b) [REDACTED]
Allegation (G) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, Police Officer Ricardo Martinez used physical force against § 87(2)(b) [REDACTED]

In his statement to the CCRB, § 87(2)(b) [REDACTED] reported that when he was at the southeast corner of the intersection of Veronica Place and Church Avenue, he observed a group of eight to ten police officers surrounding an individual he did not know. This individual was identified by the investigation as § 87(2)(b) [REDACTED] was laying on the ground. Four or five of the officers kicked and struck § 87(2)(b) [REDACTED] with fists and batons as he lay on the ground (BR01).

The investigation identified § 87(2)(b) [REDACTED] via a review of BWC footage via the CCRB statement of PO Vanbrakle.

After conducting searches for § 87(2)(b) [REDACTED] s identity and contact information, and contacting an individual sharing § 87(2)(b) [REDACTED] s name, the investigation did not reach with the individual matching this person’s name and description.

PO Martinez’s BWC (BR11, summarized BR19), at 00m49s minutes, turns right, and faces § 87(2)(g), § 87(2)(b) [REDACTED] Restaurant. Several officers wearing uniforms are in physical contact with § 87(2)(b) [REDACTED] who is wearing a white shirt and wearing a red bicycle helmet. § 87(2)(b) [REDACTED] moves from the entrance of the restaurant towards the edge of the sidewalk, but it is unclear whether he is moving of his own volition or if he is moving due to the action of the officers. At 00m53s, § 87(2)(b) [REDACTED] s hands appear to be behind his back, but it is unclear whether he is in handcuffs. Between 00m50s and 01m00s, the camera captures PO Martinez placing his hands somewhere on the upper portion of § 87(2)(b) [REDACTED] back. No audio is recorded until 01m00s. PO Martinez’s camera falls off of his body and continues recording facing upward from the ground at 01m03s. The video stopped capturing specific physical information regarding the contact after being knocked from PO Martinez’s body, as the angle of the recording did not capture officers’ or civilians’ physical movements.

At 01m27s in PO Gamez’s BWC (BR10, summarized BR20), captures § 87(2)(b) [REDACTED] standing to the left of PO Gamez at approximately 10:17 p.m. with a light emanating from a chest-harness.

Sgt. Cozier testified that earlier on the night of May 30, 2020, § 87(2)(b) [REDACTED] had shined a high-power light at officers. This light disrupted officers’ ability to identify projectiles being thrown at officers, as well as officers’ ability to determine which civilians were throwing projectiles, as well as officers’ ability to evade thrown projectiles. § 87(2)(b) [REDACTED] had, earlier, evaded captured. At the intersection of Church Avenue and Veronica Place, Sgt. Cozier identified § 87(2)(b) [REDACTED] as the perpetrator of this action.

Sgt. Cozier instructed his officers to arrest § 87(2)(b) by stating, “Get him, right there.” Sgt. Cozier did not address this order to any specific officer. Officers approached § 87(2)(b) maneuvered him onto the ground, and placed him in handcuffs. Sgt. Cozier did not recall the physical process by which officers got § 87(2)(b) from standing to being on the ground. Sgt. Cozier did not recall how many officers took § 87(2)(b) to the ground. Sgt. Cozier did not recall if § 87(2)(b) did anything to physically resist officers’ attempts to him or take any action to prevent himself from getting arrested. As officers pushed east on Church, they arrived at the intersection of Church Avenue and Veronica Place. At this intersection, in front of an eatery, Sgt. Cozier saw § 87(2)(b) standing in a doorway. The crowd had largely dispersed from the immediate vicinity. Sgt. Cozier instructed his officers to arrest § 87(2)(b) by stating, “Get him, right there.” Sgt. Cozier did not address this order to any specific individual. Officers approached § 87(2)(b) maneuvered him onto the ground, and placed him in handcuffs. Sgt. Cozier did not recall the physical process by which officers got § 87(2)(b) from standing to being on the ground. Sgt. Cozier did not recall how many officers took § 87(2)(b) to the ground. Sgt. Cozier did not recall if § 87(2)(b) did anything to physically resist officers’ attempts to him or take any action to prevent himself from getting arrested. Sgt. Cozier’s BWC was not activated during this arrest. Sgt. Cozier did not think to activate his BWC; the decision to not activate was because § 87(2)(b) had run before, and time was crucial in successfully apprehending § 87(2)(b). Sgt. Cozier did not have time to activate his BWC prior to apprehending § 87(2)(b) due to the spontaneity of his observation of § 87(2)(b). Sgt. Cozier did not recall if projectiles were coming towards officers at this point (BR03).

PO Vanbrakle testified that he and PO Martinez approached § 87(2)(b) at Sgt. Cozier’s instructions. As they approached, they issued instructions to § 87(2)(b) to turn around and place his hands behind his back. § 87(2)(b) did not comply. PO Vanbrakle placed his hands on one of § 87(2)(b)’s arms, and attempted to pull it behind § 87(2)(b)’s back to place him in handcuffs. § 87(2)(b) tensed his arm muscles and moved his body away from officers, to attempt to evade being placed in handcuffs. PO Vanbrakle and PO Martinez took § 87(2)(b) to the ground. PO Vanbrakle did not use hand or baton strikes, and he did not observe other officers use hand or baton strikes (BR06). PO Vanbrakle did not activate his BWC because he the immediacy of the action did not allow him time to safely do so.

PO Martinez did not recall being involved in the arrest of § 87(2)(b). After being shown video footage, PO Martinez stated that he believed his camera had activated accidentally, and that he did not activate his camera intentionally at that time. PO Martinez recalled that he observed officers physically engage a civilian identified by the investigation as § 87(2)(b) who had failed to comply with orders to disperse. PO Martinez moved towards the officers to assist them in arresting the civilian. PO Martinez held the civilian’s shirt by the shoulder and pushed the civilian down. The civilian tensed his arms but did not do anything else physically. PO Martinez recalled that the takedown was a controlled takedown. PO Martinez’s camera fell off. Immediately after § 87(2)(b) was on the ground, PO Martinez left the scene and continued to move east on Church Avenue. PO Martinez stated the arresting officer for the civilian was PO Rambrako. PO Martinez did not recall observing any officer use any additional physical force towards § 87(2)(b) beyond the takedown. PO Martinez did not see any officer strike § 87(2)(b) with a baton while he was on the ground. PO Martinez did not use any force towards § 87(2)(b) beyond assisting in the takedown (BR02).

Repeated queries of the NYPD’s BADS database search did not show that any arrest report was generated regarding § 87(2)(b). No TRI, arrest photo, or medical treatment of prisoner report regarding § 87(2)(b)’s detention was received. A request for the 67th Precinct command log was not fulfilled by IAB.

While the investigation located BWC footage depicting § 87(2)(b) with a light emanating from a harness on his chest, there was no footage depicting § 87(2)(b) shining his flashlight into Sgt. Cozier’s and other officers’ eyes. Nonetheless, the investigation concludes that Sgt. Cozier

instructed officers to arrest § 87(2)(b) and that officers employed a forcible takedown while effecting the arrest.

§ 87(2)(b) did not provide testimony about how § 87(2)(b) came to be on the ground or the circumstances surrounding how he was brought to the ground, and the investigation did not obtain any testimony from § 87(2)(b). The investigation only obtained one BWC file that depicted the apprehension of § 87(2)(b). The footage only captured a portion of the interaction, and did not include footage depicting how § 87(2)(b) was brought to the ground, nor did it provide meaningful detail about the presence or scope of any resistance § 87(2)(b) offered to the officers' attempts to arrest him. The testimony provided by PO Vanbrakle's is not inconsistent with the BWC footage, though there is no corroboration to confirm or refute that § 87(2)(b) resisted arrest as alleged.

NYPD Patrol Guide Procedure 221-02 states that members of service will use only the reasonable force necessary to gain control or custody of a subject. It states that in determining whether the use of force is reasonable, members of service should consider the following factors: the nature and severity of the crime/circumstances; the actions taken by the subject; the duration of the action; the immediacy of the perceived threat or harm; whether the subject is actively resisting custody; whether the subject is attempting to evade arrest by flight; the number of subjects compared to the number of MOS; the size, age, and condition of the subject in comparison to the MOS; a subject's violent history if known; the presence of a hostile crowd or agitators; and whether the subject is apparently under the influence of a stimulant or narcotic which would affect pain tolerance or increase the likelihood of violence (BR07).

Officers testified that § 87(2)(b) fled officers' initial attempts to apprehend him and officers consistently testified actively resisted their attempts to place him in handcuffs. This arrest occurred within the context of ongoing, dynamic protests with numerous civilians in the overall vicinity. BWC footage captured officers' physical contact with § 87(2)(b) but did not clearly capture § 87(2)(b)'s actions or resistance at the time force was used. § 87(2)(g)

Allegation (H) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (I) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers struck § 87(2)(b) with batons.

As stated above, § 87(2)(b) testified he observed officers kicking § 87(2)(b) and striking him with fists and batons. § 87(2)(b) was not able to be more specific about what § 87(2)(b) was doing, as the lighting conditions, positioning of the officers and § 87(2)(b) and dynamic nature of the encounter obstructed his ability to determine the specific choreograph of the interaction (BR01).

As stated above, § 87(2)(b) was not successfully located by the investigation.

Officers consistently testified that they did not recall using hand strikes, foot strikes, or batons against § 87(2)(b) (BR02-BR06).

Video evidence shows officers physically engaged with § 87(2)(b) as discussed under Allegations F

and G, but does not capture officers using hand, foot, or baton strikes directed at him. This video was not reviewed using specialized video review software as the issue regarding the capture is not the fidelity of the camera, but the angle of the camera relative to officers' positioning (meaning, officers' physical motions are not depicted).

§ 87(2)(g)

Allegation (J) Discourtesy: At the intersection of Church Avenue and Veronica Place in Brooklyn, an officer spoke discourteously to § 87(2)(b)

Allegation (K) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (L) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, an officer struck § 87(2)(b) with a baton.

Allegation (M) Force: At the intersection of Church Avenue and Veronica Place in Brooklyn, officers struck § 87(2)(b) with nightsticks.

§ 87(2)(b) testified that he moved towards where § 87(2)(b) was being arrested. Unidentified officers began moving towards § 87(2)(b) did not have time to begin moving away before the officers were within one to two feet of him. § 87(2)(b) estimated that it took the officers no more than five seconds to close the distance between where they stood initially and himself. § 87(2)(b) faced north on Veronica Place. One of the officers stated, "Get back, get the fuck back." § 87(2)(b) did not have time to move away from the police officers before they physically engaged him. As the officers advanced on him, an officer discharged the pepper spray at § 87(2)(b). The officer may have said, "Get back," prior to deploying the pepper spray. § 87(2)(b) described the officer who discharged the OC spray as a light-skinned female wearing a short sleeved white shirt, with grey or brown short hair, 5'4", with a small frame, in her late 30s-50 years old. This officer carried a thick rubber baton approximately two inches in diameter. He described the officers with the officer who discharged the OC spray as a light skinned/white male in a blue uniform in his early 30s, 5'10", with sturdy build, carrying a thick black rubber baton approximately two inches in diameter, also carrying pepper spray, a black male in a blue uniform in his mid-30s, between 5'8" and 6' tall with a sturdy build, shaved head, and carrying a baton like the others, and a white male 5'8"-6' tall, in his mid-30s to early 40s, carrying a baton like the others. An officer struck § 87(2)(b) on the right side of his chest with their baton, swinging their baton in a downward motion. This swing struck § 87(2)(b) approximately two inches above his right nipple at the edge of his right pectoral muscle. § 87(2)(b) stood still, with his hands hanging on the side of his body, at the moment the officer struck him. He did not believe his fists were clenched. § 87(2)(b)'s shoulders were square with the officers at this moment. Immediately after being struck in the chest, § 87(2)(b) spun his body counterclockwise, and he crouched down, with his body bent over. § 87(2)(b) made this motion to avoid being struck, describing this motion as instinctive. This did not occur as a result of carried momentum from when the officer struck him with the baton. At this point, § 87(2)(b) was looking away from the police officers, and he could not tell which officer was striking him where. § 87(2)(b) looked towards the ground. § 87(2)(b) did not know if his feet were moving as the officers continued to strike him with batons. An officer struck § 87(2)(b) once in the back of his head almost immediately after turning around. § 87(2)(b) felt the strike to the head behind his right ear, with the edge of a baton. § 87(2)(b) was not able to be more specific about the order of subsequent strikes to his body. The officers struck § 87(2)(b) approximately eight more times to his upper arms and back. § 87(2)(b) did not say anything as the officers struck him. § 87(2)(b) did not recall the officers making any statements as they struck him. § 87(2)(b) estimated the officers struck him with batons for eight to ten seconds. The total time of the interaction, between the discharge of the

pepper spray and the officers last strike to his arms or body, lasted between twelve and fifteen seconds. § 87(2)(b) stated he suffered a bruise to his head. After discharging OC spray and striking § 87(2)(b) officers did not attempt to obtain medical attention for § 87(2)(b). Officers did not arrest, detain, or obtain any information from § 87(2)(b). After officers discharged OC spray at § 87(2)(b) and struck him with batons, § 87(2)(b) left the immediate vicinity, remained further south on Veronica place for some period of time, then proceeded to walk home (BR01).

The officers interviewed regarding this case consistently testified that they did not move south on Veronica Place or take action directed at any civilians on Veronica Place, other than § 87(2)(b) (BR02-BR06).

No video footage obtained by the investigation captures the area where this incident allegedly took place. The investigation obtained BWC from officers who moved past this location at a time period roughly contemporaneous with the time § 87(2)(b) stated the incident took place, this BWC does not capture interactions between police officers and civilian taking place anywhere on Veronica Place other than the interaction described above (BR17-23, summarized BR08-BR13). TARU footage was not obtained for this location. Calls to local businesses did not yield positive results for video footage (BR25-BR30). On June 25, 2020, conducted fieldwork in the vicinity of Church Avenue and Veronica Place in Brooklyn. The undersigned spoke to § 87(2)(b) allowed the undersigned to review an app on his phone that was linked to his security system, which included exterior-facing cameras. The footage from these cameras was not retained from May 30, 2020, the only footage retained from that date was from inside the store. The undersigned spoke to an unidentified individual who managed § 87(2)(b). This individual stated the store's exterior cameras were not functional. The undersigned spoke to an unidentified individual who managed § 87(2)(b). This individual stated the deli did not have exterior video cameras. The undersigned also searched in the area for other individuals and locations that may have recovered video footage from the interaction on May 30, 2020. These searches were not successful in locating video footage (BR31).

The investigation did not receive documents from the 67th Precinct, IAB, and Patrol Borough Brooklyn South despite multiple follow-up requests. Additionally, follow-up requests for additional BWC were not fulfilled. The investigation received negative results regarding a request for zone, post, and sector maps from Patrol Borough Brooklyn South (BR46).

As stated above, the investigation searched for and did not locate video footage that captured the specific incident location that § 87(2)(b) stated this took place at. The video footage obtained by this investigation as well as investigations concurrent to this one occurring at or near the same overall incident did not yield video that captured this specific incident location. Documents requested by the investigation were either not fulfilled by the NYPD or yielded negative results. Testimony, as stated above, was consistent in officers not observing interactions between officers and civilians south of the intersection of Veronica Place and Church Street. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (N) Abuse of Authority: At an unknown location, an officer threatened § 87(2)(b) with the use of force.

On his walk home, § 87(2)(b) observed a group of six police officers standing at the northwestern corner of Flatbush Avenue and either Martense Street or Linden Boulevard. § 87(2)(b) observed these officers between 10:45 PM and 10:50 PM. The officers stood in the crosswalk. The officers' backs were to § 87(2)(b) when he approached them. § 87(2)(b) was walking west, coming from the east. All six officers wore standard uniforms, not riot gear. As § 87(2)(b) got between one quarter and halfway through the intersection, he loudly asked the officers if he could go through where they stood. An officer turned around, looked at § 87(2)(b) and in a friendly manner, said, "Yeah sure, get home, it's not safe out here." Other than this officer, none of the officers turned around. § 87(2)(b) then walked through the group. § 87(2)(b) walked six to eight feet past the group of officers. He stopped, turned around to face the group of officers, and said, "Some of your colleagues beat me up tonight." § 87(2)(b) believed that an officer then drew his conducted energy weapon ("CEW", referred to be § 87(2)(b) as a "taser"). The officer drew his CEW with his right hand. The officer took two steps towards § 87(2)(b) and 'buzzed' the CEW. § 87(2)(b) walked away without further interaction with these officers. The officer did not point the taser at § 87(2)(b) (BR01).

Linden Boulevard is one block north of Martense Street in Brooklyn. Martense street is approximately a block and a half north of the incident location. This location is approximately two blocks west and two or three blocks north (two blocks for Martense Street, three blocks for Linden Bouelvard) of the incident location.

§ 87(2)(b) was not able to provide a specific location for where this incident took place. As stated above regarding Allegations L-O, the investigation either did not receive or was unable to determine via documents the location of specific officer deployments. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)
[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
- Sergeant Patane has been a member of service for four years, and has been the subject of two CCRB complaints and two allegations, none of which are substantiated.

- PO Vanbrakle has been a member of service for seven years, and has been the subject of fourteen CCRB complaints and 34 allegations, none of which were substantiated.
 - Five allegations of physical force have been pleaded against PO Vanbrakle, though none of the allegations were substantiated. Physical force was exonerated in 201502958, 201709873, and 201802626, and unsubstantiated in 201707238.
- PO Fernandez has been a member of service for five years, and has been the subject of four CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g)
- PO Martinez has been a member of service for nine years and has been the subject of three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Cozier has been a member of service for thirteen years and has been the subject of ten CCRB complaints and 21 allegations.
 - 201300682 involved a substantiated allegation of a retaliatory summons against Sgt. Cozier. The Board recommended instructions and the NYPD imposed instructions.
 - 201905210 involved substantiated allegations of abuse of authority – entry of premises and abuse of authority – search of premises. The board recommended formalized training and the NYPD imposed formalized training.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR14).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR45).
- As of October 15, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards to this complaint (BR16). A follow-up request was submitted May 24, 2021 with the name § 87(2)(b) This request is pending, and results will be added to the case file upon its receipt.

Squad No.: 12

Investigator:	<u>Zachary Herman</u> Signature	<u>Investigator Zachary Herman</u> Print Title & Name	<u>05/24/2021</u> Date
Squad Leader:	<u>Carlmais Johnson</u> Signature	<u>IM Carlmais Johnson</u> Print Title & Name	<u>November 29, 2021</u> Date
Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Moss	Team: Squad #6	CCRB Case #: 202003851	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 4:03 PM	Location of Incident: 201 East 21st Street	Precinct: 13	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/03/2020 12:15 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/03/2020 12:15 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM William Myhre	14318	966238	013 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. Officers			

Officer(s)	Allegation	Investigator Recommendation
A.POM William Myhre	Abuse: Police Officer William Myhre refused to provide his shield number to § 87(2)(b)	
B.POM William Myhre	Abuse: Police Officer William Myhre refused to provide his shield number to individuals.	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 3, 2020, § 87(2)(b) submitted this complaint on the CCRB's website.

On June 2, 2020, at approximately 4:00 p.m., § 87(2)(b) attended a protest against police brutality in the vicinity of Gramercy Park in Manhattan. At the northeast corner of East 21st Street and 3rd Avenue, § 87(2)(b) and two unidentified males verbally requested that Police Officer William Myhre from the 13th Precinct show them his shield number. PO Myhre, whose shield number was covered by a black mourning band, neither showed the civilians his shield number nor provided it verbally (**Allegations A and B: Abuse of Authority** – § 87(2)(g), § 87(2)(i) § 87(2)(b) Officers did not arrest § 87(2)(b) or issue her any summonses.

The investigation obtained cellphone footage of the incident from § 87(2)(b) (**BR1**). A request for BWC footage returned negative results.

Findings and Recommendations

Allegation A – Abuse of Authority: PO William Myhre refused to provide his shield number to § 87(2)(b)

Allegation B – Abuse of Authority: PO William Myhre refused to provide his shield number to individuals.

The following facts are undisputed: On June 2, 2020, at approximately 4:00 p.m., § 87(2)(b) participated in a protest against police brutality. The protest marched north up 3rd Avenue in Manhattan and at least partially stopped at the intersection of East 21st Street and 3rd Avenue. At the eastern edge of that intersection, officers placed barricades to prevent protesters from marching east toward the 13th Precinct stationhouse. Officers, including PO Myhre, stood behind the barricades to ensure that protesters did not jump over them. § 87(2)(b) and others stood on the opposite side of the barricades and protested. The protesters were non-violent and did not attempt to jump over the barricades.

Cellphone footage recorded and provided by § 87(2)(b) depicted the incident (**BR1**). In the footage, § 87(2)(b) stood face-to-face with PO Myhre directly across the barricades from him approximately four to eight feet away. PO Myhre's shield number was covered by a black mourning band and he stared straight ahead into the crowd of protesters. In the video, § 87(2)(b) said, "Officer Myhre ... you have to show your badge." PO Myhre did not acknowledge § 87(2)(b). He did not verbally state his shield number or remove the mourning band from covering it. § 87(2)(b) responded, "Ok, I'll figure out who he is. M-y-h-r-e." The video's audio also captured comments made by two males who stood near § 87(2)(b). The males stated, "Show your badge," at least twice, "Show your fucking badge," and, "He's not showing his badge." The video's audio did not capture any loud chants, music, or the roar of a crowd at the time these requests were made.

§ 87(2)(b) testified that she stood against a barricade directly across from PO Myhre and requested his shield number because it was covered by a black mourning band (**BR2**). She further testified that two male protesters near her also observed that PO Myhre's shield number was covered and requested that he uncover it at least twice. PO Myhre did not uncover his shield number, nor did he verbally state it. PO Myhre did not provide any of the civilians with his business card.

PO Myhre testified that he stood behind the barricades to ensure that protesters did not approach the 13th Precinct stationhouse (**BR3**). According to PO Myhre, approximately 300 to 400 protesters were on the other side of the barricades and chanted loudly. PO Myhre testified that the protesters were so loud that he could not make out any distinct words that they said. He denied that he heard anything that the

protesters said toward him or toward other officers. He did not hear any protesters say his name or request his shield number.

During his CCRB interview, PO Myhre identified himself as the subject officer in the video and confirmed that his shield number was covered by a black mourning band, which he said was unintentional. Though PO Myhre heard the civilians request his shield number when he watched the video, he reiterated that he did not hear those requests on the date of the incident because the protesters were so loud that he could not hear any “distinct” words. PO Myhre said that § 87(2)(b) s phone might have made the requests sound clearer than they were in person. PO Myhre did not activate his BWC because it was not a crime in progress call so he did not have to turn it on.

Officers are required to provide their shield numbers—either verbally or through other means, such as a business card—when requested to do so by civilians. PG 203-09 (BR4).

Although § 87(2)(b) stood among other protesters when she made her request, the video’s audio did not capture any chants, music, or other loud noises that would have made her request inaudible. If the crowd noise was sufficiently loud that it made all words spoken by the protesters undecipherable, the requests made by the two males would likely have been drowned out or at least muffled in the video. § 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(g)
- This is the second CCRB case in which PO Myhre has been a subject officer. (BR5).

Witness Officer(s)	Shield No	Tax No	Cmd Name
5. POM Allan Pajak	29343	933138	SRG 5
6. POM Alvaro Tobon	28983	940804	SRG 1
7. POM Jason Ciota	01410	951615	SRG 3
8. POM Christophe Foley	08327	955029	SRG 1
9. POM Rafael Rispoli	12456	956201	SRG 2
10. POM Mohamed Yafai	23818	935997	SRG 3
11. POM Frank Green	05220	949058	SRG 5
12. POM Vincent Ippolito	06866	950619	SRG 5
13. POM Edward Weisenburger	18143	952338	SRG 1
14. LT Thomas Carey	00000	918821	SRG 5
15. LT Denis Samuylin	00000	935680	SRG 1
16. PO Thomas Mosher	02905	949371	SRG 2
17. POM Jorge Carpio	05085	940981	SRG 1
18. SGT Charles Miele	04711	939037	SRG 1
19. POM Matthew Kokoruda	18375	944705	SRG 5
20. POM Dennis Ustelimov	13541	957238	SRG 3
21. POM Erik Fischer	26062	955917	SRG 4
22. POM Joseph Ryder	21617	964269	C A B
23. LT Gzim Palaj	00000	946091	SRG 3
24. POM Kevon Husband	18913	958715	081 PCT
25. POM Kevin Thomas	24437	942919	SRG 3
26. POM Brendan King	3712	955010	SRG 3
27. SGT Jose Troncoso	05573	926225	SRG 2
28. POM Elmer Maldonado	00631	966686	081 PCT
29. DC John D'Adamo	00000	913627	SRG
30. SGT Sindy Sanchez	00546	939761	SRG 2
31. POM Justin Adetimirin	12522	965920	081 PCT
32. POM John Loftus	18151	935198	DIS CTL
33. LT Stephen Latalardo	00000	899454	SRG
34. SGT Nikolaos Stefopoulos	04686	944294	SRG 5
35. POM Steven Lancia	08781	939755	PBMS
36. LT Peter Sotiriou	00000	924515	SRG 3
37. SGT Joshua Gregory	01456	949062	SRG 3
38. POM Justin Micozzi	19650	966716	075 PCT
39. SGT Roberto Dominguez	01019	938384	SRG 2
40. SGT William Gaspari	01310	941799	SRG 3
41. DT2 Kaz Daughtry	03581	940052	C A B
42. SGT Joseph Naranjo	04192	952045	SRG 5
43. POM Christian Calvagna	03153	964956	075 PCT
44. POM Richard Kaplan	23199	957725	SRG 4
45. POM Algenis Pena	00846	953228	SRG 4
46. SGT Ernan Vega	02783	948153	SRG 3
47. POM Eric Borbee	22871	962265	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
48. POF Keyana Cumberbatchwalters	04620	964468	075 PCT
49. POM Adrian Theobald	31670	955573	075 PCT
50. POM Tyler Hamelburg	06029	963564	075 PCT
51. POM Thomas Dugan	12459	922291	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A.CCA Jeffrey Maddrey	Force: At the Brooklyn Bridge in Brooklyn, Chief Jeffrey Maddrey used physical force against individuals.	[REDACTED]
B. Officers	Force: At the Brooklyn Bridge in Brooklyn, officers used physical force against § 87(2)(b)	[REDACTED]
C.POM Andre Gaddy	Force: At the Brooklyn Bridge in Brooklyn, Police Officer Andre Gaddy struck § 87(2)(b) with a baton.	[REDACTED]
D.POM Michael Lamastra	Force: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra struck § 87(2)(b) with a baton.	[REDACTED]
E.POM Michael Lamastra	Off. Language: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)	[REDACTED]
F.POM Enmanuel Montesino	Force: At the Brooklyn Bridge in Brooklyn, Police Officer Enmanuel Montesino used physical force against § 87(2)(b)	[REDACTED]
G.POM Jason Rubenstein	Off. Language: Police Officer Jason Rubenstein made remarks based on § 87(2)(b)'s gender identity.	[REDACTED]

Case Summary

On June 3, 2020, § 87(2)(b) filed this complaint with the CCRB online.

On May 30, 2020, at approximately 8:20 p.m., § 87(2)(b) and her roommate, § 87(2)(b) marched over the Brooklyn Bridge into Brooklyn with a large group of protesters including § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) and other individuals. As soon as the protesters came off the bridge they were met with a large group of officers including the following: PO Francesco Dimeo, PO Edward Weisenburger PO Jorge Carpio, PO Alvaro Tobon, PO Christophe Foley, Lieutenant Denis Samuylin, Sergeant Charles Miele, and PO Jason Rubenstein of Strategic Response Group (SRG) 1, PO Ivan Lugo, PO Rafael Rispoli, PO Enmanuel Monesino, PO Thomas Mosher, PO Michael Lamastra, PO Roberto Dominguez, Sergeant Jose Troncoso, and Sergeant Sindy Sanchez of SRG 2, PO James Morgante, PO Brendan King, Sergeant Ernan Vega, PO Marco Dutan, PO Jason Ciota, PO Mohamed Yafai, PO Dennis Ustelimov, Lieutenant Gzim Palaj, Lieutenant Peter Sotiriou, Sergeant Joshua Gregory, Sergeant William Gaspari, and PO Kevin Thomas of SRG 3, PO Erik Fischer, PO Algenis Pena, and PO Richard Kaplan of SRG 4, PO Allan Pajak, PO Frank Green, PO Vincent Ippolito, Lieutenant Thomas Carey, Sergeant Joseph Naranjo, PO Nikolaos Stofopoulos, and PO Matthew Kokoruda of SRG 5, Deputy Chief John D'Adamo and Lieutenant Stephen Latalardo of SRG, PO Justin Micozzi, PO Christian Calvagna, PO Eric Borbee, PO Keyana Cumberbatchwalters, PO Adrian Theobald, and PO Tyler Hamelburg of the 75th Precinct, PO Andre Gaddy, PO Kevon Husband, PO Elmer Maldonado, and PO Justin Adetimirin of the 81st Precinct, PO Thomas Dugan of the 101st Precinct, PO Steven Lancia of Patrol Borough Manhattan South, PO John Loftus of Disorder Control, and PO Joseph Rider, Det. Kaz Daughtry, and Chief Jeffrey Maddrey of the Community Affairs Bureau.

§ 87(2)(b) linked arms with eight other women and stood in the roadway as the officers approached. Unidentified protesters threw water bottles and eggs toward the officers and the officers began running toward the protesters. Chief Maddrey instructed Deputy Chief D'Adamo to instruct the SRG officers to begin making arrests (**Allegation A: Force**, § 87(2)(g)). Under these instructions the following events occurred:

Lieutenant Samuylin grabbed § 87(2)(b) by the hand, and he took her to the ground. PO Dimeo assisted in handcuffing § 87(2)(b) and escorted her to the prisoner vans. § 87(2)(b) was taken to the ground by PO Foley. PO Ciota pushed § 87(2)(b) down with his baton. § 87(2)(b) was taken down by an unidentified male sergeant.

At least three unidentified officers used unspecified physical force against § 87(2)(b) (**Allegation B: Force**, § 87(2)(g)).

PO Gaddy pushed § 87(2)(b) down with his baton as she was trying to leave the area (**Allegation C: Force**, § 87(2)(g)). § 87(2)(b) went to help § 87(2)(b) and was allegedly struck in the face with a baton by PO Lamastra who also allegedly called § 87(2)(b) a bitch (**Allegation D: Force**, § 87(2)(g)) and (**Allegation E: Offensive Language**, § 87(2)(g)).

PO Montesino escorted § 87(2)(b) to the prisoner van and pulled her hair while they were walking (**Allegation F: Force**, § 87(2)(g)).

At approximately 9:30 p.m., the prisoners arrived at 1 Police Plaza in Manhattan where they waited inside the prisoner vans for their turn to be processed. While in the prisoner van, PO Rubenstein referred to § 87(2)(b) using male pronouns despite her correcting officers when she first entered the van that she preferred female pronouns (**Allegation G: Offensive Language**, § 87(2)(g)).

§ 87(2)(b) and § 87(2)(b) were issued summonses as a result of this incident. § 87(2)(b) and § 87(2)(b) were arrested because of this incident.

The investigation obtained body-worn camera videos (BR 01, BR 02, BR 03, BR 04, BR 05, BR 06, BR 07, BR 08, BR 09, BR 10, BR 11, BR 12, BR 13, BR 14, BR 15, BR 16, BR 17, BR 18, BR 19, BR 20, BR 21, BR 22, BR 23, BR 24, BR 73, BR 74, BR 75, BR 76, BR 77, BR 78, BR 79, BR 80, BR 81, BR 82, BR 83, BR 84, BR 85, BR 86, BR 87, BR 88, BR 89, BR 90, BR 91, BR 92, BR 93, BR 94, BR 95, BR 96, BR 97, BR 98, BR 99, BR 100, BR 101, BR 102, and BR 103; *videos*, and BR 25, BR 26, BR 27, BR 28, BR 29, BR 104, BR 105, BR 106, and BR 107; *summaries*), seven surveillance footage videos (BR 30, BR 31, BR 32, BR 33, BR 34, and BR 35; *videos* and BR 36; *summary*) three cellphone videos from § 87(2)(b)'s social media accounts (BR 37, BR 38, and BR 39; *videos* and BR 40; *summaries*) two cellphone videos obtained from Twitter and one cellphone video obtained from § 87(2)(b) (BR 41, BR 42, and BR 43; *videos*, and BR 44; *summaries*). Relevant sections are discussed below.

Findings and Recommendations

Allegation (A) Force: At the Brooklyn Bridge in Brooklyn, Chief Jeffrey Maddrey used physical force against individuals.

It was undisputed that Chief Maddrey was the highest-ranking officer on scene. § 87(2)(b) consistently stated (BR 45 and BR 46) that she was marching in the front of the protest with a group of women. § 87(2)(b) and eight other women linked arms and stood peacefully. Everyone in § 87(2)(b)'s periphery was walking peacefully, chanting, and carrying signs. § 87(2)(b) did not witness any protesters being violent and was not aware of anyone throwing any projectiles.

Out of nowhere, with no warning, no verbal instructions to move, and no loudspeaker announcements, a large group of officers ran into the group of protesters and started arresting people. § 87(2)(b) observed an officer moving toward her roommate, § 87(2)(b) so § 87(2)(b) started to run away. § 87(2)(b) did not hear any verbal instructions as she ran away. She was running on the sidewalk when Lieutenant Samuylin jumped on § 87(2)(b) and she landed on her back on the grass near the sidewalk. PO Dimeo told her to “stop resisting,” and § 87(2)(b) did not resist. PO Dimeo instructed § 87(2)(b) to put her hands behind her back and she complied. § 87(2)(b) sustained a scrape to the side of her knee and was bruised in a couple of places. § 87(2)(b) stood up and PO Dimeo led § 87(2)(b) to location where they were gathering people who had been arrested.

§ 87(2)(b) stated (BR 53) that she marched over the Brooklyn Bridge into Brooklyn with her friend § 87(2)(b). This was a peaceful protest and § 87(2)(b) did not know any of the other protesters other than § 87(2)(b). There was a line of officers at the end of the Brooklyn Bridge when § 87(2)(b) arrived in Brooklyn. The officers charged toward the protesters and started arresting people, even people who were just observers. § 87(2)(b) and some of the protesters started to run away.

While § 87(2)(b) was trying to run away, § 87(2)(b) fell on top of her, and got arrested. § 87(2)(b) tried to get up off the ground and one or two officers grabbed her by the arms and dragged her approximately 10 feet onto the sidewalk. PO Foley then handcuffed § 87(2)(b). § 87(2)(b) was not sure whether PO Foley was one of the officers who dragged her. § 87(2)(b) was not injured from the dragging.

§ 87(2)(b) did not cooperate in providing a statement (BR 54).

§ 87(2)(b) stated (BR 69) that she went over the Brooklyn Bridge and some people were still in the street, and some were on the sidewalk. § 87(2)(b) stopped at the front of the group of protesters and linked arms with approximately three other people. § 87(2)(b) observed 30 to 50 officers coming toward the protesters, then the officers started charging.

§ 87(2)(b) felt PO Ciota's baton make contact with her stomach as she was pushed onto the ground. § 87(2)(b) fell backward onto her buttocks. Two to three male officers grabbed her arms and dragged her. § 87(2)(b)'s glasses flew off and her shoes came off. § 87(2)(b) sustained bruises to the inside of her arms and knee and scrapes to her legs from being dragged.

§ 87(2)(b) (**BR 71**) came over the Brooklyn Bridge into Brooklyn and there were officers lined up and they appeared ready to charge. Within minutes of coming off the bridge, the officers came toward the protesters. § 87(2)(b) believed the officers must have been given a signal to go ahead. § 87(2)(b) observed people running. A lot of people ran away to the subway and people backed up into a parking lot. The officers gave a warning but there was not enough time for the protesters to hear that warning. § 87(2)(b) did not hear the whole warning and did not remember what the officers said or whether it was over a loudspeaker.

§ 87(2)(b) was standing in the front when she was taken down by two officers, PO Morgante and an unidentified sergeant. The officers made contact with § 87(2)(b)'s arms and pushed her forward. § 87(2)(b) could not remember which part of her body the officers pushed. § 87(2)(b) went to the ground and was flat on her stomach facing down on the ground. The officers secured § 87(2)(b)'s arms and legs and handcuffed her with flex cuffs. § 87(2)(b) described the sergeant as a Hispanic or East Asian male with a darker complexion, 5'10" tall, with a heavy build.

Deputy Chief D'Adamo stated (**BR 52**) that he was on Tillary street and observed the group coming over the Brooklyn Bridge onto a service road. Deputy Chief D'Adamo was standing with the commander of Brooklyn North, Chief Maddrey, and was told to engage and make arrests because eggs and bottles were thrown from the crowd toward the SRG officers. Chief Maddrey said they have to start making arrests, so the protesters stop throwing things. Deputy Chief D'Adamo was standing next to Chief Maddrey and he said "John, have your guys go down there let's start making arrests." Deputy Chief D'Adamo relayed that to the supervisors on the scene verbally. Deputy Chief D'Adamo was standing in line with other officers and went down toward the protesters to make arrests with the officers.

Chief Maddrey did not give instructions on arresting specific protesters. They were going there to arrest anyone who was throwing things. Deputy Chief D'Adamo assumed the protesters wanted a confrontation because the protesters were marching toward the police. Deputy Chief D'Adamo remembered seeing eggs and bottles before the protesters reached the officers. Deputy Chief D'Adamo heard officers complain about getting hit with eggs and possibly glass bottles, too.

Deputy Chief D'Adamo did not know of instructions prior to the protesters' arrival. Deputy Chief D'Adamo did not know when he got to the location. Officers were making arrests authorized by the borough commander who authorized those arrests to be made.

SRG officers are trained to disperse a crowd during their six weeks at the academy. One or two weeks deal with crowd management, including passive crowds and aggressive crowds. Deputy Chief D'Adamo considered the May 30, 2020, crowd to be a violent mobile crowd. In a situation like this, SRG is to use minimum force necessary. Specific training on using a baton to disperse a crowd is learned in the police academy and Deputy Chief D'Adamo did not remember the training from 31 years ago. SRG bike officers use their bicycles similar to a baton to disperse a crowd.

On May 30, 2020, the incident ended after officers made multiple arrests and the crowd dispersed and moved on. Afterward, arrest processing took place. Deputy Chief D'Adamo did not play a role in arrest processing, that was handled by lieutenants, sergeants, and officers.

Chief Maddrey stated (**BR 112**) that pedestrians were walking on the roadway from Manhattan eastbound across the Brooklyn Bridge. Chief Maddrey did not recall the activities of this protest group, including whether they were chanting. Chief Maddrey could not estimate the size of the group. Pedestrians were not allowed on the Brooklyn Bridge roadway without a street permit, it was unlawful assembly, and all of the civilians were subject to arrest. Bystanders to this protest would not be subject to arrest. Chief Maddrey could not recall at what number a group rises to unlawful assembly, but guessed it was at 20 participants. Chief Maddrey attested that the law regarding unlawful assembly states that, "A certain amount of people gathered together without a permit is unlawful assembly." Beyond being in the roadway and blocking traffic, Chief Maddrey could not see any further activity from the group of protesters that was a violation of the law.

Officers from SRG approached the group of civilians marching eastbound on the Brooklyn Bridge roadway. Officers from the 84th Precinct were also present on scene, but Chief Maddrey did not recall if any non-SRG officers assisted SRG in arresting civilians on the Brooklyn Bridge roadway. Chief Maddrey noted that Captain Kenny Perez, the CO of the 84th Precinct, was present on scene. Chief Maddrey did not recall if any Legal Bureau officers were present on scene, or what other commands were present on scene.

Based on the fact that SRG officers responded to this unlawful assembly, Chief Maddrey expected that the SRG officers would begin arresting civilians on the roadway. Chief Maddrey did not recall if any messages were broadcast over loudspeakers or an LRAD system.

When SRG officers approached the protesters, protesters started running away, including jumping off the roadway onto nearby sidewalks, side streets, and into a nearby parking lot. Officers began arresting protesters on the roadway. Chief Maddrey did not recall if officers used any forcible takedowns. Officers made multiple arrests. Chief Maddrey was unsure if officers used handcuffs or flex cuffs. Chief Maddrey did not recall if any non-SRG officers participated in arresting civilians. Chief Maddrey did not get close enough to any arrested civilians to see any visible injuries. Chief Maddrey did not hear any complaints of pain from any protesters. Chief Maddrey left the scene after the arrests concluded. Chief Maddrey was not present when arrested civilians were lodged into prisoner holding vans. Chief Maddrey did not recall any debrief with any high-ranking officers afterwards about this incident.

Chief Maddrey did not specifically recall if he spoke with Deputy Chief D'Adamo on May 30, 2020 but noted that he spoke with Deputy Chief D'Adamo multiple times throughout the protests. Chief Maddrey did not recall speaking with Deputy Chief D'Adamo to direct SRG officers to engage with a crowd of protestors. Chief Maddrey was generally able to ask SRG for assistance but did not recall if he asked SRG for assistance with this incident. Chief Maddrey did not call and ask SRG to arrive to the Brooklyn Bridge on May 30, 2020. During this incident, Chief Maddrey did not recall providing any instructions to any officers. Chief Maddrey did not recall instructing any officer to effect any arrests. Chief Maddrey did not instruct any officer to use force when placing civilians into custody. Chief Maddrey did not instruct any officer on how to take any civilian into custody.

Although Chief Maddrey did not recall giving any instructions to Deputy Chief D'Adamo the investigation is crediting Deputy Chief D'Adamo's statement that Chief Maddrey did give him instructions to send SRG officers to start making arrests because Chief Maddrey did not have a clear recollection of this incident.

Lieutenant Samuylin stated (**BR 47**) that he observed a big crowd of people on the Brooklyn Bridge occupying the roadway and heading toward Brooklyn from the Manhattan side. Lieutenant Samuylin started off by walking toward the protesters. When he approached the group, people started running away. Lieutenant Samuylin observed objects thrown, including a bottle filled with fluid that went right over his head and another that landed seven to 10 feet in front of him. These bottles were filled with unknown fluids. Then a captain or above verbally gave the order to disperse the group but Lieutenant Samuylin did not recall who.

Lieutenant Samuylin and officers ran toward the group of protesters. Lieutenant Samuylin stopped the person closest to him, § 87(2)(b) grabbed her by the left hand, and tried to place the handcuffs on her. § 87(2)(b) did not pull away or try to flee. Lieutenant Samuylin chose § 87(2)(b) because she was the closest protester to him, and she was a part of the group. There was no additional reason for choosing § 87(2)(b). Lieutenant Samuylin probably told § 87(2)(b) verbally that she was under arrest, but he did not remember exactly. She was holding a sign in her right hand. He tried to take her sign and then she took it back. At one point she stumbled, then took a step back and fell over the bush onto the ground. Lieutenant Samuylin fell on top of her because he had been holding her hand. Lieutenant Samuylin did not intentionally take § 87(2)(b) to the ground. Five seconds later, PO Dimeo came over, rolled § 87(2)(b) over, and handcuffed her. Lieutenant Samuylin did

not give instructions to PO Dimeo. § 87(2)(b) did not resist arrest. Lieutenant Samuylin did not observe any injuries on § 87(2)(b) and she never complained of injuries or requested medical attention. Lieutenant Samuylin was not injured during this incident.

PO Dimeo stated (**BR 48**) that when the protesters first approached, they were walking over the Brooklyn Bridge from Manhattan. When the protesters came within throwing distance, protesters started throwing bottles and different objects. Bottles were being thrown right next to PO Dimeo. There were multiple things being thrown but PO Dimeo did not know how many objects or what kind of water bottles there were because he was more concerned with his safety. PO Dimeo did not recall seeing any officers hit by any bottle. PO Dimeo clarified that no objects were thrown directly at him. PO Dimeo was not paying attention to anything the protesters were saying and he did not hear any verbal threats.

A supervisor said to start making arrests and PO Dimeo did not recall who gave the orders. There were multiple officers making arrests in PO Dimeo's general vicinity. The protesters were not given the opportunity to leave at this point because it had been deemed an unlawful assembly. PO Dimeo observed two pairs of legs in the bushes, one was police pants (Lieutenant Samuylin) and one was a protester § 87(2)(b). Lieutenant Samuylin appeared to be having difficulty handcuffing § 87(2)(b). § 87(2)(b) was already on the ground when PO Dimeo first observed her, and he was not involved in getting § 87(2)(b) onto the ground. PO Dimeo stated that it looked like § 87(2)(b) was resisting because they were both on the ground when he first saw her and Lieutenant Samuylin. PO Dimeo instructed § 87(2)(b) to put her hands behind her back, she complied, PO Dimeo flex cuffed her and helped her up. Lieutenant Samuylin did not give PO Dimeo any instructions to assist him. PO Dimeo asked § 87(2)(b) if she was okay and she said, "No, I'm pissed." PO Dimeo asked if § 87(2)(b) was hurt or injured and she said no.

PO Dimeo looked into the air to avoid being hit by any object. As soon as arrests were being made the protesters started scattering and the objects stopped being thrown. By the time PO Dimeo got Ms § 87(2)(b) off the ground and started escorting her away the throwing of objects had stopped. PO Dimeo did not know whether protesters were given an opportunity to leave as he was escorting § 87(2)(b) away. PO Dimeo escorted § 87(2)(b) to a police van and rode with her to 1 Police Plaza in Manhattan.

Lieutenant Samuylin's body-worn camera footage (**BR 01; video** and **BR 25; summary**) opens with Lieutenant Samuylin walking with a group of SRG officers. At 00:40 seconds, the officers begin running and § 87(2)(b) and Lieutenant Samuylin fall into a bush. At 1:00 the audio turns on and § 87(2)(b) says, "I have the right to protest, get off of me." PO Dimeo instructs § 87(2)(b) to put her hands behind her back and handcuffs her.

PO Dimeo's body-worn camera (**BR 06; video** and **BR 26; summary**) opens with § 87(2)(b) on the ground on her back. Lieutenant Samuylin is grabbing § 87(2)(b)'s right arm. § 87(2)(b) rolls over onto her front and PO Dimeo grabs her by the hand. PO Dimeo handcuffs § 87(2)(b) with flex cuffs and helps her stand up. At 1:13 minutes, PO Dimeo asks § 87(2)(b) if she is okay.

§ 87(2)(b) had originally stated that PO Dimeo took her to the ground, but she was not 100% certain it was him. Given the body-worn camera footage, Lieutenant Samuylin's statement, and PO Dimeo's statement, the investigation determined that Lieutenant Samuylin took § 87(2)(b) to the ground and PO Dimeo only assisted in handcuffing her.

PO Foley stated (**BR 55**) precinct officers called for assistance from the mobile field force over the radio, but no specific information was relayed. PO Foley was not given any instructions regarding arresting or summoning protesters. There were officers from other SRG groups and the local precinct on scene. Police bosses from the local precinct and other units were present but PO Foley could not recall who.

When the protesters got closer to the officers' side, they threw eggs and bottles. PO Foley first noticed this when an officer yelled out that bottles were being thrown and he was then hit with

multiple eggs on his pants. He saw the bottles being thrown but was not hit by any bottles. He did not see who threw the bottles, but they were Poland Spring water bottles filled with an unknown substance.

At that point, the police supervisors on scene ruled the protest an unlawful assembly. When a protest is ruled an unlawful assembly, protesters have the option to disperse and if they do not disperse, they will be arrested and given a summons or DAT depending on the seriousness of their actions. Some protesters did disperse by running away into nearby apartment buildings. Officers and supervisors were saying, “Disperse or you’ll be arrested for disorderly conduct!” The officers then began making arrests. NYPD Legal personnel were on scene to give guidance to officers. PO Foley did not hear any instructions given by Legal officers, but any instructions were passed on by police supervisors on scene.

PO Foley then observed § 87(2)(b) interlocking her arm with another female protester, but he did not see § 87(2)(b) throwing objects. She had been told to disperse numerous times. PO Foley separated their arms and placed § 87(2)(b) s arm behind her back. Neither protester was fighting much, and PO Foley did not recall where he grabbed § 87(2)(b) s arm, but he most likely grabbed the bicep. PO Foley initially stated that he did not think that § 87(2)(b) went to the ground at any point. § 87(2)(b) did not make claims of pain to him to his knowledge. The other protester was arrested by the other officer, but PO Foley did not recall what happened. PO Foley handcuffed § 87(2)(b) without the assistance of another officer. There was another protester on the ground beside PO Foley, who watched the protester until another officer arrived to handcuff her. He was mainly focused on watching § 87(2)(b)

PO Foley never intentionally dragged § 87(2)(b) on the ground and explained that he got her off the ground by grabbing her arms and shirt and helping her off the ground with another officer. § 87(2)(b) never complained of pain to him

PO Foley’s body-worn camera footage (**BR 05**; *video* and **BR 25**; *summary*) captures § 87(2)(b) going to the ground in the first 00:13 seconds of the video. § 87(2)(b) appears to land on her buttocks next to § 87(2)(b) Having seen the clip during his interview, PO Foley stated (**BR 58**) that he eased § 87(2)(b) to the ground.

PO Ciota stated (**BR 70**) that he received training on protests from the Disorder Control Unit to move crowds and make mass arrests. PO Ciota was trained to move the crowd when demonstrators were violating the law, or the protest became an unlawful assembly. An assembly becomes unlawful when protesters throw rocks and bottles, and when a police supervisor decides to take action on the group. PO Ciota would not move a crowd or make arrests on his own initiative.

On the date of the incident, PO Ciota responded to a protest at the Brooklyn Bridge. PO Ciota and his fellow SRG officers were on the Brooklyn side of the bridge and the protesters were walking from Manhattan to Brooklyn. The protesters were in the roadway and the officers walked toward them to move them onto the sidewalk. As the officers walked up to the protesters, some of them threw rocks, bottles, and other objects at the officers. The demonstration was then declared to be unlawful by a police boss and the officers moved onto the sidewalk to disperse the crowd and make arrests.

PO Ciota observed § 87(2)(b) attempting to “de-arrest” another protester, which PO Ciota described as her interfering with another officer arresting another protester. PO Ciota then moved in and took § 87(2)(b) into custody. PO Ciota was trained to use his baton as a crowd control device to divide and separate people but said that its specific usage depended on the specific situation. PO Ciota drew his baton during this incident as he intended to use it to disperse the crowd. The baton was therefore in his hands when he ran into § 87(2)(b) PO Ciota used the baton on § 87(2)(b) but her did not strike her. PO Ciota described that he held his baton horizontally in both hands. He observed § 87(2)(b) interfering with another arrest, so he ran into her with his baton in his hands and then fell on top of her. PO Ciota then moved § 87(2)(b) to the prisoner vans and she was transported to the arrest processing center and eventually released her on a desk appearance ticket.

PO Ciota's body-worn camera shows (**BR 12**; *video* and **BR 27**; *summary*) at 00:45 seconds, officers begin running toward protesters. PO Ciota approaches § 87(2)(b) who is wearing a black shirt and denim shorts. At 00:51 seconds, PO Ciota is holding his baton with one hand on either end with outstretched arms in front of his chest. PO Ciota appears to make contact with § 87(2)(b)'s chest, and she falls to the ground.

During his CCRB interview (**BR 70**), PO Ciota was shown this video clip. PO Ciota stated he used his baton because it happened to be in his hands, and he was not going to take the time to put it away. PO Ciota did not observe any injuries on § 87(2)(b) and she did not complain of any injuries or request medical attention. PO Ciota did not prepare a TRI for pushing her because it was not a strike, but he used his baton to guide her to the ground. Aside from interfering with the arrest, she was originally in the roadway when he approached. He did not see her throw any objects, but some did come from her direction.

PO Morgante's body-worn camera (**BR 14**; *video* and **BR 27**; *summary*) shows at 00:49 seconds, a sergeant grabbing § 87(2)(b) by the backpack as she falls to her knees. PO Morgante grabs § 87(2)(b) by the right wrist and then handcuffs her. The sergeant is wearing a helmet with a face shield and his face is not clearly depicted anywhere in the video.

PO Morgante was not interviewed because he was not the subject of any allegation and § 87(2)(b) inaccurately described her take down. During their interviews, PO Lugo and PO Mosher did not recognize the sergeant depicted in PO Morgante's body-worn camera footage.

§ 87(2)(b) was released with a criminal summons for disorderly conduct, refusal to disperse, issued by PO Dimeo (**BR 62**). § 87(2)(b) was arrested for unlawful assembly (**BR 58**). § 87(2)(b) was arrested for unlawful assembly and disorderly conduct, obstructing traffic and refusing to disperse (**BR 58**). § 87(2)(b) was arrested for unlawful assembly and disorderly conduct (**BR 58**).

Patrol Guide procedure 221-01 (**BR 49**) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

New York State Penal Law § 240.10 (**BR 50**) states that a person is guilty of unlawful assembly when they assemble with four or more people for the purpose of engaging or preparing to engage with them in tumultuous and violent conduct likely to cause public alarm, or when, being present at an assembly which either has or develops such purpose, they remain there with intent to advance that purpose.

New York State Penal Law § 240.20 (**BR 63**) states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance, or alarm, obstructs vehicle traffic or congregates with other persons in a public place and refuses with a lawful order of the police to disperse.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation (B) Force: At the Brooklyn Bridge in Brooklyn, officers used physical force against § 87(2)(b)

PO Montesino issued § 87(2)(b) two summonses for disorderly conduct, obstructing vehicular traffic (BR 59) and for refusing to disperse (BR 60).

§ 87(2)(b) declined to provide a verified statement to the CCRB (BR 56).

In her written testimony to the New York State Office of the Attorney General for the June 17, 2020, hearing on the NYPD's protest response, § 87(2)(b) stated (BR 57) that she was peacefully marching over the Brooklyn Bridge with a crowd of protesters. When she crossed the bridge, the protesters were met with a wall of riot officers. § 87(2)(b) did not observe any bottles being thrown. Suddenly, the officers began charging forward. The people in the front lines did not get a chance to disperse and were charged at, tackled, and arrested. § 87(2)(b) initially started running away, then returned to the sidewalk to film. An officer rushed at § 87(2)(b) and pushed her with a baton. § 87(2)(b) could not disperse and was pinned against a line of bushes. The officer screamed at § 87(2)(b) and ordered her onto the ground. Then two more officers charged at § 87(2)(b) and slammed into her and handcuffed her. The officer who handcuffed § 87(2)(b) was squeezing her arm so hard that it bruised. § 87(2)(b) was then transported to the prisoner vans where her handcuffs were replaced with flex cuffs and were so tight that they caused § 87(2)(b)'s hands to lose circulation and her wrists were bruised and cut.

PO Montesino stated (BR 61) that he issued a summons to § 87(2)(b). § 87(2)(b) had been part of the crowd of protesters that did not disperse. PO Montesino observed this himself however, PO Mosher was the one who was dealing with § 87(2)(b). PO Montesino did not observe PO Mosher use any physical force against § 87(2)(b).

There was no body-camera footage which captured § 87(2)(b)'s arrest.

§ 87(2)(g)

§ 87(2)(b)

Allegation (C) Force: At the Brooklyn Bridge in Brooklyn, Police Officer Andre Gaddy struck § 87(2)(b) **with a baton.**

Allegation (D) Force: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra struck § 87(2)(b) **with a baton.**

Allegation (E) Offensive Language: At the Brooklyn Bridge in Brooklyn, Police Officer Michael Lamastra made remarks to § 87(2)(b) **based upon the gender of** § 87(2)(b)

It was undisputed that PO Gaddy pushed § 87(2)(b) down with his baton. It was also undisputed that PO Lamastra struck § 87(2)(b) with a baton, however, whether PO Lamastra struck § 87(2)(b) in the face and called her a "bitch" was disputed.

§ 87(2)(b) (BR 65) was marching over the bridge with her friends, § 87(2)(b) and § 87(2)(b) peacefully protesting. § 87(2)(b) observed a plastic bottle thrown toward officers. § 87(2)(b) heard officers say, "Go, go, go!" and the officers then charged toward the protesters and tackled anyone who was in the way. § 87(2)(b) observed approximately three officers tackle or body slam a female to the ground.

§ 87(2)(b) and § 87(2)(b) were two feet away from the officers when she and § 87(2)(b) yelled at the officers to get off the female who was tackled to the ground. An officer jogged up to § 87(2)(b) and pushed her from behind. § 87(2)(b) fell forward onto her knees and § 87(2)(b) tried to help her up. Approximately four male officers surrounded § 87(2)(b) and § 87(2)(b) observed § 87(2)(b) get hit in head with a baton, causing immediate swelling, and believed an officer called § 87(2)(b) a "bitch," but § 87(2)(b) did not know which officer said it. § 87(2)(b) was hit in the arm with a baton

but did not remember at what point she was hit. § 87(2)(b) was unable to describe the officers because “it happened so fast.”

§ 87(2)(b) tried to help by pulling § 87(2)(b) and § 87(2)(b) away from the officers and he ended up getting arrested by three to four officers. § 87(2)(b) observed § 87(2)(b) on the ground, and he was handcuffed, but § 87(2)(b) did not see how he went to the ground and did not see the officer who handcuffed him. Three officers yelled at § 87(2)(b) and § 87(2)(b) to, “move back and leave.” Something happened behind the three officers, either someone threw something, pulled the officers away, or got their attention, and § 87(2)(b) and § 87(2)(b) were able to run away.

§ 87(2)(b) had a bruise on her right upper arm from the baton and her left knee was bruised, swollen and her pants were ripped from being pushed to the ground. § 87(2)(b) s knee was swollen for a couple of weeks. § 87(2)(b) did not seek medical treatment for her injuries.

§ 87(2)(b) stated (**BR 66**) that she was with her partner, § 87(2)(b) and her two friends, § 87(2)(b) and § 87(2)(b) protesting peacefully and marching across the Brooklyn Bridge. When § 87(2)(b) got to Brooklyn, there were approximately 50 to 100 officers wearing riot gear, marching in uniformed lines, and blocking an intersection. The officers appeared to be in an intimidating military formation. Officers were wearing helmets and holding batons. The protesters veered left toward an apartment building complex that had a courtyard. § 87(2)(b) observed one water bottle fly from the protest side toward the police officers. § 87(2)(b) did not see anything else being thrown. The water bottle landed in-between the protesters and the officers and did not come close to hitting any officer. Thirty officers started charging toward the protesters. Protesters ran into the courtyard of the apartment complex, and approximately five people did not get away from the officers.

Officers pushed several people from behind onto the ground. § 87(2)(b) observed an officer push a female to the ground and then run away. § 87(2)(b) and § 87(2)(b) went to help the female up and three to four officers stood around the female to prevent § 87(2)(b) and § 87(2)(b) from helping the female off the ground. The female got up off the ground and another officer threw her to the ground a second time and the female went “flying.” § 87(2)(b) yelled at officers to let her, and § 87(2)(b) help the female up off the ground.

Then an officer pushed § 87(2)(b) from behind onto her hands and knees. § 87(2)(b) believed officers hit § 87(2)(b) because she was covered in bruises after the incident. § 87(2)(b) went to help § 87(2)(b) off the ground. § 87(2)(b) yelled at the officers to let go of § 87(2)(b) and a different officer said, “Shut up bitch.” § 87(2)(b) came over and grabbed § 87(2)(b) because an officer hit her from behind with a baton. § 87(2)(b) yelled, “I saw you hit her, don’t think I didn’t see you,” at the officer. § 87(2)(b) did not see the officer because he was behind her when he hit her. The officer ran away, and two different officers grabbed § 87(2)(b) and arrested him.

§ 87(2)(b) did not remember being hit in the moment because of adrenaline and she learned later when she visited a doctor that she may have had a minor concussion. Later, § 87(2)(b) had bruising on the right side of her face at her temple, on her right arm, and on her left torso. § 87(2)(b) had a black eye for two weeks after the incident.

§ 87(2)(b) stated (**BR 67**), that he was with his partner, § 87(2)(b) and his friends, § 87(2)(b) and § 87(2)(b) marching with protesters on the Brooklyn Bridge. There were 50 to 100 officers wearing riot gear in formation at the end of bridge. The officers were marching in lines toward the protesters. § 87(2)(b) observed a water bottle fly from behind the crowd and land 10 feet away from the officers. § 87(2)(b) did not observe anything else being thrown. The officers crouched as the water bottle was in the air and then they started sprinting toward the protesters. There was an apartment complex to the left of the Brooklyn Bridge and the protesters left the area in that direction. Over a loudspeaker, an officer informed the protesters that it was an unlawful assembly, and they need to disperse.

An officer pushed § 87(2)(b) over with a riot shield then walked away. § 87(2)(b) went over to help her up. § 87(2)(b) was on all fours and § 87(2)(b) was bent at the hip trying to lift her up from her shoulders or torso. A different officer came from behind and hit § 87(2)(b) at least three times, in the head, hip, and back, with a baton. § 87(2)(b) was yelling, “You just hit me, what’s your problem?” and the officer called her a “stupid bitch” and told her to “shut up.” § 87(2)(b) was six feet away and ran over and put himself in-between § 87(2)(b) and officer. The officer was not arresting § 87(2)(b) just hitting her. § 87(2)(b) pushed § 87(2)(b) away. Another officer grabbed § 87(2)(b) s hand and arrested him.

§ 87(2)(b) stated (**BR 68**) that he marched with protesters on the road of the Brooklyn Bridge and travelled toward Brooklyn. When he got over the bridge, § 87(2)(b) observed 200 to 300 officers approximately one football field away. Protest organizers told everyone to veer to the left. § 87(2)(b) heard an officer say, “One, two, three, go.” Police officers began walking toward protesters very slowly.

§ 87(2)(b) looked around for the friends that he came with. He then noticed police officers were running toward protesters. The protesters started running away and § 87(2)(b) continued looking for his friends. § 87(2)(b) saw an officer push down a female. § 87(2)(b) and his friend § 87(2)(b) went to help. § 87(2)(b) was bent over trying to help the female up off the ground when § 87(2)(b) was pushed down by an officer. § 87(2)(b) did not see the officer who pushed her because he was bent down. § 87(2)(b) extended his arms to try to help § 87(2)(b) up and he heard an officer say, “Get him.” Then a group of officers grabbed § 87(2)(b) and arrested him. § 87(2)(b) observed another officer run up to his friend, § 87(2)(b) only observed that officer from behind and his baton was out. § 87(2)(b) learned that the officer hit § 87(2)(b) with a baton causing injury to her eye but he was not able to observe the baton make contact with her.

PO Gaddy initially stated (**BR 64**) that he did not recall using his baton during this protest. PO Gaddy’s understanding of the use of the baton at a protest was that he could use the baton to push people back. PO Gaddy described holding a baton with two hands, one on each end, and thrusting it forward. PO Gaddy stated that they are trained to avoid the head and go for the upper torso area. PO Gaddy explained that the baton is used for compliance.

PO LaMastra stated (**BR 113**) that he and at least 50 officers were assigned to the foot of the Brooklyn Bridge in Brooklyn where they awaited protesters that had been in Manhattan and were crossing the Brooklyn Bridge. PO LaMastra did not remember any specific instructions he received prior to the protesters coming over the Brooklyn Bridge into Brooklyn. PO LaMastra stated that typically when his unit responded to a protest officer do not usually take individual action, rather they wait to be advised as to when to take enforcement action.

Approximately 100 protesters came over the Brooklyn Bridge on the inbound side of the Brooklyn Bridge walking in the roadway. The protesters began moving to the pedestrian path as the officers approached them. Within a couple of minutes, the first third of the group began to throw objects, including clear water bottles, toward officers. PO LaMastra did not recall any bottles striking any officers, but the bottles did land within inches of officers who were in a tight formation.

The protest was then deemed an unlawful assembly and officers were instructed to make arrests. PO LaMastra heard the announcement on the LRAD. He did not know who specifically made the decision to declare it an unlawful assembly. There were no specific instructions regarding making arrests, however, once it was declared an unlawful assembly officers began arresting those who refused to disperse and those who were throwing objects. PO LaMastra personally observed several people throwing objects.

PO LaMastra was toward the front of the line of officers. The protesters throwing the objects were not in the first few lines of protesters. PO LaMastra and officers bypassed the people in the front of the protest and attempted to arrest the protesters who were throwing objects. The protesters in the front broke apart and scattered. The protesters throwing the objects ran into a

neighboring residential courtyard. Officers chased a few into that area and some protesters ran past and officers did not continue perusing them.

Some officers apprehended a couple of the protesters who were throwing objects. PO LaMastra's role was to make sure no one was interfering with the arrests taking place behind him. Some protesters stayed to observe what was happening. Some of these protesters attempted to de-arrest those being placed under arrest. There were eight to ten people attempting to de-arrest protesters. These protesters were trying to reach out to those getting arrests to pull them away and move past the officers effecting the arrests. PO LaMastra stated this was a safety threat to both the officers effecting the arrests and the protesters who were under arrest because people could get bumped into or fall on one another and injuries could occur.

PO LaMastra and other officers made a perimeter around the officers effecting arrests. PO LaMastra issued verbal commands to these protesters and had to push some back as well. PO LaMastra did not specifically recall what he said to protesters but stated he likely said, "Get back." PO LaMastra did not recall seeing any officers in his general vicinity striking any protesters with a baton. To keep the perimeter around officers, PO LaMastra held his baton horizontally to make sure no one got past him. People did attempt to charge and get past, and PO LaMastra used his baton in a horizontal position to push them back. PO LaMastra pushed back three to four protesters with his baton in the torso, shoulders, and waist area of their bodies. PO LaMastra pushed with his baton horizontally in front of his chest four to five times. Nobody complained of injury and there were no apparent injuries. PO LaMastra's baton did not make contact with anyone's face or head. PO LaMastra did not recall swinging his baton at protesters. The protesters that PO LaMastra pushed did place their hands on PO LaMastra which he assumed was to get past him to get to the protesters being arrested. PO LaMastra did not recall any protester grabbing him.

During his interview, LaMastra's body-worn camera footage (**BR 78; video, BR 105; summary**) was played from 00:22 seconds to 00:57 seconds during which PO Lamastra pushes § 87(2)(b) with his baton. The baton appears to make contact with the § 87(2)(b)'s right shoulder blade. § 87(2)(b) grabs § 87(2)(b) and PO Lamastra swings his baton at § 87(2)(b) PO Lamastra stated that he remembered striking § 87(2)(b) somewhere on either her torso or back. PO LaMastra did not see himself make contact with § 87(2)(b)'s head in this video clip.

PO Gaddy's body-worn camera (**BR 17; video and BR 28; summary**) at 00:37 seconds shows PO Gaddy approaching a group of officers. § 87(2)(b) is behind the officers wearing a pink bucket hat. An unidentified officer appears to grab § 87(2)(b) At 00:43 seconds, § 87(2)(b) runs toward officers and tries to help § 87(2)(b) off the ground and PO Lamastra swings a baton and strikes § 87(2)(b) At 00:45 seconds, PO Gaddy extends his baton in front of his chest and makes contact with § 87(2)(b)'s back. § 87(2)(b) was on her knees and the baton appears to cause her to fall forward onto her elbows.

This video clip was played for PO Gaddy during his CCRB interview (**BR 64**) which refreshed PO Gaddy's memory regarding his baton. PO Gaddy observed officers surrounded by three people and he was trying to get them to move back. PO Gaddy did not know these officers. PO Gaddy used his baton to disperse § 87(2)(b) was moving but she was there for a period of time, so PO Gaddy used his baton to push her away from the area. PO Gaddy did not receive any instructions regarding pushing people who are already on the ground. PO Gaddy pushed § 87(2)(b) to the ground while she was on her knees trying to get up because she appeared to be moving toward another officer and he wanted to clear the space around that officer. PO Gaddy did not prepare a Threat, Resistance, and Injury (TRI) report and did not think he would have to since there was no arrest made. The video clip was played again, and PO Gaddy stated he did not see the interaction between § 87(2)(b) and PO Lamastra, the officer at the left side of the screen. PO Gaddy never heard any officer call § 87(2)(b) a bitch.

PO Gaddy's body-worn camera (**BR 17; video and BR 28; summary**) was also played for PO Lamastra during his interview (**BR 113**) from 00:35 seconds to 00:44 seconds. PO Lamastra stated that he did see himself holding his baton with his right hand and it was possible that he

swung it, but he did not have independent recollection of what he did while he was holding his baton with his right hand. PO LaMastra just wanted to keep protesters away. PO LaMastra did not see any other officer strike § 87(2)(b) with a baton.

Based on PO Gaddy's and PO Lamastra's body-worn camera footage, the investigation was unable to identify the female who was pushed to the ground as described by § 87(2)(b) and § 87(2)(b). Additionally, the footage was not clear enough to identify the first officer who grabbed § 87(2)(b) nor did the footage capture any audio of an officer allegedly calling § 87(2)(b) a "bitch." Although neither § 87(2)(b) nor § 87(2)(b) described PO Gaddy striking § 87(2)(b) with his baton, the body-worn camera footage clearly shows that PO Gaddy pushed § 87(2)(b) down with his baton after she was already on the ground and attempting to get up. Neither PO Lamastra's body-worn camera footage nor PO Gaddy's body-worn camera footage clearly depicted whether PO Lamastra struck § 87(2)(b) in the face with his baton.

Patrol Guide procedure 221-01 (**BR 49**) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)

Allegation (F) Force: At the Brooklyn Bridge in Brooklyn, Police Officer Emmanuel Montesino used physical force against § 87(2)(b) § 87(2)(b)

It was undisputed that PO Montesino grabbed § 87(2)(b)'s hair after she spit at the ground. § 87(2)(g).

§ 87(2)(b) (**BR 72**) was marching in a protest near the front. § 87(2)(b) and the other protesters came off the Brooklyn Bridge near an apartment complex and were met by many officers who appeared to be waiting for the protesters. Someone from the crowd threw a water bottle toward officers. It did not hit anyone but came close to the officers. The officers then charged the crowd.

People started running toward the apartment complex. Officers started tackling and throwing people to the ground. People were dragged and arrested. § 87(2)(b) observed people resisting as they were being grabbed by officers. § 87(2)(b) started to leave then decided to come back and record. § 87(2)(b) observed two people on the ground, one of whom was § 87(2)(b) who was bleeding from scratches on her arms and face. § 87(2)(b) did not see how § 87(2)(b) got to the ground.

An officer shoved § 87(2)(b) and she moved his hand off of her. Then two officers tackled her to the ground and tore off her weave hair extension out of her hair and left it on the sidewalk. § 87(2)(b) was handcuffed escorted by PO Montesino and PO Rispoli toward the prisoner vans. As they were walking to the vans, § 87(2)(b) spat on the ground in front of her. § 87(2)(b) did not spit at any officer as they were behind her. PO Montesino told her to stop and said, "Don't do that," and grabbed her by her natural hair and started dragging her down the street by her hair.

§ 87(2)(b) was arrested for unlawful assembly and disorderly conduct, obstructing traffic, and refusing to disperse (**BR 58**).

§ 87(2)(b)'s video shows (**BR 43; video** and **BR 44; summary**) at 1:07 minutes, someone says, "Move back." Then § 87(2)(b) appears to go to the ground based on the camera angles. At 1:42 minutes, an officer picks up § 87(2)(b)'s phone off the ground. At 2:05 minutes, § 87(2)(b) says, "What the fuck are you doing? Are you fucking kidding me [...] pull my fucking hair out?" The video does not capture any visuals of what is happening.

PO Montesino (**BR 61**) observed protesters crossing the Brooklyn Bridge into Brooklyn on the roadway. PO Montesino stated that from his general training on protests, he learned that if giving an order to disperse the person must follow it otherwise, they will be issued a summons or arrested. When PO Montesino's unit arrived, protesters were told to get out of the roadway or face a fine or arrest over an LRAD. PO Montesino did not remember who was speaking into the LRAD. PO Montesino took this as an instruction to arrest protesters. PO Montesino stated that an assembly becomes an unlawful one when people start throwing bottles, rocks, etc., and it is no longer peaceful. On May 30, 2020, protesters threw water bottles toward the officers. PO Montesino did not remember seeing any officer get hit by a bottle.

§ 87(2)(b) was filming on her cellphone when she got too close to an officer effecting an arrest. There was a sergeant, Sgt. Sanchez, telling § 87(2)(b) to back up. PO Montesino told § 87(2)(b) she could continue to record all she wanted if she backed up and she did not comply. PO Montesino extended his arm, placed it on § 87(2)(b)'s chest, and told her to back up. § 87(2)(b) smacked PO Montesino's hand away and started to back up. Because § 87(2)(b) smacked PO Montesino's hand, he felt it was an assault and she was not going to go willingly. PO Montesino then grabbed § 87(2)(b) by the arms to her to put her on the ground and placed her under arrest. PO Rispoli only helped handcuff § 87(2)(b).

PO Montesino felt that since § 87(2)(b) backed away, she could have resisted handcuffing. PO Montesino stated that generally, if a person is not following instructions, it is tactically more effective to place them on the ground to put them in handcuffs. PO Montesino stated that he guided § 87(2)(b) to the ground, as opposed to throwing her onto the ground. PO Montesino did not observe any injuries on § 87(2)(b) and she did not complain of any pain or request medical attention.

While PO Montesino and PO Rispoli were walking § 87(2)(b) to the prisoner vans, § 87(2)(b) spat twice toward officers that were three to four feet away, so PO Montesino grabbed § 87(2)(b)'s hair and pushed her face down for approximately four to five seconds to prevent her from spitting at more officers and other people. PO Montesino said, "Stop, stop," and she stopped spitting. PO Montesino stated that he grabbed § 87(2)(b)'s hair because he did not want to get spat on, so he did what was necessary to prevent her from spitting on him. PO Montesino did not grab § 87(2)(b)'s hair to intentionally cause pain, only to prevent her from spitting on him and other officers.

PO Montesino's body-worn camera (**BR 18; video** and **BR 29; summary**) shows at 00:17 seconds, PO Rispoli is bent over or kneeling on the ground directly in front of PO Montesino and appears to be handcuffing § 87(2)(b) who is on the ground on and out of the frame. At 00:25 seconds, PO Montesino is handcuffing § 87(2)(b). PO Montesino helps her up off the ground and begins escorting her away with PO Rispoli.

At 1:00 minute, PO Montesino appears to be grabbing § 87(2)(b) by the hair and telling her to “stop.” At 1:22 minutes, PO Montesino lets go of her hair. PO Montesino and PO Rispoli bring her to a prisoner van where she eventually gets in and the video ends.

After viewing the clip during his interview, PO Montesino acknowledged (BR 66) that he held § 87(2)(b)'s hair for longer than five seconds and stated that he held her hair for as long as he did to prevent her from turning her head and spitting on him.

Patrol Guide procedure 221-01 (BR 49) states that force may be used when it is reasonable to place a person in custody or to prevent escape from custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

New York State Penal Law § 240.10 (BR 50) states that a person is guilty of unlawful assembly when they assemble with four or more people for the purpose of engaging or preparing to engage with them in tumultuous and violent conduct likely to cause public alarm, or when, being present at an assembly which either has or develops such purpose, they remain there with intent to advance that purpose.

New York State Penal Law § 240.20 (BR 63) states that a person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, obstructs vehicle traffic or congregates with other persons in a public place and refuses with a lawful order of the police to disperse.

§ 87(2)(b), § 87(2)(g)

Allegation (G) Offensive Language: At 1 Police Plaza in Manhattan, Police Officer Jason Rubenstein made remarks based on § 87(2)(b)'s gender identity.

It was undisputed that at the prisoner vans, prior to being transported to 1 Police Plaza in Manhattan, § 87(2)(b) corrected an officer when she said, “It’s her not him,” in reference to her preferred pronouns.

§ 87(2)(b) declined to provide a statement (BR 51).

§ 87(2)(b) stated (BR 45) and (BR 46) that when she reached 1 Police Plaza in Manhattan, she was moved to PO Rubenstein’s van. There were 11 other people in the van with § 87(2)(b). PO Rubenstein was standing at the back of the van when she entered it. Inside the van, there were ten females and two males. § 87(2)(b) recognized several of the individuals from the protest including § 87(2)(b) had a cut on her head and arm and asked for her wounds to be disinfected. She had sweat and blood dripping from her eyes and was unable to wipe it off. Other people started asking for an officer to clean her wounds. Eventually an officer cleaned § 87(2)(b)'s wounds and put on a Band-Aid.

§ 87(2)(b) was in the van for approximately one and a half hours before going into the Mass Arrest Processing Center. During this time, PO Rubenstein repeatedly misgendered § 87(2)(b) even after being corrected several times.

§ 87(2)(b) stated (BR 67) that he was in the van with § 87(2)(b) identified by the investigation as § 87(2)(b). An officer referred to § 87(2)(b) as a “he” and § 87(2)(b) told the officer that her pronoun was “she.” § 87(2)(b) did not hear any officer call her a “she”

afterward, but he was not aware whether any officer referred to her as a “he” either after being corrected. § 87(2)(b) had scrapes on her hand or elbow and asked the officers for a Band-Aid. It took a while for § 87(2)(b) to get medical treatment because the officers were refusing at first. An officer eventually gave § 87(2)(b) a Band-Aid.

PO Rubenstein stated (**BR 114**) that at 1 Police Plaza, PO Rubenstein did not recall whether there was a long wait to get in. If someone had requested bandages PO Rubenstein would have given them one from his first aid kit. PO Rubenstein did not have an independent recollection of anyone asking for a bandage. PO Rubenstein did not recall anyone specifically asking him or his partner to go into their personal property to retrieve alcohol wipes and bandages.

During his CCRB interview, PO Rubenstein was asked to explain his understanding, as a New York City police officer, of how to handle someone when they provide their preferred pronouns to which he responded, “Well their preferred pronouns is how they want to be viewed but as far as putting them in the van, males have to be seated by males and females have to be seated by females. So that’s why we would ask that question. And if it’s something that looks questionable and we have to find out, we have to ask, because we can’t tell sometimes. It’s not something we would want to pursue anymore to make the person uncomfortable.”

PO Rubenstein was shown his body-worn camera footage (**BR 22; video, BR 26; summary**) from 1:50 minutes to 2:44 minutes. This clip depicted § 87(2)(b) entering the prisoner van. This clip did not independently refresh PO Rubenstein’s memory regarding this incident. PO Rubenstein did not have an independent recollection of § 87(2)(b) providing her preferred pronouns. PO Rubenstein stated based on the clip, “It sounded like [PO] Ahmed asked her or him and then she said the opposite. I don’t remember what they said whether it was a guy or a girl.”

PO Rubenstein stated that it sounded like § 87(2)(b) corrected PO Ahmed about her preferred pronouns, “When he asked her male or female, or him, it was a her or him, he got corrected from her, or him, or her.” PO Rubenstein did not remember if PO Ahmed interacted with § 87(2)(b) again at 1 Police Plaza. PO Rubenstein did not recall PO Ahmed referring to § 87(2)(b) as a male after she specifically told him she was a female.

PO Rubenstein did not recall addressing § 87(2)(b) as he/him/his after she had provided her preferred pronouns. PO Rubenstein stated that if § 87(2)(b) had been a female, he “would have stuck her with females so [he] would not have any reason to do that [call her by he/him/his]. If she was genetically male, she would have to sit with another male.” PO Rubenstein added, “If that was the case then I would have referred to him as him to another police officer because going into the jail cells they’re not going to put her/him in a cell with females, because it was a him.” PO Rubenstein mentioned that there was sometimes a separate cell for “those people that are separate from both populations. But the next person would have to be notified of that, and if they were to overhear me say that to that person, I can see how they would get offended, but it’s not necessarily like I meant it in an offensive way, any time I would say that would be informative of the next officer.” PO Rubenstein stated that this was what he always did, he did not independently recollect what he did during this specific incident. PO Rubenstein also mentioned that he does not disrespect people on purpose.

PO Rubenstein’s body-worn camera (**BR 22; video, BR 26; summary**) shows at 2:34 minutes, § 87(2)(b) says, “Her, not him,” and an officer says, “I’m sorry.” § 87(2)(b) then enters the prisoner van.

Patrol Guide procedure 203-10 (**BR 115**) states that members of service shall address the public using pronouns, titles of respect, and preferred name appropriate to the individual’s gender identity/expression as expressed by the individual.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**BR 116**).
- Chief Maddrey has been a member of service for 30 years and named a subject in six additional CCRB complaints and 21 allegations, three of which were substantiated.
 - CCRB #9501293 involved substantiated allegations of physical force, a threat of arrest, and a discourteous word. There were no Board recommendations.
- PO Gaddy has been a member of service for three years and this is the first CCRB complaint to which he has been named a subject.
- PO Lamastra has been a member of service for 15 years and named a subject in two additional CCRB complaints and four allegations, none of which were substantiated.
- PO Montesino has been a member of service for eight years and named a subject in one additional CCRB complaint and one allegation which was not substantiated.
- PO Rubenstein has been a member of service for 19 years and named a subject in four additional CCRB complaints and six allegations, one of which was substantiated.
 - CCRB #200918099 involved a substantiated allegation of a stop. The Board recommended charges and the NYPD imposed Instructions.

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 injuries to her physical and emotional well-being, loss of past or future income and for past or future medical expenses, and other economic damages and seeking damages to be determined by a jury as redress (**BR 117**).
 - On January 28, 2022, a call was placed to the New York City Office of the Comptroller to inquire about any 50-H Hearings and a message was left.
- § 87(2)(b) filed a Notice of Claim with the City of New York claiming personal injury and seeking \$10,000,000,000.00 as redress (**BR 118**).
 - On January 28, 2022, a call was placed to the New York City Office of the Comptroller to inquire about any 50-H Hearings and a message was left.
- § 87(2)(b)

Squad No.: 11

Investigator:	<u>Kelly Lyon</u>	<u>Inv. Kelly Lyon</u>	<u>3/4/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Edwin Pena</u>	<u>IM Edwin Pena</u>	<u>03/04/22</u>
	Signature	Print Title & Name	Date

Reviewer:

Signature

Print Title & Name

Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #9	CCRB Case #: 202003897	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 9:20 PM	Location of Incident: In front of Trek Bicycle Shop at 303 Bowery in Manhattan	Precinct: 09	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/04/2020 2:03 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Thu, 06/04/2020 2:03 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. LT Daniel Gallagher	00000	922389	LEG BUR

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Gregory Scarazzini	19762	959207	SRG 1
2. POM John Swofford	12809	953461	077 PCT
3. POM Mauricio Thomas	26957	945466	SRG 2
4. POM Steven Holguin	19665	958704	SRG 1
5. POM Rafael Morla	13749	956114	SRG 3
6. POM Nordwing Veszter	07357	952321	SRG 4
7. AC Stephen Hughes	00000	874365	PBMS
8. POM Robert Price	05590	948117	SRG 4
9. POM Carl Callender	28550	944020	SRG 4
10. INS Gerard Dowling	00000	915640	SRG

Officer(s)	Allegation	Investigator Recommendation
A. LT Daniel Gallagher	Force: Lieutenant Daniel Gallagher used physical force against § 87(2)(b)	
B. LT Daniel Gallagher	Force: Lieutenant Daniel Gallagher used physical force against § 87(2)(b)	
C. An officer	Discourtesy: An officer acted discourteously toward § 87(2)(b)	
D. An officer	Abuse: An officer damaged § 87(2)(b) s property.	

Officer(s)	Allegation	Investigator Recommendation
E. An officer	Discourtesy: An officer acted discourteously toward § 87(2)(b) [REDACTED]	[REDACTED]

Case Summary

On June 4, 2020, § 87(2)(b) filed this complaint via telephone with the CCRB.

On May 30, 2020, § 87(2)(b) and her sister § 87(2)(b) were part of a protest group of several hundred pedestrians and cyclists that marched from the Barclays Center in Brooklyn to Union Square in Manhattan. At approximately 9:20 p.m., on The Bowery between East Houston Street and East 1st Avenue in Manhattan, the protest group encountered several details of NYPD officers. Clashes occurred, resulting in this complaint and CCRB complaints 202004096, 202003969, 202006126, and 202102650.

In this case, in front of the Trek Bicycle Shop at 303 Bowery in Manhattan, Lieutenant Daniel Gallagher of the Legal Bureau ordered officers to advance towards civilians and began ordering civilians to disperse. PO John Swofford of the 77th Precinct used physical force against § 87(2)(b) (**Allegation A: Force**, § 87(2)(g)) and, assisted by PO Robert Price of SRG 4, PO Steven Holguin and PO Gregory Scarazzini of SRG 1, and Assistant Chief Stephen Hughes of Patrol Borough Manhattan South, used physical force to arrest § 87(2)(b) (**Allegation B: Force**, § 87(2)(g)). § 87(2)(b) alleged that during his arrest an officer pulled § 87(2)(b)'s glasses off his face (**Allegation C: Discourtesy**, § 87(2)(g)), that an officer stamped on the glasses (**Allegation D: Abuse of Authority**, § 87(2)(g)), and that an officer pulled off § 87(2)(b)'s face mask (**Allegation E: Discourtesy**, § 87(2)(g)). § 87(2)(b) received a summons for § 87(2)(b), § 87(2)(a) 160.50 as a result of this incident. (BR 08)

Across the relevant investigations, NYPD Legal provided 66 BWC videos and identified 45 negative results for BWC footage related to this incident. Videos from PO Nordwing Veszter of, SRG 4 (Board Review [BR] 01), PO Scarazzini (BR 02), PO Holguin (BR 03), and PO Rafael Morla of SRG 3 (BR 04) have footage material to this incident. These officers' Axon Body 2 cameras recorded their videos in their default time zone, Zulu, as indicated by the letter 'Z' after their internal timestamps. On May 30, 2020, Zulu time was four hours ahead of Eastern Daylight Time (EDT).

§ 87(2)(b) a complainant in CCRB 202102650, provided a civilian video (CV1) with footage material to § 87(2)(b) allegations. (BR 05)

§ 87(2)(b) provided CV2, a cell phone video § 87(2)(b) recorded during this incident (BR 06), and a photograph he took on May 31, 2020, of the injuries he sustained to his face. (BR 07)

Findings and Recommendations

Allegation (A) Force: Lieutenant Daniel Gallagher used physical force against § 87(2)(b)

Allegation (B) Force: Lieutenant Daniel Gallagher used physical force against § 87(2)(b)

Allegation (C) Discourtesy: An officer acted discourteously toward § 87(2)(b)

Allegation (D) Abuse of Authority: An officer damaged § 87(2)(b)'s property.

Allegation (E) Discourtesy: An officer acted discourteously toward § 87(2)(b)

On May 30, 2020, § 87(2)(b) and § 87(2)(b) were part of a large group of pedestrians and cyclists that marched from the Barclays Center in Brooklyn into Manhattan. The group headed north, turned onto East Houston Street, and turned onto The Bowery, where they encountered multiple details of NYPD officers. By the time they arrived at the intersection, clashes between officers and protestors were ongoing and several individuals had already been arrested.

§ 87(2)(b) stated that an officer pushed § 87(2)(b) and § 87(2)(b) screamed at the officer, “Don’t you fucking touch her you fucking piece of shit.” The officer told him to back up and pushed him against a storefront wall. § 87(2)(b) fell to the ground, surrounded by several officers. An officer grabbed his glasses off his face, scratching his face during the process, an officer stamped on his glasses, breaking them, and an officer ripped off his face mask. § 87(2)(b) could not describe the officers who took these actions. (BR 13)

§ 87(2)(b) stated that a group of four to five officers pushed her, § 87(2)(b) and § 87(2)(b) against a storefront and an officer ordered § 87(2)(b) to move. § 87(2)(b) was up against the wall where officers had pushed her and did not know where to go. § 87(2)(b) asked the officer where he wanted her to go and he repeatedly told her to leave but not where to go. She turned away from the officer, he turned his baton horizontally, and he pushed § 87(2)(b) with it. § 87(2)(b) cursed at the officer, stating in sum and substance, “hey you fucker.” The officer turned to face § 87(2)(b). Two to three officers pushed and pulled at § 87(2)(b) wrapped her arm around § 87(2)(b) s head, obscuring § 87(2)(b) s sight, and moved her away from § 87(2)(b) s arrest. When § 87(2)(b) next saw § 87(2)(b) he was on the ground. § 87(2)(b) did not see § 87(2)(b) going to the ground. § 87(2)(b) saw that § 87(2)(b) s glasses were broken, and he had a cut on his forehead. She did not see how he sustained the cut. (BR 14)

Civilians § 87(2)(b) and § 87(2)(b) were in the immediate vicinity of § 87(2)(b) s arrest, as shown by a photograph § 87(2)(b) took during the incident. (BR 15) The CCRB interviewed all three of them. The CCRB was unable to reach § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) stated that he saw an officer in a helmet and a short-sleeved, dark uniform hit an individual in the face by extending his arm and the back of his hand in a motion such as one would make if one were “holding a shield” and “wanted to hit someone with it.” He was mostly certain the individual was § 87(2)(b) whom he met later that night. § 87(2)(b) could not recall whether the officer had a shield but maintained his description of the way in which the officer moved his arm. § 87(2)(b) stated with qualified certainty that § 87(2)(b) was wearing glasses when the officer struck him and that the strike broke the glasses. He did not see what happened with § 87(2)(b) after that. (BR 17)

§ 87(2)(b) did not recall being in a position to witness § 87(2)(b) s arrest. (BR 18)

The CCRB interviewed PO Swofford, PO Scarazzini, PO Holguin, and Assistant Chief Hughes about this incident. Lieutenant Gallagher retired from the NYPD on July 28, 2020. (BR 19)

PO Swofford stated he did not recall this incident or participating in arrests on May 30, 2020. BWC footage from PO Holguin, BWC footage from PO Scarazzini, and footage from Civilian Video 2 (CV2) did not refresh PO Swofford’s recollection of the incident. (BR 20)

PO Scarazzini stated that when he arrived on scene, he was following PO Holguin and saw patrol officers and a white-shirted officer approach § 87(2)(b) grab him, and attempt to place him in handcuffs. PO Scarazzini did not see what happened prior to that moment. He did not know any of the officers involved at that point. A member of NYPD Legal later informed him that a white-shirted officer stated § 87(2)(b) had been given an order to disperse and had failed to do so. PO Scarazzini never issued § 87(2)(b) an order to disperse, and he did not hear an officer give this order. PO Scarazzini did not see § 87(2)(b) illegally gathered with a group of people. PO Scarazzini was not aware of § 87(2)(b) doing anything else that constituted disorderly conduct.

Upon seeing officers engage § 87(2)(b) PO Scarazzini and PO Holguin went to assist them. An officer pushed § 87(2)(b) backwards into a store-front wall, but he did not know which officer did this. PO Scarazzini did not perform this action. Officers grabbed § 87(2)(b) and attempted to place him in handcuffs. § 87(2)(b) passively resisted arrest by stiffening his arms to his chest. He did not flail his arms or attempt to fight the officers. PO Scarazzini did not recall whether § 87(2)(b) made any statements or whether officers were giving § 87(2)(b) commands. PO Scarazzini and PO Holguin grabbed § 87(2)(b) and guided him to the ground. PO Scarazzini then got behind him, grabbed his arms, and handcuffed him.

PO Scarazzini recalled § 87(2)(b) was wearing glasses, which were damaged during this interaction. PO Scarazzini did not know how they became damaged. § 87(2)(b) stated that his glasses were broken, PO Scarazzini retrieved the broken glasses from the sidewalk, and he placed them in § 87(2)(b)'s backpack. PO Scarazzini stated that he did not believe he saw § 87(2)(b)'s glasses before he was guided to the ground, but he was not sure. § 87(2)(b) had a mask, which PO Scarazzini believed was also on the ground. PO Scarazzini picked it up for him and fixed it back onto his face once everything was settled down. PO Scarazzini also picked up § 87(2)(b)'s cell phone from the ground and placed it in his backpack. PO Scarazzini did not see any damage to the cell phone.

At the Mass Arrest Processing Center, PO Scarazzini noticed that § 87(2)(b) had one or two cuts on his face near his eyebrow and the bridge of his nose. PO Scarazzini did not know how he sustained those cuts and § 87(2)(b) did not complain of any injuries or pain.

No video evidence enhanced PO Scarazzini's recollection of the incident. (BR 21)

PO Holguin stated that upon arriving at the location, Sergeant Carlsen of SRG ordered officers out of their vans and into an emergency line, which is usually called before a supervisor gives instructions. Sergeant Carlsen relayed that "the Captain of the day" passed down the order that SRG officers were to assist officers on scene with their arrests. PO Holguin saw that members of SRG 1-5 were already on scene, as well as members of the Disorder Control Unit, one of whom had a Long-Range Acoustic Device with him, and other officers from other commands PO Holguin could not recall.

PO Holguin moved forward after receiving his order and lost sight of Sergeant Carlsen. He went to the west side of the street and saw uniformed officers who appeared in need of assistance taking an individual into custody. The individual, identified by the investigation as § 87(2)(b) was screaming at an officer because his girlfriend was being arrested. Officers had tried to arrest him and he was flailing his arms. PO Holguin moved toward § 87(2)(b) helped officers get § 87(2)(b)'s hands behind his back, and activated his BWC. Approximately 3-4 other individuals were being arrested at the same time in the general area. PO Holguin did not see an officer push any individual before he assisted with § 87(2)(b). In addition to PO Holguin, PO Scarazzini, patrol officers PO Holguin did not know, and non-SRG white shirts were in the area.

PO Holguin stated he was "probably the second person" involved with § 87(2)(b)'s arrest and that he pushed § 87(2)(b) against a wall to keep him steady so officers could get § 87(2)(b)'s arms behind his back to flex cuff him. PO Holguin stated to § 87(2)(b) "you're under arrest for violating direct orders, please put your arms behind your back." § 87(2)(b) began flailing his body. PO Holguin stated to the CCRB that § 87(2)(b) was in violation of disorderly conduct laws and had failed to disperse when ordered. He stated the LRAD was giving orders at the time, informing individuals they needed to disperse. PO Holguin stated anyone who remained was subject to automatic arrest. PO Holguin stated § 87(2)(b)'s resistance was initially at a level 10 out of 10 but reduced to a level 3 when § 87(2)(b) understood he was under arrest. Several officers guided § 87(2)(b) to the ground so he could be cuffed. PO Holguin held § 87(2)(b)

§ 87(2)(b)'s arms and did not recall who placed § 87(2)(b) into cuffs. § 87(2)(b) tensed his body and moved somewhat during this process but officers were able to cuff him.

PO Holguin did not see an officer grab § 87(2)(b)'s glasses and did not recall § 87(2)(b) having glasses at any point. He did not know if he stepped on a pair of glasses. He did not recall whether § 87(2)(b) was wearing a face mask but stated he did not rip a mask off of § 87(2)(b) nor did he see any other officer do so. No officer threw § 87(2)(b)'s phone to the ground. (BR 22)

Assistant Chief Hughes stated he did not recall this incident. He watched BWC footage from PO Holguin and PO Scarazzini, identified himself as the white-shirt officer interacting with § 87(2)(b) and stated it did not refresh his recollection. Footage from CV1 did not refresh his recollection. (BR 23)

In PO Veszter's BWC video at 03:49 into the video, § 87(2)(b) arrives on The Bowery from the intersection with East Houston Street wearing a white t-shirt with the words "Teen Aged" in black letters and black shorts that end above the knee. He is wearing a backpack. He walks northbound and stands on the median until 04:19, when he walks east towards the Trek Bicycle Shop. § 87(2)(b) and § 87(2)(b) appear on the right side of the frame at 04:23 and run towards § 87(2)(b) and the Trek Bicycle Shop. Seconds later, Lieutenant Gallagher from NYPD Legal walks towards them, gesturing backwards at PO Veszter and other officers. An officer states, "move up," and PO Veszter and several officers move toward the east side of The Bowery. At 04:37, Lieutenant Gallagher can be heard yelling, "get lost." (BR 01)

CV1 was recorded from the east sidewalk of The Bowery in the vicinity of the Trek Bicycle Shop and captures Lieutenant Gallagher yelling, "get lost," at 0:11. By that point in CV1, dozens of police officers, including Lieutenant Gallagher and Chief John D'Adamo of SRG, have begun moving northeast on The Bowery ordering civilians to disperse. Chief D'Adamo yells to officers between 0:00 and 0:04, "grab the bodies. Grab them. Grab anybody." Between 0:11 and 0:16, Lieutenant Gallagher orders civilians to "get lost" and "get out of here." PO Swofford appears and walks behind Lieutenant Gallagher. PO Swofford also appears to be attempting to clear the street of civilians. At 0:14 seconds, § 87(2)(b) is visible behind Lieutenant Gallagher recording a video with her cell phone. At 0:15 seconds, § 87(2)(b) is visible standing on the eastern sidewalk a few feet behind Lieutenant Gallagher. § 87(2)(b) is wearing glasses and a face mask. PO Swofford is moving in § 87(2)(b)'s direction when CV1 pans away for six seconds. § 87(2)(b) has a cell phone in his hands. (BR 05)

§ 87(2)(b) provided the video § 87(2)(b) was recording at the time, CV2. In it, PO Swofford walks across the frame repeating, "go that way," and gesturing with a baton in his hand. At 0:02, a female voice can be heard out of frame asking, "why?" One to two seconds later, a female voice states, "don't touch her." The camera pans to the right and captures PO Swofford holding his baton horizontally with both hands pushing it against § 87(2)(b)'s back. Relevant frames from the video are available for reference. (BR 09) § 87(2)(b) yells, "Hey! Do not fucking touch her you fucking piece of shit." PO Swofford begins turning towards § 87(2)(b) and the video is obscured for approximately one second, during which PO Swofford is heard ordering § 87(2)(b) to get back. The video ends showing PO Swofford facing § 87(2)(b) PO Swofford is holding his baton vertically but his arm is not raised. § 87(2)(b) is recoiling from PO Swofford and holding his right arm in front of his face. He is still wearing glasses and a face mask. (BR 06)

PO Scarazzini's BWC video captures this interaction from 0:28 to 0:33. A frame indicating § 87(2)(b) and PO Swofford is available for reference. (BR 10) The video shows that when PO Swofford turns his attention to § 87(2)(b) PO Price, Assistant Chief Hughes, and PO Holguin are moving toward the two of them. PO Scarazzini's video is obscured or unclear between 0:33 and 0:36, at which point PO Holguin pushes § 87(2)(b) against a storefront window of the Trek Bicycle Shop. (BR 02)

PO Morla's BWC recording at 3:53 shows that in the seconds where PO Scarazzini's camera is obscured, § 87(2)(b) moves southbound and is immediately blocked by PO Price, who has a bicycle. PO Swofford moves towards § 87(2)(b) and PO Price. Assistant Chief Hughes' body blocks PO Morla's camera from capturing what occurs between PO Price, PO Swofford, and § 87(2)(b) for approximately two seconds, after which § 87(2)(b) appears moving backward, northbound, away from PO Price and PO Swofford. PO Holguin immediately grabs him and pushes him against the window. Assistant Chief Hughes grabs the front of § 87(2)(b)'s shirt. PO Holguin is to the left of JSB and PO Swofford is to his right. (BR 04)

PO Scarazzini's BWC shows between 0:39 and 0:45 that § 87(2)(b) crouches down and raises his hands near his head when the officers surround him. PO Scarazzini and the other officers are reaching toward § 87(2)(b) who ends up face-down on the sidewalk lying on top of his hands. Officers immediately pull § 87(2)(b)'s hands free and PO Scarazzini begins handcuffing § 87(2)(b). At 0:53, § 87(2)(b)'s face is visible as he is being handcuffed. His mask is on but he no longer appears to be wearing glasses. At 1:00, PO Scarazzini's video begins recording audio and § 87(2)(b) states, "you fucking broke my glasses. I'm blind." PO Holguin stands § 87(2)(b) up and § 87(2)(b)'s mask falls off his face. (BR 02) At 01:19, § 87(2)(b)'s face is visible and he appears to have injuries consistent with the photograph he provided. Frames are attached for reference. (BR 11) At 01:22, while PO Scarazzini is bending over to pick up § 87(2)(b)'s mask, his left foot is seen on top of § 87(2)(b)'s glasses. A frame is attached for reference. (BR 12)

PO Veszter's BWC recording between when it begins recording audio at 1:00 and 5:54 shows that the first loudspeaker announcement alerting civilians that the assembly had been declared unlawful and ordering them to disperse occurred at 9:21:49 p.m., by which point § 87(2)(b) was already in handcuffs. (BR 01)

PO Holguin's BWC video does not capture additional information material to this investigation. (BR 03)

Video evidence shows that Lieutenant Gallagher ordered officers to advance and issued orders for civilians to disperse. PO Swofford ordered § 87(2)(b) to disperse and she responded, "why?" PO Swofford held his baton sideways and used it to push her away from the location. § 87(2)(b) who was also not dispersing, involved himself in the interaction between PO Swofford and § 87(2)(b) and PO Swofford initiated the arrest of § 87(2)(b). Assistant Chief Hughes, PO Scarazzini, PO Holguin, and PO Price saw PO Swofford attempting to arrest an individual and assisted him. Lieutenant Gallagher's orders set these events in motion, but Lieutenant Gallagher is retired. § 87(2)(g)

§ 87(2)(b) alleged that during the incident an officer pulled his glasses off his face, scratching him in the process, and that an officer stamped on his glasses, breaking them. He could not describe the officer(s) who took these actions. § 87(2)(b) alleged he saw an officer strike § 87(2)(b) in the face, breaking his glasses, but could not describe the officer. PO Scarazzini recalled that § 87(2)(b)'s glasses were damaged during the incident but did not recall how. No other officer recalled details relevant to these allegations.

Video evidence shows that § 87(2)(b) was wearing glasses before he was arrested and that after he was arrested his glasses were not on his face and he had an abrasion on the bridge of his nose. Video evidence shows that during the incident PO Scarazzini accidentally stepped on § 87(2)(b)'s glasses, but no video captures when § 87(2)(b)'s glasses left his face. § 87(2)(g)

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Magdalena Azmitia	Team: Squad #3	CCRB Case #: 202003920	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 8:30 PM	Location of Incident: Central Park West and 108th Street	Precinct: 24	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/05/2020 10:26 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/05/2020 10:26 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Dennis Saucedo	28946	951216	PSA 6
2. INS Steven Ortiz	00000	902895	PBMN
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DC Russell Green	00000	917716	PBMN
2. LT Michael Disanto	00000	945669	026 PCT
3. DI Danielle Raia	00000	924370	AUX P.S

Officer(s)	Allegation	Investigator Recommendation
A.INS Steven Ortiz	Abuse: Inspector Steven Ortiz detained § 87(2)(b)	
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

On June 5, 2020, reporting non-witness § 87(2)(b) filed this complaint via the CCRB's call processing system on behalf of § 87(2)(b) after seeing video of the incident on Twitter. This is a sensitive case that received substantial media and social media coverage.

On June 4, 2020, at approximately 8:30 PM, § 87(2)(b) who works as a delivery person for food delivery service Caviar, was riding his bicycle south on Central Park West in Manhattan. A Black Lives Matter protest march was taking place at the location at the time. At 108th Street and Central Park West, § 87(2)(b) stopped his bicycle to yell at officers, including Inspector Steven Ortiz of Patrol Borough Manhattan North, who were arresting a woman, identified by the investigation as § 87(2)(b). § 87(2)(b) began riding his bicycle away, after which Ins. Ortiz instructed officers, including Deputy Inspector Danielle Raia of Patrol Borough Manhattan North, to arrest § 87(2)(b) (**Allegation A, Abuse of Authority:** § 87(2)(g)). As officers arrested § 87(2)(b) an unidentified female officer allegedly told § 87(2)(b) "Shut the fuck up," (**Allegation B, Discourtesy:** § 87(2)(g)). Officers took § 87(2)(b) to the 24th Precinct stationhouse, where PO Dennis Saucedo released him with a voided arrest and no summons. § 87(4-b), § 87(2)(g)

The investigation did not recover BWC footage of this incident as requests for BWC footage returned negative results. The investigation obtained three videos of parts of the incident from Twitter which began after § 87(2)(b)'s arrest was initiated and showed him being escorted to a police vehicle [BR 01, 02, 03]. The investigation obtained external surveillance footage from a nearby building that did not depict the relevant parts of this incident [BR 35].

Findings and Recommendations

Allegation (A) Abuse of Authority: Inspector Steven Ortiz detained § 87(2)(b)

It is undisputed that a citywide 8:00 PM curfew was in effect on the date of the incident and that essential workers were exempt from the curfew. It is undisputed that § 87(2)(b) stopped his bicycle and yelled at officers who were effecting an arrest at 110th Street and Central Park West. It is also undisputed that § 87(2)(b) had begun riding his bicycle away from the location when Ins. Ortiz instructed officers, including DI Raia, to stop and arrest § 87(2)(b) and that § 87(2)(b) was taken to the 24th Precinct stationhouse.

§ 87(2)(b) testified that he had just completed a food delivery at 110th Street on the east side in Manhattan and rode his bicycle west on 110th Street before turning left onto Central Park West to return to the restaurants he was delivering for on 86th Street [BR 04]. § 87(2)(b) was working for the § 87(2)(b) and was on a Face Time call with his girlfriend § 87(2)(b) at the time. § 87(2)(b) saw protestors gathered at 110th Street and Central Park West and saw that a group of officers was arresting a female jogger, identified by the investigation as § 87(2)(b) whom § 87(2)(b) had seen earlier in the day. § 87(2)(b) stopped his bicycle approximately six to seven feet away from § 87(2)(b) but did not get off it. He yelled to the officers that § 87(2)(b) had not done anything wrong. The officers told § 87(2)(b) to leave the scene, and he complied, beginning to ride away on his bicycle.

Among the officers arresting § 87(2)(b) was Ins. Ortiz, whose testimony was consistent with that of § 87(2)(b) although Ins. Ortiz testified that § 87(2)(b) stood approximately an arm's length away from the officers [BR 10]. Ins. Ortiz further testified that § 87(2)(b) was loud, creating a scene, and causing public alarm, although he did not recall what § 87(2)(b) was saying. Ins. Ortiz noted that there was a lot of noise from arrestees in the area but that § 87(2)(b)'s yelling stood out because he was close to Ins. Ortiz and distracting him from effecting the woman's arrest. No other individuals engaged in the same behavior to the extent that § 87(2)(b) did. Ins. Ortiz did not recall whether § 87(2)(b) was doing anything with his body at the time or coming any closer to Ins. Ortiz.

Ins. Ortiz instructed § 87(2)(b) to disperse several times, but § 87(2)(b) continued to yell loudly in the area. § 87(2)(b) had a large orange box on the back of his bicycle which had “§ 87(2)(b)” written on it. Ins. Ortiz did not know what § 87(2)(b) was at the time and did not consider what it was [BR 10].

Both § 87(2)(b) and Ins. Ortiz testified that § 87(2)(b) ultimately got on his bicycle and began to leave the scene, heading south on Central Park West [BR 04, 10]. Ins. Ortiz added that § 87(2)(b) continued to yell while riding his bicycle. Ins. Ortiz decided to arrest § 87(2)(b) for violating the citywide curfew and for disorderly conduct due to his behavior while interfering with the arrest and failing to disperse. Ins. Ortiz instructed group of supervising officers, including DI Raia, to apprehend § 87(2)(b). Ins. Ortiz did not recall whether he had any conversation with the officers arresting § 87(2)(b) including whether he reported his observations of § 87(2)(b). Ins. Ortiz did not recall how he informed the officers that § 87(2)(b) was to be charged with the curfew violation as well as disorderly conduct but believed that he had done so at some point. Ins. Ortiz noted that it was understood by all officers at the time that individuals were being arrested for violating the curfew, but he did not recall how it was conveyed that § 87(2)(b) would also be charged with disorderly conduct.

DI Raia testified that she did not recall the details of § 87(2)(b)'s arrest and that her attention was drawn to him only after officers had already begun to gather around him [BR 08]. DI Raia was not aware of why § 87(2)(b) was being arrested at the time but assumed it was due to a curfew violation.

Deputy Chief Russel Green of Patrol Borough Manhattan North was supervising officers at protests nearby when he was informed that protesters had remained at the location and determined that his presence was needed there [BR 09]. After consulting the NYPD Legal Bureau, DC Green issued the instruction to officers to begin arresting protestors remaining at the location. DC Green testified that he was at the location near the time of the incident but that he did not see § 87(2)(b) there nor did he witness § 87(2)(b)'s arrest. DC Green was unsure of whether he was still on scene when § 87(2)(b) was arrested or if he had already returned to the 24th Precinct stationhouse. DC Green was made aware of the incident when Chief Lori Pollock of the Collaborative Policing Unit contacted him and asked him about the incident after seeing the videos on Twitter. DC Green contacted the officers involved and, including Ins. Ortiz, who informed DC Green of what happened after the fact. Ins. Ortiz told DC Green that he had instructed § 87(2)(b) to leave the scene, but that § 87(2)(b) refused and became louder, after which Ins. Ortiz decided to detain him.

DC Green wrote an email to Chief Pollock detailing what he had learned about the incident in the context of his own experience at the location [BR 32]. In the email, DC Green clarified that at 8:00 PM, 30 protestors were still at the location. Officers instructed the individuals to go home, but approximately 10 remained and continued to chant and use profanity towards officers. DC Green then provided an account of § 87(2)(b)'s arrest based on his conversation with Ins. Ortiz, who stated that, while the ten individuals were being arrested, § 87(2)(b) was recording video of the scene and shouted at officers. Ins. Ortiz instructed § 87(2)(b) to disperse, but § 87(2)(b) refused, and Ins. Ortiz decided to arrest him. The email also states that § 87(2)(b) was not working as a delivery person at the time of the incident.

PO Dennis Saucedo of PSA 6 was on a detail regarding the protest and had walked with protestors from 81st Street. PO Saucedo testified that he saw § 87(2)(b) for the first time when he heard noise that drew his attention to officers who were already in the process of arresting § 87(2)(b) [BR 11]. PO Saucedo was focused on his own arrest that was happening simultaneously and did not participate in the arrest. However, PO Saucedo's arrestee and § 87(2)(b) were transported to the 24th Precinct in the same van, and PO Saucedo processed § 87(2)(b)'s arrest because he was the officer nearest by when § 87(2)(b) was arrested. PO Saucedo was not given any instructions regarding who would be § 87(2)(b)'s arresting officer, but he noted that since he was nearby when § 87(2)(b) was arrested, he was the arresting officer. No supervisors informed PO Saucedo that § 87(2)(b) was going to be charged with disorderly conduct. A sergeant at the 24th Precinct stationhouse instructed officers to issue summonses to protestors for violating the curfew. PO Saucedo investigated § 87(2)(b)'s

claims that he was an essential worker by looking at the message on the Caviar application on § 87(2)(b)'s cell phone, which was a notice regarding delivery persons being considered essential workers and thus exempt from the curfew. PO Saucedo did not know what Caviar was at the time but believed that the notice on § 87(2)(b)'s phone was sufficient proof of him being an essential worker. After reporting his findings to a supervisor, identified by the investigation as DI Naoki Yaguchi of the 24th Precinct, PO Saucedo generated a voided arrest to document that § 87(2)(b) was taken into custody and released § 87(2)(b) without an arrest or summons. PO Saucedo was not instructed to charge § 87(2)(b) with disorderly conduct or issue him a summons for disorderly conduct. At the time of his CCRB interview, PO Saucedo provided photos he had taken of the notice on § 87(2)(b)'s phone as well as a page from the § 87(2)(b) application showing that § 87(2)(b) had made no earnings on the application on the day of the incident [BR 25].

Civilian witnesses § 87(2)(b) and § 87(2)(b) posted video on Twitter of § 87(2)(b)'s arrest and provided telephone statements to the CCRB. § 87(2)(b) also posted video on Twitter of § 87(2)(b) being placed inside a police van and gave a telephone statement to the CCRB. However, all civilian witnesses stated that they only became aware of § 87(2)(b)'s arrest after it had been initiated and did not see § 87(2)(b)'s behavior prior to his being stopped nor did they see or hear him have any interactions with officers before he was stopped [BR 05, 06, 23]. The CCRB attempted to contact § 87(2)(b) who remained unavailable [BR 34]. § 87(2)(b) who was the victim in CCRB case 202004532, stated in a phone statement that she did not hear § 87(2)(b) arguing with officers as she was being arrested.

The videos that all three witnesses posted to Twitter begin after officers have already initiated § 87(2)(b)'s arrest and do not show the events leading up to it (IA 35-37) [BR 01, 02, 03]. In § 87(2)(b) and § 87(2)(b)'s videos, approximately six supervisors in white shirts, including Ins. Ortiz and DI Raia, are seen observing as a female officer in a standard blue uniform handcuff § 87(2)(b) (IA 35, 36, beginning at 0:00 minutes) [BR 01, 02]. DC Green and PO Saucedo are not seen in the videos. Both § 87(2)(b) and § 87(2)(b)'s videos contain audio of § 87(2)(b) yelling at officers, "Are you serious? It says on the app that I can show you something," [BR 01, 02]. In the video, § 87(2)(b) appears to be wearing a black t-shirt and black jeans and a rectangular orange backpack often worn by food delivery persons. Several individuals are seen observing § 87(2)(b)'s arrest, although none of the officers interact with the bystanders. The investigation obtained external building surveillance video which did not capture § 87(2)(b)'s arrest or the events leading up to it [BR 35].

PO Saucedo prepared a voided arrest report to document § 87(2)(b)'s detainment. § 87(2)(b) was charged only with violation of a local law [BR 33]. There is no charge for disorderly conduct listed on the arrest report. The arrest report notes that § 87(2)(b) was present on scene when a group of people was arrested for violating the New York City Mayor's curfew order. The report also states that § 87(2)(b) was ordered to leave the scene but refused and was subsequently taken into custody. Upon further investigation, PO Saucedo determined that § 87(2)(b) was an essential worker working for a food delivery company, and he was released without a summons. PO Saucedo also took photos of § 87(2)(b)'s identification card and a notice on the Caviar application on his phone noting that food delivery persons are exempt from the curfew [BR 25]. PO Saucedo also took a photo of the Caviar application screen noting that § 87(2)(b) had made no earnings on the incident date.

According to the version of NYPD Patrol Guide Procedure 212-11 in effect at the time of the incident, a Level 3 Terry Stop requires reasonable suspicion, which exists when "the information known to the member of the service would make an ordinarily prudent and cautious police officer under the circumstances believe criminal activity is at hand," and requires articulate specific facts establishing justification for the stop [BR 13].

The Office of the New York City Mayor released Emergency Executive Order No. 118 on June 1, 2020 mandating the 8:00 PM curfew [BR 14]. New York City Mayor's Emergency Executive Order No. 119, issued on June 3, 2020, extended the curfew order until June 8, 2020 [BR 15]. Both orders note that essential workers traveling to or from or in performance of their duties are exempt

from the curfew. A Frequently Asked Questions document issued by the Office of the Counsel to the Mayor specifies that food delivery workers are considered essential under Empire State Development Corporation guidelines [BR 16, 17]. NYPD Finest message #37646623 disseminated guidelines regarding the emergency executive orders to officers and noted that officers who observe an individual violating the curfew may issue a criminal summons to the individual for violating New York City Administrative Code §3-108 [BR 18]. This section in the Administrative Code states that violations of any administrative procedure issued by the Office of the Mayor shall be considered a class B misdemeanor punishable by fine and/or imprisonment [BR 19].

New York State Penal Law §240.20 regarding states that a person is guilty of disorderly conduct when, with the intent to cause public inconvenience, annoyance, or alarm, the individual does any of the following: engages in violent, tumultuous or threatening behavior; makes unreasonable noise; uses abusive or obscene language or makes an obscene gesture in a public place; disturbs any lawful assembly or meeting of persons; obstructs vehicular or pedestrian traffic; congregates with other persons in a public place and refuses to comply with police’s lawful order to disperse; or creates a hazardous or physically offensive condition by any act which serves no legitimate purpose [BR 20].

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (B) Discourtesy: An officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that during his arrest, a female officer told him to “shut the fuck up”

approximately two to three times because he was still yelling [BR 04]. § 87(2)(b) did not see the officer who made the statement but noted that the voice sounded like that of an older female.

In the videos that § 87(2)(b) and § 87(2)(b) posted on Twitter, two female officers are seen among those interacting with § 87(2)(b) [BR 01, 02]. DI Raia identified herself as the female officer in the uniform with the white shirt in both § 87(2)(b) Twitter video (IA 35, beginning at 0:05 seconds) and § 87(2)(b)'s Twitter video (IA 36, beginning at 0:03 seconds) [BR 01, 02]. A female officer in a standard blue uniform is seen placing zip ties on § 87(2)(b). The officer is visible in both § 87(2)(b)'s video (IA 35, beginning at 0:05 seconds) and § 87(2)(b)'s video (IA 36, beginning at 0:01 seconds) [BR 01, 02]. The officer in both § 87(2)(b) and § 87(2)(b)'s Twitter videos appears to be a white or white Hispanic female who appears to be a similar height to § 87(2)(b) who is 5'7" tall, and the other officers on scene. Neither of the videos captures audio any officers telling § 87(2)(b) to "shut the fuck up." The investigation obtained external building surveillance video which did not capture § 87(2)(b)'s arrest and did not have audio [BR 35].

DI Raia testified that she told § 87(2)(b) to calm down several times during his arrest but denied telling him to "shut the fuck up" or using any profanity while speaking to him [BR 08].

Ins. Ortiz, DC Green, and PO Saucedo all testified that they did not hear any officers tell § 87(2)(b) to "shut the fuck up" or use any profanity towards § 87(2)(b) during his arrest [BR 09, 10, 11]. None of the interviewed officers were able to identify the female officer wearing the blue uniform in the Twitter videos [BR 08, 09, 10, 11, 28].

§ 87(2)(b) stated that he heard an unidentified officer tell § 87(2)(b) to "shut up," although he did not recall whether any officers told § 87(2)(b) to "shut the fuck up" or used any other profanity during the incident [BR 05]. § 87(2)(b) stated that the female officer in the blue uniform who participated in § 87(2)(b)'s arrest was approximately in her 30s [BR 12]. § 87(2)(b) stated that she heard a male officer say, "Shut the fuck up," but given that § 87(2)(b) testified that the officer was female, the investigation is not crediting § 87(2)(b)'s statement [BR 23]. § 87(2)(b) did not witness § 87(2)(b)'s arrest [BR 06].

DI Raia's NYPD MOS photo notes that she was § 87(2)(b) old at the time of the incident [BR 24].

The only detail rosters generated for the area on the incident date listed officers from PSA 6. The only female officers listed were PO Brianne Modeste, PO Samantha Ramos, and PO Chantel Hook. According to the CCRB CTS database, PO Modeste is a § 87(2)(b)-old black female and PO Hook is a § 87(2)(b)-old black female. PO Ramos is a § 87(2)(b)-old Hispanic female. Given that PO Modeste and PO Hook did not match the description of the officer seen in the video or § 87(2)(b)'s description, the investigation only interviewed PO Ramos.

PO Ramos testified that she was assigned to a detail at 125th Street and Lenox Avenue in Manhattan until approximately 6:00 PM on the incident date, after which she and several other officers were assigned to a post at a NYCHA development within PSA 5. PO Ramos did not respond to 108th Street and Central Park West at any point during her tour and did not witness or assist with § 87(2)(b)'s arrest. PO Ramos denied telling § 87(2)(b) to "shut the fuck up" during his arrest and did not hear any other officers do so.

§ 87(2)(g)
[REDACTED]

§ 87(4-b), § 87(2)(g)
[REDACTED]

Reviewer:

Signature

Print Title & Name

Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Chris Olmsted	Team: Squad #9	CCRB Case #: 202003969	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 9:18 PM	Location of Incident: East Houston Street and Bowery	Precinct:	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 06/06/2020 9:54 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/06/2020 9:54 PM		


Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Robert Wong	02490	948442	HQ SEC

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brendan Sullivan	26410	955547	SRG 1
2. POM Errol Murphy	24047	953161	SRG 1
3. POM Patrick Plunkett	03208	937297	SRG 1
4. POM Steven Chimienti	00155	939999	SRG 4
5. SGT Jose Aquino	00264	933618	SRG 4
6. POM Ravi Moonan	12917	926429	SRG 4
7. LT Richard Mack	00000	916095	SRG 4
8. POM Thomas Stech	16049	940765	SRG 4
9. POM Cristian Hernandez	03152	961813	SRG 4
10. POM David Cardona	16573	960324	SRG 4
11. POM Kerry White	18586	942697	SRG 4
12. POM Hector Torres	01787	937643	SRG 4
13. POM Thomas Pecorella	09542	947959	DIS CTL
14. POM Craig Martinez	02429	937915	DIS CTL
15. POM Erik Green	27395	936697	DIS CTL
16. POM Justin Barberi	25008	957356	SRG 5
17. POM Beau Fesmire	31913	954806	DIS CTL
18. SGT Matthew Tocco	02725	940805	DIS CTL
19. POM Benjamin Bello	21783	952456	DIS CTL
20. POM Miguel Gutierrez	07436	926918	DIS CTL

Officer(s)	Allegation	Investigator Recommendation
A.SGT Robert Wong	Force: Sergeant Robert Wong used pepper spray against an individual.	

Officer(s)	Allegation	Investigator Recommendation
B.SGT Robert Wong	Force: Sergeant Robert Wong used pepper spray against individuals.	

Case Summary

On June 6, 2020, § 87(2)(b) filed this complaint with the CCRB via the online form on behalf of herself, her husband § 87(2)(b) and unidentified individuals. § 87(2)(b) and § 87(2)(b) provided statements regarding the allegations involving unidentified individuals but declined to participate with the investigation into the allegations regarding themselves.

On May 30, 2020, at approximately 9:18 p.m., during a protest on Bowery between East Houston Street and 1st Street in Manhattan, Sergeant Robert Wong of Headquarters Security used OC spray against § 87(2)(b) and against a group of individuals (**Allegation A: Force – Pepper Spray; § 87(2)(g)**) (**Allegation B: Force – Pepper Spray; § 87(2)(g)**)

No arrests were made nor summonses issued as a result of this incident.

On July 2, 2020, NYPD Legal provided a body-worn camera video from PO Errol Murphy of SRG 1 related to this incident. (Board Review 01) On March 26, 2021, NYPD Legal provided body-worn camera videos from Sergeant Wong and from PO Justin Barberi of SRG 5 related to this incident. (Board Review 02)(Board Review 03) All of the videos have internal timestamps in Zulu time (represented by a 'Z' at the end of the in-video timestamp) which on May 31, 2020 was four hours ahead of NYC time.

Findings and Recommendations

Allegation (A) Force: Sergeant Robert Wong used pepper spray against § 87(2)(b)

Allegation (B) Force: Sergeant Robert Wong used pepper spray against individuals.

It is undisputed that between 9:00 p.m. and 10:00 p.m. on May 30, 2020, on Bowery between East Houston Street and 1st Street in Manhattan, NYPD officers attempted to disperse groups of protestors. At approximately 9:18 p.m., on the west side of Bowery, officers with bicycles were in a line formation facing a line of protestors when a struggle ensued between officers on the west side of their line and nearby protestors.

BWC footage from PO Barberi shows at 3:35 at least one individual struggling with an officer over control of a bicycle. It is not clear to whom the bicycle belongs. This struggle happens on the far-left side of the frame of PO Barberi's camera. On the far-right side of the frame is § 87(2)(b) in a white shirt holding a sign. This individual is approximately 10 to 15 feet from where the struggle over the bicycle is happening and is apparently uninvolved. The uninvolved individual is at least 5 feet from the nearest police officer and is not taking any actions. At 3:39, two to three individuals are visible on the left side of the frame, including the individual who was struggling with the officer at 3:35. No individual appears to still be struggling with an officer. Their hands are up, palms open, and visible.

Beginning at 3:40, the individual with the sign is visible with their hands up on the right side of the frame. Sergeant Wong enters the frame and sprays an approximately two-second burst of OC spray at the individual with the sign. He then turns to the group of individuals including the person who was struggling with the officer at 3:35. Beginning at 3:42 Sergeant Wong sprays a two to three second burst of OC spray at the group of individuals, who disperse. (Board Review 03)

Three frames from PO Barberi's BWC clarify the footage. (Board Review 04) In the first, timestamped at T01:18:39Z, the individual in question is visible on the right side of the frame in a white tank top, dark pants, a white mask, and holding a cardboard sign. In the second, timestamped at T01:18:41Z, in the bottom righthand corner, the individual appears to be holding the sign in front of her face. An NYPD officer in a reflective vest stands opposite her, and a blue object with a black bottom is between them. The third frame, timestamped T01:18:42Z, shows the officer and blue object more clearly. The officer has chevrons on his uniform sleeve, and the object is a cylinder apparently spraying a liquid.

After watching PO Barberi's BWC, Sergeant Wong identified himself as this officer and stated the object was his OC spray. Sergeant Wong stated to the CCRB that during the incident a secure perimeter of officers had been set up to protect officers affecting an ongoing arrest. A group

of three to four individuals were pushing officers and their bicycles in what appeared to be attempts to break through the perimeter. Sergeant Wong dispersed OC spray on that group of individuals as seen in the BWC. Sergeant Wong had no independent recollection of the individual with the sign and stated that the video did not refresh his recollection of the individual, his use of OC spray against the individual, or the individual's actions prior to the use of OC spray. Sergeant Wong stated he received special training in the use of OC spray from SRG 2 in approximately 2019. (Board Review 05)

Sergeant Wong's training history as listed by the NYPD in their NYPD Online database includes four SRG trainings in 2019. (Board Review 06)

Sergeant Wong's BWC (Board Review 02) captures between 00:40 and 00:50 Sergeant Wong preparing his OC spray and moving toward the individual with the sign. Relevant frames from his footage are timestamped T 01:18:39Z and T01:18:40Z (Board Review 07). His camera was not in a position to capture whether he used OC spray against that individual.

PO Murphy's BWC (Board Review 01) shows between 3:20 and 3:22 that the individual with the sign was directly sprayed with liquid from a blue cylinder with a black bottom. Frames capturing this incident are timestamped between T01:18:41Z and T01:18:42Z. (Board Review 08)

Patrol Guide Procedure 221-07 states, "O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other persons." It defines "active aggression" as, "[the] threat or overt act of an assault (through physical or verbal means), coupled with the present ability to carry out the threat or assault, which reasonably indicates that an assault or injury to any person is imminent."

Patrol Guide Procure 221-07 also states, "O.C. pepper spray shall not be used in situations that do not require the use of physical force." It further states, "Do not use O.C. pepper spray on subjects who passively resist (i.e., minimal physical action to prevent a member from performing their lawful duty)." [emphasis Patrol Guide] It defines "passive resistance" as, "Minimal physical action to prevent a member from performing their lawful duty. For example, a subject failing to comply with a lawful command and stands [sic] motionless and/or a subject going limp when being taken into custody." (Board Review 09)

PO Murphy's BWC footage shows OC spray being directed at the individual with the sign who was not part of the group of protestors struggling against officers. PO Barberi's BWC footage from the same second shows an NYPD officer standing opposite the individual and a can of OC spray between them. Sergeant Wong's BWC shows Sergeant Wong preparing his OC spray before the moment the individual was sprayed and Sergeant Wong moving toward the individual. Sergeant Wong viewed PO Barberi's BWC footage, identified himself as the subject officer, and identified the object in his hand as OC spray. Therefore, the investigation has determined that Sergeant Wong used OC spray on the lone individual with the sign.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party. (Board Review 10)
- Sergeant Wong has been a member of service for 11 years and has been a subject in two other CCRB complaints and two other allegations, none of which was substantiated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- As of June 1, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint. (Board Review 11)
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City. (Board Review 12)

Squad No.: 09

Investigator:	<u>Christopher Olmsted</u> Signature	<u>Investigator Chris Olmsted</u> Print Title & Name	<u>July 20, 2021</u> Date
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Squad Leader:	<u>Monique West</u> Signature	<u>IM Monique West</u> Print Title & Name	_____ Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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Officer(s)	Allegation	Investigator Recommendation
I. An officer	Off. Language: At the § 87(2)(b) in Brooklyn, an officer made offensive remarks to § 87(2)(b)	
J. Officers	Off. Language: At Brooklyn Central Booking in Brooklyn officers made offensive remarks to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On June 6, 2020, § 87(2)(b) filed this complaint online with the CCRB on behalf of § 87(2)(b). On § 87(2)(b) published an article detailing § 87(2)(b) and her friend's, § 87(2)(b) experience with the NYPD on June 4, 2020 [BR01].

On June 4, 2020, at around 8:00 p.m., § 87(2)(b) and § 87(2)(b) attended a protest at Penn Street and Wythe Avenue in Brooklyn, in honor of George Floyd. During the protest, § 87(2)(b) and § 87(2)(b) were separated.

§ 87(2)(b) encountered an officer striking a protester with a baton. This officer pushed her and walked away (**Allegation A: Force;** § 87(2)(g)). § 87(2)(b) then attempted to locate § 87(2)(b) while doing so, she was taken to the ground by Captain Tarik Sheppard from the Community Affairs Bureau (**Allegation B: Force;** § 87(2)(g)). Once on the ground, Captain Sheppard placed her hands behind her back and allegedly placed his knee on her shoulder blade (**Allegation C: Force;** § 87(2)(g)). Captain Sheppard then tased § 87(2)(b) (**Allegation D: Force;** § 87(2)(g)). While being tased, § 87(2)(b) allegedly felt blows all over her body (**Allegation E: Force;** § 87(2)(g)). § 87(2)(b) was then handcuffed and escorted to an ambulance (**Allegation F: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) continually told the officers that she could not breathe, to which Captain Sheppard allegedly responded, "You're really not going to be able to breathe if you keep up this performance" (**Allegation G: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) was ultimately removed to § 87(2)(b) Hospital to have the taser barbs removed. She received a summons, issued to her by PO Risel Martinez from the 73rd Precinct, for violating the curfew [BR02].

While searching for § 87(2)(b) multiple officers allegedly grabbed § 87(2)(b) by her arms, legs, and back and an officer allegedly placed his knee on her leg (**Allegation H: Force;** § 87(2)(g)). § 87(2)(b) was then handcuffed with zip-ties, and two officers referred to her as "Laura Croft", which made § 87(2)(b) uncomfortable (**Allegation I: Offensive Language;** § 87(2)(g)). § 87(2)(b) was then transported to Brooklyn Central Booking by PO Luis Negron from the 90th Precinct and PO Aaron Husbands from the 79th Precinct. Upon arriving, § 87(2)(b) and other protesters waited in line to be processed. During this, an officer referred to her as "Tomb Raider" (**Allegation J: Offensive Language;** § 87(2)(g)). At one point, an officer told her to "give [him] a spin" and commented "Looks nice" (**Allegation J (cont.); Offensive Language;** § 87(2)(g)). § 87(2)(b) was released from Brooklyn Central Booking with a summons for violating the curfew, issued to her by PO Negron [BR03].

The investigation received TARU footage for this incident [BR04 and BR05]. § 87(2)(b) a civilian witness to the incident, provided the investigation with cellphone footage he took, which was featured, along with § 87(2)(b)'s cellphone footage, in § 87(2)(b) t [BR06, BR07, BR08 and BR09, respectively]. Requests for body-worn camera (BWC) footage for this incident were returned with negative results [BR10].

Findings and Recommendations

Allegation (A) Force: An officer used physical force against § 87(2)(b)

§ 87(2)(b) testified that she arrived at Penn Street and Wythe Avenue in Brooklyn at around 8:00 p.m., at which time the city-wide curfew had been enacted. She engaged in a standoff

between police officers and about 50 protesters. After about ten minutes, she and the rest of the protesters began to walk away from the line of officers, realizing that they would not be able to get past them. As the crowd began to walk away, the officers entered the crowd and began to tackle and arrest protesters. § 87(2)(b) ran to the sidewalk and hid behind a stack of trashcans next to an apartment building, about 20 feet from the crowd. After a few minutes, § 87(2)(b) began to record the officers on her phone, specifically an officer who was hitting a protester with his baton. § 87(2)(b) did not know who this protester was. As she was recording, she yelled at the officer to leave the protester alone. The officer then approached § 87(2)(b) and she asked him if he was going to hit her. The officer then pushed her with his hands but did not hit her with his baton. He then walked away. § 87(2)(b) did not know who this officer was, but described him as white male, standing 6'4" tall, in a white-shirt uniform. She did not have any further contact with this officer and did not see him again for the duration of the incident [BR11].

§ 87(2)(b)'s cellphone footage of the incident, featured in § 87(2)(b), shows a male officer in a white shirt approach § 87(2)(b) who is heard shouting to the officers, "Are you going to hit me?" The officer then comes up to § 87(2)(b) and the camera jostles back, indicating that the officer pushed or contacted her in some way. The officer's name and shield number cannot be seen, as it is covered by a black band. The officer then walks away [BR09].

The officers interviewed for this investigation testified that they did not see anyone in the vicinity of § 87(2)(b) before approaching her and were unable to identify this officer [BR12, BR13, and BR14 respectively].

The investigation received the Tour 3 Resource Recap Log, Tour 3 Roll Call, Daily Vehicle Assignment, and the Command Log from the 90th Precinct, where the incident occurred [BR15 and BR16]. The Detail Roster for June 4 was provided from Patrol Borough Brooklyn North (PBBN), although it was only prepared for the tour between 5:00 a.m. and 3:00 p.m. [BR17]. The Detail Memorandum, Post-Event Memorandum, and the Zone and Sector Maps were requested from PBBN, however they were not prepared [BR17].

Emergency Executive Order No. 119, issued by Mayor Bill de Blasio, ordered a City-wide curfew to be in effect each day from 8:00pm until 5:00am, beginning at 8:00pm on June 3, 2020 and ending at 5:00am on June 8, 2020. During this time, no persons or vehicles may be in public between the hours of 8:00pm and 5:00am [BR18].

While § 87(2)(b)'s cellphone footage shows that an officer pushed or contacted her, his name and shield number is hidden. Additionally, the investigation could not locate any civilian or officer witnesses who could potentially provide additional identifying information for this officer. Additionally, the investigation identified officers present from the 73rd, 79th, 90th Precinct, and Patrol Borough Brooklyn North, among other potential commands that were present on scene. Due to the high volume of officer response to Penn Street and Wythe Avenue, and the lack of BWC footage and other forms of evidence, the investigation could not determine what command this officer was from. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Force: Captain Tarik Sheppard used physical force against § 87(2)(b)

Allegation (C) Force: Captain Tarik Sheppard used physical force against § 87(2)(b)

After being pushed, § 87(2)(b) received a phone call from § 87(2)(b). The call disconnected and § 87(2)(b) began shouting § 87(2)(b) name to find her. After about a minute, she heard someone shout at her to leave the area. § 87(2)(b) did not know if this was an officer). § 87(2)(b) turned around and saw Captain Sheppard running directly towards her. She had not heard any other commands prior to seeing Captain Sheppard. She stated that she did not hear any commands issued to her by an officer or over a loudspeaker. Captain Sheppard tackled § 87(2)(b) to the ground, maintaining contact with her upon hitting the ground. § 87(2)(b) landed on her knees and shoulders, face-first. Captain Sheppard placed her hands behind her back and placed his knee on her shoulder blade, pressing her into the ground. § 87(2)(b) stated that this caused her to squirm out of discomfort, as she is 120 pounds and Captain Sheppard, who stands 6'5" tall and weighs 220 pounds, was placing his full weight on her shoulder [BR11].

§ 87(2)(b) testified that he and his wife, § 87(2)(b) observed the incident from the outside steps of 75 Penn Street. Neither he nor § 87(2)(b) were familiar with § 87(2)(b). While on the stairs, § 87(2)(b) ran into their view, pursued by three or four other officers. § 87(2)(b) was taken to the ground, although § 87(2)(b) could not describe how this was done and did not know which officer did this. Once § 87(2)(b) hit the ground, the officers who were following her tried to arrest her. § 87(2)(b) stated that the officers appeared to be hitting § 87(2)(b) as one officer raised his hand and brought it down towards her. He was unsure whether this hand strike connected with § 87(2)(b). § 87(2)(b) was not doing anything physically with her body to resist being handcuffed but was yelling for help while lying face down on the pavement. He did not see any officer place a knee on § 87(2)(b)'s back [BR19].

Captain Sheppard testified that, upon responding to Wythe Avenue and Penn Street, he, Det. Dorrejo and PO Martinez, cleared the area, informing the protesters that they were in violation of the curfew. Captain Sheppard approached § 87(2)(b) who was alone in the middle of the sidewalk and told her to leave the area. § 87(2)(b) responded, "Fuck you, pigs, I'm not going no-fucking-where." Captain Sheppard repeated this command three to four times, to which § 87(2)(b) repeated a similar response each time. Captain Sheppard informed her if she did not leave, she would be arrested. § 87(2)(b) repeated, "Fuck you, pig." Captain Sheppard moved forward a couple of steps and grabbed § 87(2)(b)'s upper body. Upon being grabbed, § 87(2)(b) lifted her leg and Captain Sheppard believed she was going to kick him. She did not kick him or make physical contact with him prior to being grabbed. Captain Sheppard then tackled § 87(2)(b) to the ground but did not recall if he went to the ground with § 87(2)(b). She landed on her chest and Captain Sheppard ordered her to put her hands behind her back, which she refused to do. He then moved away from § 87(2)(b) while officers (he did not know who) attempted to handcuff § 87(2)(b). § 87(2)(b) contorted her body, kicking her legs and attempting to pull her arms out of the officers' grip, but did not make physical contact with them. He did not place his knee on § 87(2)(b)'s back and did not know if any officer did this [BR12].

PO Martinez testified that he and Det. Dorrejo followed Captain Sheppard while he conducted crowd control. After a minute on scene, the officers encountered § 87(2)(b) who was by herself on the sidewalk. Captain Sheppard approached her and informed her she had to leave. § 87(2)(b) responded, "Fuck you pig." PO Martinez was two to three feet behind them.

Captain Sheppard repeated his order again and she responded the same way. Captain Sheppard then told § 87(2)(b) that if she did not leave the scene, she would be arrested. § 87(2)(b) then turned around and Captain Sheppard moved forward, grabbing § 87(2)(b) with one hand, although PO Martinez did not know where. § 87(2)(b) had not made any physical contact with the officers prior to this. Almost immediately, Captain Sheppard and § 87(2)(b) went to the ground, although PO Martinez did not know if this was caused accidentally. § 87(2)(b) landed face-first on the ground and Captain Sheppard fell on top of her. Captain Sheppard moved away from § 87(2)(b) and PO Martinez went to handcuff her. § 87(2)(b) flailed her arms and legs as he attempted to handcuff her. Another officer assisted PO Martinez, although he did not know who this officer was. PO Martinez did not place his knee on § 87(2)(b)'s back and did not use any other force aside from grabbing her arm. He did not see any other officer do this [BR13].

Det. Dorrejo testified that he, along with Captain Sheppard and PO Martinez arrived at the location in response to a radio call for officer assistance. After less than five minutes on scene, the officers encountered § 87(2)(b) who was standing mid-block on the sidewalk, in front of a crowd of 50 to 60 people. Det. Dorrejo stated that § 87(2)(b) was the loudest of the protesters there and was encouraging the crowd to stay. He, Captain Sheppard, and PO Martinez approached her, standing at a distance of about ten feet. Captain Sheppard told § 87(2)(b) more than five times that if she did not leave the scene, then she would be arrested, to which § 87(2)(b) responded, "Fuck you, pig." Captain Sheppard then went to grab § 87(2)(b)'s arm. At this point, Det. Dorrejo moved towards the group of 50 to 60 protesters, whom he stated attempted to move towards to § 87(2)(b) and Captain Sheppard. He could not approximate how close the protesters got to § 87(2)(b) but stated that they did not "get close enough". As he was facing the crowd, he did not see how Captain Sheppard took § 87(2)(b) to the ground. He did not place a knee on § 87(2)(b)'s back [BR14].

§ 87(2)(b) provided video footage of the incident, although the footage was provided in clips and did not continuously capture the whole incident. The cellphone footage did not capture the forcible takedown. It did not depict any crowd in the vicinity of § 87(2)(b) and the officers. Video footage depicts Captain Sheppard on the ground with § 87(2)(b) he is seen making physical contact with her, but it is unclear from the video what specific actions he is taking. It does not appear that he places a knee on her back. Three officers in riot gear, one of whom is assumedly PO Martinez, approach § 87(2)(b) and grab her arms to handcuff her. The video then ends [BR06]. Captain Sheppard, PO Martinez, and Det. Dorrejo were not equipped with BWC [BR12, BR13, and BR14 respectively].

Patrol Guide Procedure 221-01 states that the reasonableness of the use of force is based upon the totality of the circumstances known by the MOS at the time of the use of force (e.g. the nature and severity of the crime, actions taken by subject, duration of actions, Immediacy of perceived threat or harm to subject, members of the service, and/or bystanders, the size, age, and condition of the subject in comparison to the MOS, presence of hostile crowd or agitators, if the subject appears to be under the influence of stimulants/narcotics which would affect their pain tolerance or increase likelihood of violence, etc.). The Department examines the reasonableness of force viewed from the perspective of a member with similar training and experience placed into the same circumstances as the incident under investigation [BR20].

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation (D) Force: Tarik Sheppard used a taser against § 87(2)(b)
Allegation (E) Force: Officers used physical force against § 87(2)(b)

After being taken to the ground and prior to being handcuffed, § 87(2)(b) felt herself be tased. She did not hear any commands or warnings issued prior to being tased. As she was being tased, § 87(2)(b) felt blows all over her body, but was unable to discern how many times or where specifically on her body she was struck, due the taser charge [BR11].

§ 87(2)(b) testified that after an unknown period of time of the officers attempting to handcuff § 87(2)(b) they stepped back and Captain Sheppard tased her. He did not hear the officers issue any commands prior to tasing § 87(2)(b) yelled out in pain and screamed for help while being tased. After she was tased, the officers handcuffed § 87(2)(b) stood her up, and walked her down the block. § 87(2)(b) approximated that the entire incident lasted about one minute [BR19].

Captain Sheppard testified that he told § 87(2)(b) after an indeterminate period that if she did not stop resisting arrest, he would tase her. § 87(2)(b) responded, “Fuck you,” and kept her arm under her body. The officers continued to pull at her arm to free it. Captain Sheppard told the officers to step back and repeated his warning. § 87(2)(b) again responded, “Fuck you”, and he discharged his taser, striking her in the upper back area. Captain Sheppard explained that he was afraid the officers, in using physical force to handcuff § 87(2)(b) would unintentionally injure her, as she was slim. He determined that tasing § 87(2)(b) would be a safer way to gain compliance from her. Captain Sheppard did not hear § 87(2)(b) complain of any injury prior to being tased. He did not see any officers make physical contact with § 87(2)(b) while she was being tased. Captain Sheppard stated that, after she was tased, § 87(2)(b) placed her hands behind her back and apologized to the officers [BR12].

While attempting to handcuff § 87(2)(b) PO Martinez grabbed one of her arms. § 87(2)(b) then placed her other arm under her stomach. PO Martinez and the other officer attempted to grab § 87(2)(b)'s arm out from under her. After 30 seconds to one minute, Captain Sheppard told the officers to step back, which they did. Captain Sheppard then told § 87(2)(b) that if she did not put her hands behind her back, he would tase her. § 87(2)(b) did not comply with this and he discharged his taser. PO Martinez stated that he believed Captain Sheppard decided to do this as § 87(2)(b) was “frail” and he was afraid they would break her arm in the process of handcuffing her. Captain Sheppard tased § 87(2)(b) for one “ride”, which lasted for approximately five seconds. As the darts contacted her body, § 87(2)(b) screamed out in pain and her body went straight. Once the “ride” was finished, § 87(2)(b) immediately put her hands behind her back and one of the officers handcuffed her, although PO Martinez could not remember who [BR13].

Det. Dorrejo stated that he periodically looked between the officers with § 87(2)(b) and the crowd. He observed PO Martinez struggling to handcuff § 87(2)(b) who was kicking her legs and had her arms tucked under body, while screaming at the crowd for help. At one point, another officer, whom Det. Dorrejo did not know, appeared and assisted in attempting to handcuff § 87(2)(b). Det. Dorrejo stated that he stayed with the crowd, ordering them to back up; he and the protesters did not make any physical contact, although multiple protesters told Det. Dorrejo that they were going to kill him and his family. Multiple additional officers moved through the crowds conducting arrests, although Det. Dorrejo did not know who these officers were. He approximated that of the 50 to 60 protesters in the crowd, 25 to 30 people were directly focused on the altercation between § 87(2)(b) and Captain Sheppard. After about 30 seconds, Det. Dorrejo heard Captain Sheppard tell PO Martinez to step away from § 87(2)(b). He then warned § 87(2)(b) that if she did not stop resisting, he would tase her. § 87(2)(b) did not comply with this order, although Det. Dorrejo did not know if § 87(2)(b) directly acknowledged Captain Sheppard’s threat. Captain Sheppard then discharged his taser, striking § 87(2)(b) who was still lying face-down, in her side [BR14].

Cellphone footage of the incident depicts Captain Sheppard tasing § 87(2)(b) [BR07]. This video is 14 seconds long; it is unclear how much time has passed between this video and the first video § 87(2)(b) recorded [BR07 and BR06, respectively]. The video shows approximately three officers attempting to handcuff § 87(2)(b) – it is clear they are making physical contact with her, but their specific actions are unclear from the footage. § 87(2)(b) is seen squirming on the ground yelling for help. No additional civilians or crowd of civilians are seen in the vicinity of the officers. At 11 seconds, a red taser dot appears on § 87(2)(b) who had turned onto her side. At 12 seconds, someone is heard saying, “Let go”; the officers handcuffing § 87(2)(b) move back and she is tased. § 87(2)(b) provided cellphone footage of § 87(2)(b) being arrested, which is in a separate clip and appears to resume immediately after § 87(2)(b) being tased. The video shows officers grabbing § 87(2)(b)'s arm and placing her hand into a zip-tie. § 87(2)(b)'s other hand was already zip-tied. § 87(2)(b) is then stood up and walked down the block and out of the camera’s view [BR08]. Captain Sheppard, PO Martinez, and Det. Dorrejo were not equipped with BWC [BR12, BR13, and BR14 respectively].

According to Patrol Guide Procedure 221-08, a member of force may use a conducted electrical weapon (CEW), such as a taser, against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other person(s). When determining if using a CEW is reasonable, a member of service must consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the actions, immediacy of the perceived threat or harm to the subject, MOS, or bystanders, if the subject is

actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, and the subject's violent history (if know) [BR21].

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation (F) Abuse of Authority: Officers detained § 87(2)(b)
Allegation (G) Abuse of Authority: Captain Tarik Sheppard threatened § 87(2)(b)
with the use of force.

After the taser discharged, § 87(2)(b) was handcuffed with zip-ties and stood up. Taser barbs were still lodged in her ribcage and waist area. An officer, unknown to the investigation, stood § 87(2)(b) up and began to escort her to a van at the end of the block. § 87(2)(b) asked this officer to remove the barbs from her stomach, which he refused, and told him that she could not breathe. Upon reaching the van, he instructed the three protesters inside to leave, which frightened § 87(2)(b). Captain Sheppard, PO Martinez, and this officer entered the van with § 87(2)(b) and began asking her questions. § 87(2)(b) stated she could not answer these questions, as she was in pain from the taser barbs. She repeatedly told the officer that she could not breathe and that she thought something was wrong, to which Captain Sheppard responded, “You’re really not going to be able to breathe if you keep up this performance.” § 87(2)(b) was driven in this van for approximately ten minutes, where she was then taken to an unknown location. She was informed that an ambulance had been called for her. By the time the ambulance arrived, approximately 40 minutes had passed since she was first tased. The EMTs informed her that the taser barbs were too deeply imbedded and that they would have to remove them at the hospital. Prior to leaving the scene, PO Martinez wrote her a summons and placed it in

her bag [BR02]. § 87(2)(b) was taken to § 87(2)(b) Hospital without a police escort. She did not have any further contact with Captain Sheppard since the incident [BR11].

After § 87(2)(b) was tased, she was handcuffed, although Captain Sheppard did not know which officer did this. She was then stood up and walked to a gas station down the block, where an ambulance was meeting them. § 87(2)(b) still had taser barbs lodged in her body. Captain Sheppard did not recall § 87(2)(b)'s tone and demeanor while being walked to the ambulance. He did not recall if she stated that she was having trouble breathing. He did not tell § 87(2)(b) "You're really going to have trouble breathing if you keep up this performance" and did not hear any officer make this statement. When EMS arrived, they informed Captain Sheppard that they were removing § 87(2)(b) to the hospital, although he did not know why. PO Martinez then issued a summons to § 87(2)(b) which Captain Sheppard was present for, but could not remember if he instructed him to do so. EMS then left the scene with § 87(2)(b) and Captain Sheppard responded to another call [BR12].

PO Martinez stated that medical personnel was required to remove the taser darts, which were still lodged in § 87(2)(b)'s rib area. Due to the protest crowd, the ambulance had to meet § 87(2)(b) and the officers at a gas station down the block. As he was walking her to the ambulance, § 87(2)(b) complained of the pain from the darts, but she did not complain of any other pain. PO Martinez did not hear her state that she could not breathe. He did not hear Captain Sheppard tell § 87(2)(b) "You're really not going to be able to breathe if you keep up this performance." As EMS treated § 87(2)(b) Captain Sheppard instructed him to issue § 87(2)(b) a summons rather than take her back to the stationhouse, as she had to go to the hospital to have the darts removed. § 87(2)(b) was taken to the hospital and Captain Sheppard, PO Martinez, and Det. Dorrejo responded to another call [BR13].

Det. Dorrejo stated that, once § 87(2)(b) was handcuffed, he assisted PO Martinez in lifting her up off the ground. He, Captain Sheppard, and PO Martinez then walked with her down the block to meet an ambulance, which he believed was already on scene. § 87(2)(b) was walking without assistance and was crying. Det. Dorrejo did not hear § 87(2)(b) say that she was having trouble breathing and did not hear Captain Sheppard respond, "You're really going to have trouble breathing if you keep up thos performance." He stated § 87(2)(b) and the officers did not have any conversation. He did not observe § 87(2)(b) exhibit any signs that she was struggling to breathe. Once they arrived at the ambulance, EMTs treated § 87(2)(b) who was ultimately removed to the hospital. Det. Dorrejo did not have any conversation with the EMTs [BR14].

§ 87(2)(b)'s removal to the ambulance and treatment by EMS was not captured on cellphone footage or BWC [BR06 through BR08 and BR09, respectively].

Emergency Executive Order No. 119, issued by Mayor Bill de Blasio, ordered a City-wide curfew to be in effect each day from 8:00pm until 5:00am, beginning at 8:00pm on June 3, 2020 and ending at 5:00am on June 8, 2020. During this time, no persons or vehicles may be in public between the hours of 8:00pm and 5:00am [BR18].

It is undisputed that § 87(2)(b) was in violation of the City-wide curfew and was detained as a result. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 87(2)(b), § 87(2)(g)

Allegation (H) Offensive Language: At the intersection of Penn Street and Wythe Avenue in Brooklyn, an officer made offensive remarks to § 87(2)(b)

Allegation (I) Force: At the intersection of Penn Street and Wythe Avenue in Brooklyn, an officer used physical force against § 87(2)(b)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) testified that she was with § 87(2)(b) at the Penn Street and Wythe Avenue protest in Brooklyn at approximately 8:00 p.m. After about an hour, police officers entered the crowd and began chasing the protesters. § 87(2)(b) was separated from § 87(2)(b) while hiding behind some trash bags, § 87(2)(b) called § 87(2)(b) in the hopes of finding her, but their call was disconnected. § 87(2)(b) and § 87(2)(b) began yelling each other's names back and forth. § 87(2)(b) began walking towards § 87(2)(b)'s voice and heard her yell out in pain. § 87(2)(b) followed § 87(2)(b)'s screaming until she reached a group of officers who were surrounding § 87(2)(b). § 87(2)(b) could not see her but stated that she was still screaming in pain. She asked the officers to let her be with § 87(2)(b) or accompany her to wherever she was being taken. No officer responded to this. After about two minutes, approximately ten officers began chasing § 87(2)(b) down the block. Once she reached the end of the block, she became afraid of the officers and was unable to run any further, so she laid on the ground and pushed her body into the pavement. § 87(2)(b) then felt hands grab her arms, head, and back. One officer placed their knee on her leg, but she was unable to see which officer did this. § 87(2)(b) did not resist arrest and was handcuffed with zip-ties, which she said were "painfully tight". One officer cut her backpack off her body. As this was going on, two officers, who § 87(2)(b) described as a uniformed Hispanic male, standing 5'10" tall, with a fit build, between 23 to 28 years old and an overweight white male, in uniform, standing 6'0" tall, in his mid-thirties with a shaved head, referred to her as "Laura Croft", § 87(2)(b), § 87(2)(a)

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b) received a summons, issued by PO Negrón, for violating the curfew imposed by the mayoral executive order [BR03]. The Arrest Processing Report generated for the Mass Arrest Processing Center listed PO Negrón as her arresting officer [BR23]. Aside from this, the investigation did not receive any additional documentation regarding § 87(2)(b) arrest.

PO Negrón testified that he responded to Penn Street and Wythe Avenue after receiving a radio call requesting additional units to the scene. Two minutes after arriving on scene, PO Negrón was approached by a lieutenant, whom he did not know, who passed him a male individual, already handcuffed. The lieutenant informed PO Negrón to take this individual to the transport bus on scene. PO Negrón did not observe this individual's arrest. Afterwards, a captain approached PO Negrón and instructed him to remain with the bus and accompany it to Brooklyn Central Booking. About three or four other individuals were additionally brought to the bus, but PO Negrón did not know if they were male or female. He did not observe any arrests made while he was on scene. He did not see an officer place their knee on the leg of a female or use any other force. He did not hear

any officer refer to any protester as “Laura Croft” while he was on scene. Three other officers were on the bus; PO Negron only knew one, PO Husbands [BR24].

PO Husbands testified that, after responding to a call for police backup, Deputy Inspector Skretch from the 79th Precinct handed him a handcuffed woman and directed him to escort her to the transport bus on scene. PO Husbands did not see her get handcuffed and was not familiar with her. He was shown a photograph of § 87(2)(b) featured in § 87(2)(b), but did not recognize her and was not the person he escorted. After arriving at the transport bus, a captain approached PO Husbands and instructed him to stay with the bus, as he would be accompanying it to Brooklyn Central Booking. PO Husbands did not observe any protester arrested while he was on scene. He did not see any officer place a knee on a female protester’s leg or use any other force. He did not hear any officer refer to a female protester as “Laura Croft” [BR25].

TARU footage received by the investigation did not capture this incident [BR04 and BR05]. No BWC footage was received for this incident [BR09].

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation (J) Offensive Language: At Brooklyn Central Booking in Brooklyn, officers made offensive remarks to § 87(2)(b)

§ 87(2)(g)
[REDACTED]

§ 87(2)(b) testified that, after she was handcuffed, she was placed into a bus, and was transported with other protesters to Brooklyn Central Booking. § 87(2)(b) and the other protesters waited in line for about two hours to being processed. While waiting in line, § 87(2)(b) dropped her backpack and the contents spilled on the ground. When she squatted down to retrieve them, the white male officer from Penn Street and Wythe Avenue commented, “What moves are you going to do, Tomb Raider”. One female officer laughed uncomfortably at this, but then gave the officer a look, as if to quiet them. § 87(2)(b) stated that she continually asked officers to loosen her zip-ties, which were getting tighter due to holding onto her backpack. She asked one officer to loosen her handcuffs, to which the officer responded, “Why don’t you give me a little spin?” § 87(2)(b) spun around, stating she did not think at the time the sexual implications of what the officer had asked. The officer then responded, “Looks nice. The handcuffs are supposed to be tight.” A female protester next to § 87(2)(b) said, “that’s disgusting”, to the officer. § 87(2)(b) described the officer as a Middle Eastern male, with olive skin, standing 5’9”-5’10” tall, a “buff” built, in plainclothes with a white collared shirt, with short brown hair, wearing glasses, and in his mid-thirties. § 87(2)(b) and the protesters were then placed in the holding cell, where she and another protester remained handcuffed. § 87(2)(b) was finally released from her zip-ties after four or five hours of being initially handcuffed. She was released from Brooklyn Central Booking at around 1:30 a.m. with a summons for unlawful assembly [BR22].

After the bus was loaded, PO Negron, PO Husbands, and two other officers transported 24 protesters to Brooklyn Central Booking. Upon arriving at Central Booking, a supervising sergeant, whom PO Negron did not know, instructed him and PO Husbands that they would be issuing C-summons to the protesters on the bus. The two officers split the summonses. At one point, the protesters were lined up waiting to retrieve their property, but this was handled by the ten to twelve other officers at Central Booking. PO Negron did not have any protester inform him that his handcuffs were too tight. He did not observe any protester drop their backpack and an officer say, “What moves are you going to do, Tomb Raider”, in response. He did not hear any officer tell a female protester to “give a spin” and say “looks nice” in response. Aside from writing the summonses, PO Negron did not take any additional police action. He left Brooklyn Central Booking at approximately 11:00 p.m.; the protesters from the bus were released some time before this [BR24].

PO Husbands’ testimony was largely consistent with PO Negron. After an unknown time on scene, he transported the protesters on the bus to Brooklyn Central Booking. Upon arriving, he was instructed by an unknown supervising sergeant to issue summonses to the protesters they had transported. PO Husbands wrote the summonses with another officer, although he did not know who this officer was. At one point, the protesters were lined up outside waiting to be processed; he stated that this was the only time they were at a standstill. No protesters approached him and informed him that their zip-ties were too tight. He did not observe any individual drop their backpack while in line and did not hear any officer comment, “What moves are you going to do Tomb Raider?” in response. He did not see any officer tell a female protester to “give a spin” and say “looks nice”, in response. It took PO Husbands approximately 45 minutes to an hour to write the summonses. Afterwards, the protesters, who had been lodged in the holding cells, were released. PO Husbands then left Brooklyn Central Booking and resumed his tour [BR25].

§ 87(2)(g) [Redacted text block]

§ 87(2)(b), § 87(4-b) [Redacted text block]

[Redacted text block]

[Redacted text block]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint both § 87(2)(b) and § 87(2)(b) have been party to [BR30 and BR31, respectively].
- Captain Sheppard has been a member of service for 17 years and has been a subject in two prior CCRB complaints and four allegations, none of which were substantiated. § 87(2)(g) [REDACTED] He has one open CCRB complaint:
 - Case #202004772, in which a hit against an inanimate object and offensive language - gender allegations are pled, is currently under investigation.
- PO Martinez has been a member of service for eight years and has been a subject in three prior CCRB complaints and 20 allegations. Two prior complaints contained substantiated allegations:
 - Case #201604293, in which allegations of a frisk, interference with a recording, and vehicle search, were substantiated. The Board recommended formalized training, which PO Martinez ultimately received.
 - Case #201604395, in which allegations of a chokehold, gun pointed, force – other, physical force, gun drawn, retaliatory arrest, and a threat of force were substantiated. The Board recommended Command Discipline B; the NYPD ultimately determined no finding for the allegations and no penalty was issued.

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- According to the New York City Office of the Comptroller, § 87(2)(b) [REDACTED] filed a Notice of Claim, filed on her behalf by her attorney Paul Prestia, seeking \$5 million in damages for sustained physical injuries, loss of liberty, psychological and physical distress, physical pain and suffering, and violations of rights guaranteed by the Federal and New York State Constitutions [BR32].
- According to the New York City Office of the Comptroller, § 87(2)(b) [REDACTED] filed a Notice of

Claim, filed on her behalf by her attorney § 87(2)(b), seeking \$5 million in damages for sustained physical injuries, loss of liberty, psychological and physical distress, physical pain and suffering, and violations of rights guaranteed by the Federal and New York State Constitutions [BR33].

- § 87(2)(b)

Squad No.: 8

Investigator: Genevieve Lamont Inv. Genevieve Lamont 3/29/2021
Signature Print Title & Name Date

Squad Leader: Ethan De Angelo IM Ethan De Angelo 3/30/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Oluwatosin Aboyade-Cole	Team: Squad #8	CCRB Case #: 202003985	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 06/06/2020 7:32 PM	Location of Incident: Barclay's Center, Atlantic Avenue. Candlelit vigil	Precinct: 78	18 Mo. SOL 12/6/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 06/06/2020 8:59 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/06/2020 8:59 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer refused to provide her shield number to § 87(2)(b)	

Case Summary

On June 6, 2020, § 87(2)(b) filed the following complaint with the CCRB online.

On June 6, 2020, § 87(2)(b) was at a candlelight vigil at the Barclay's Center in Brooklyn when she observed an officer with a mourning band covering her shield. § 87(2)(b) stopped the officer and asked her to remove the band to uncover her shield number. The officer allegedly did not respond, turned and walked away (**Allegation A: Abuse of Authority**, § 87(2)(g)).

The investigation did not obtain any BWC footage of the incident. As the officer was not identified, the reason for the lack of BWC footage remains unclear.

Pleading Language for all allegations to be closed as officer unidentified

Abuse of Authority: An officer refused to provide her shield number to § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) provided a sworn statement over the phone on June 12, 2020 (Board Review 15).

In her sworn statement, § 87(2)(b) stated that on June 6, 2020, at approximately 7:00 p.m., she went to the Barclay's Center to attend a candlelight vigil honoring Breonna Taylor. § 87(2)(b) stood at the Southwest corner of the square near the entrance of the center; there were hundreds of civilians and about 40-50 officers present. At the center, § 87(2)(b) observed a line of officers walking along the edge of the crowd on Flatbush Avenue. § 87(2)(b) observed an officer, henceforth referred to as PO1, amongst the line of officers and saw that PO1's shield was covered with a mourning band. She described PO1 as a dark-skinned female who stood approximately 5'6-5'8, with an average build, dark hair, and was dressed in uniform (Board Review 12). As PO1 walked by § 87(2)(b) § 87(2)(b) asked her if she could ask a question. PO1 stopped walking and looked at § 87(2)(b) § 87(2)(b) asked PO1 if she could uncover her shield number. PO1 turned away and § 87(2)(b) asked her for her shield number again. PO1 ignored § 87(2)(b) and did not give any indication that she heard § 87(2)(b)'s question. Later on that night, § 87(2)(b) briefly spoke with another officer, whom she identified as SDS Sean Ohara of the Detective Bureau Grand Larceny Division, however DTS Ohara did not witness the interaction between § 87(2)(b) and PO1.

BWC

On June 10, 2020, body worn camera footage was requested and queried based on the incident date, time, and location, and the following commands believed to have been present: 78, 209, 456, 457, 458, 139, 425, 554, and 740. Because SDS Ohara was the only officer § 87(2)(b) identified from the vigil, the request was also queried based on his tax ID number. On August 25, 2020, the investigation received negative BWC results from the Legal Bureau (Board Review 04).

NYPD Documents Reviewed

TARU footage was ordered from TARU and yielded negative results (Board Review 4,10). On June 22, 2020, the Roll Call, Detailed Memoranda, and Sector Map were ordered from both the 78th Precinct and 209 DB GLD. Between June 22, 2020 and the date of this report, numerous e-mails were sent to IAB and DAO following up on these requests (Board Review 2-3,6-9). As of the date of this report, none of the documents have been received. On June 23, 2020, the Detailed Roster was ordered from 165 PBBN and yielded negative results (Board Review 05).

Concurrent Investigations

CCRB Case # 202003985

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 202004002	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 9:45 PM	Location of Incident: West 9th Street and 5th Avenue	Precinct: 13	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 06/06/2020 5:03 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 06/06/2020 5:03 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. LT Salvator Anselmo	00000	905392	007 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Carl Petrigno	22187	962688	009 PCT
2. POM Wandy Lopez	18762	958835	007 PCT
3. POM Nikoy Wallace	25344	963319	013 PCT
4. DI Steven Hellman	00000	906437	013 PCT
5. SGT Stuart Wohl	04695	931439	F.T.S.

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers struck an individual with a baton.	
B. Officers	Force: Officers used physical force against an individual.	
C. An officer	Discourtesy: An officer spoke discourteously to an individual.	
D. An officer	Force: An officer struck § 87(2)(b) with a baton	
E. An officer	Force: An officer used physical force against § 87(2)(b)	
F. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
G. An officer	Abuse: An officer interfered with § 87(2)(b)'s use of a recording device.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On June 6, 2020, § 87(2)(b) submitted this complaint via the CCRB website. Other aspects of this incident were investigated in CCRB Cases #202003914, #202004136, #202004403, and #202004771.

On June 2, 2020, § 87(2)(b) participated in a protest of approximately 1,000 people. At approximately 9:45 p.m., the protesters arrived at the intersection of West 14th Street and 5th Avenue in Manhattan and encountered a blockade of officers. As many were being arrested, § 87(2)(b) walked to the intersection of West 9th Street and 5th Avenue. § 87(2)(b) recorded with his cell phone as an unknown officers allegedly stood around a Black female individual, took turns beating her with their batons (**Allegation A: Force:** § 87(2)(g)), and allegedly kicked her (**Allegation B: Force:** § 87(2)(g)). An unknown white female individual fell over a short metal fence, and an unknown officer allegedly called her “fatty” (**Allegation C: Discourtesy:** § 87(2)(g)). Another unknown officer approached § 87(2)(b) and allegedly struck his left hand with a baton (**Allegation D: Force:** § 87(2)(g)). § 87(2)(b)'s phone fell to the ground. The unknown officer allegedly grabbed § 87(2)(b)'s torso and pushed him to the ground (**Allegation E: Force:** § 87(2)(g)), allegedly struck § 87(2)(b)'s phone with his baton causing damage to the phone and interfering with his recording (**Allegations F and G: Abuse of Authority:** § 87(2)(g)), allegedly kicked § 87(2)(b) (**within Allegation E**) and allegedly struck him with a baton five more times (**within Allegation D**). § 87(2)(b) sustained a fracture to his right hand. § 87(2)(b) was held overnight at the Mass Arrest Processing Center in Brooklyn and issued a summons for violating the mayoral curfew. § 87(4-b), § 87(2)(g)

The investigation obtained BWC footage (BR 01-06) of this incident that did not depict the FADO allegations listed above.

Findings and Recommendations

Allegation A – Force: Officers struck § 87(2)(b) with a baton.

Allegation B – Force: Officers used physical force against individuals.

Allegation C – Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation D – Force: An officer struck § 87(2)(b) with a baton.

Allegation E – Force: An officer used physical force against § 87(2)(b)

Allegation F – Abuse of Authority: An officer damaged § 87(2)(b)'s property.

Allegation G – Abuse of Authority: An officer interfered with § 87(2)(b)'s use of a recording device.

Known facts and general descriptions

§ 87(2)(b) went to this protest with a coworker whose name he did not know. He was unable to obtain her name from work and did not have any other means to reach her. Following the incident, he stopped working with her.

The investigation had no evidence to indicate who the unknown victims in this case were. § 87(2)(b) did not know any of the alleged victims. The person who was struck with batons and kicked was approximately 5’2” tall black female, 19 to 22 years old, with an average build, a dark complexion, a short afro, a red top, and shorts. The woman who was pushed over a short fence and called “fatty” was a short white female with a heavyset build and short hair.

§ 87(2)(b) did not obtain any officers’ shield numbers, or any distinct information that would distinguish officers in a large crowd. The recording he made was allegedly destroyed when an

officer struck his phone with a baton. Although he was trying to obtain this recording from Apple cloud services, he stopped responding to attempts to reach him. The Mayoral Curfew was in effect during this incident. A search of Google News and Twitter for media coverage of this incident yielded negative results.

During the New York Office of the Attorney General's Hearing on Interactions between NYPD and the General Public, § 87(2)(b) provided testimony that corroborated § 87(2)(b)'s account of five officers kicking a young black woman, and of § 87(2)(b) being struck in the hand with a baton while he tried to record (BR 07). The investigation attempted to reach § 87(2)(b) via telephone, email, Twitter, and Instagram. He did not respond to any contact attempts and has not contact the investigation since.

While § 87(2)(b) was being transported to the Mass Arrest Processing Center, he spoke to § 87(2)(b) who he believed may have witnessed some parts of this incident. He provided the investigation with her Instagram account information, as he did not have any other way to reach her. The agency contacted § 87(2)(b) multiple times via direct message, but she did not reply.

A search of the Complaint Tracking System (CTS) revealed four additional complaints that occurred at the same, date, time, and general location of this incident. None of the civilians or officers in those cases described the allegations in this case.

BWC and TARU Footage

Three initial requests for BWC footage yielded negative results (BR 08 – 10). The fourth request yielded six videos, none of which captured the allegations in this case.

Cases #202003914, #20204136, and #202004771 contained BWC footage of the protest at West 14th Street and 5th Avenue (BR 11). This footage showed officers from an array of commands, some with identifiable helmet numbers, approaching several hundred civilians. However, the footage did not show officers continue down 5th Avenue to 9th Street, and therefore did not capture the area in which the alleged force and discourtesy was used. Because the footage only captured officers who were not near § 87(2)(b) or the area where he was handcuffed, it did not help to identify potential subject or witness officers.

The investigation received four handheld videos recorded by the Technical Assistance Response Unit (TARU), one of which depicted § 87(2)(b) in the moments immediately following this incident (BR 12). The footage showed a black male officer lifting § 87(2)(b) to the ground and shoving him. Sgt. Wohl was depicted standing nearby. During Sgt. Wohl's interview, he denied participating in any force, and stated that he did not remember the incident or recognize the alleged subject officer. The investigation interviewed Sgt. Purnell Lancaster of ESU because other ESU officers were present in the general vicinity, and Sgt. Lancaster fit the description of the officer depicted in the TARU footage. However, Sgt. Lancaster denied that he was present, or that he participated in any protest enforcement in late-May and Early June 2020. His memo book did not have any entries on the incident date. Without any additional information, there were no means to identify the potential subject officer depicted in the TARU footage.

NYPD Documents Reviewed

Event #20060226701 (BR 13) noted that officers from the 13th Precinct and a unit called 'DETAILPP' arrested 26 individuals at the intersection of West 14th Street and 5th Avenue. There is no additional information to specify who was present.

Event #2020060226741 (BR 14) noted that a group of youths were at the intersection of 14th Street and 5th Avenue. It was closed as a duplicate of Event #20060226701.

A search of the Booking and Arraignment Disposition System (BADs) revealed no arrests relevant to this incident (BR 15).

Concurrent Investigations

IAB confirmed that there are no concurrent investigations regarding this incident (BR 16).

Ranking Officers

The investigation interviewed Deputy Inspector Steven Hellman of the 13th Precinct, believed to be the highest-ranking officer present. He did not observe the allegations in this case.

Officers Interviewed

DI Hellman and PO Nikoy Wallace of the 13th Precinct, Lt. Salvator Anselmo and PO Wandy Lopez of the 7th Precinct, PO Carl Pettrigno of the 9th Precinct, Det. Christopher Batos of the Organized Crime Investigation Division, Sgt. Stuart Wohl of the Firearms and Tactical Section, and Sgt. Lancaster of the Emergency Services Unit were all interviewed regarding this indent. All of them denied witnessing the allegations in this case.

Allegation Recitation and Disposition

As stated above, the investigation did not have evidence to indicate who the subject officers in this case were, or who the victims were aside from § 87(2)(b) [REDACTED]. As per the NYPD Legal Bureau, not all officers who were present activated their body-worn cameras. TARU footage did not capture the incident, and the one subject officer who was depicted was not identifiable. There was no additional evidence to indicate which officers were involved in the allegations § 87(2)(b) [REDACTED] described, or who the alleged victims were. § 87(2)(g) [REDACTED]

§ 87(4-b), § 87(2)(g) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

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

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of April 16, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (BR 18).

Squad 6

Investigator:	<u>Mac Muir</u>	<u>Supervising Investigator Muir</u>	<u>09.21.21</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Jessica Peña</u>	<u>IM Jessica Peña</u>	<u>9/21/2021</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tahreem Khan	Team: Squad #11	CCRB Case #: 202004035	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 9:00 PM	Location of Incident: Manhattan Bridge Southbound Lane Manhattan side	Precinct: 05	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/05/2020 7:19 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/05/2020 7:19 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer threatened individuals with the use of force.	

Case Summary

On June 5, 2020, § 87(2)(b) filed this complaint with the CCRB via the agency's website.

On June 2, 2020 at approximately 9 p.m., § 87(2)(b) and his friend § 87(2)(b) were on the Manhattan Bridge marching with other unknown civilians from the Brooklyn side to the Manhattan side. After reaching the Manhattan side of the bridge, the demonstrators were met with barricades. § 87(2)(b) had climbed onto the maintenance platform that was on the bridge and stood on the far side of that platform, looking towards the Brooklyn side of the bridge. He saw an unidentified officer driving a marked NYPD SUV from the Brooklyn side towards the Manhattan, traveling at approximately 50 miles per hour towards a group of 15 to 20 protesters without slowing down, causing the demonstrators to jump out of the way. As § 87(2)(b) was unable to see the officer inside of the vehicle, it is unknown whether this officer was a male or female. The officer drove the police vehicle until it reached the barricades, stopped for a minute allowing the demonstrators to return back to where they were standing, and once more resumed speeding the vehicle back towards Brooklyn at, yet again causing the demonstrators to jump out of the way to avoid getting hit by the police vehicle (**Allegation A: Abuse of Authority, § 87(2)(g)**).

No arrests or summonses were issued related to this incident.

Body-worn camera (BWC) results were negative, as indicated by the NYPD Legal Bureau (Board Review 1).

The NYPD's Technical Assistance Response Unit (TARU) was only able to locate handheld footage covering our incident location at the time of the incident. These two videos were shot at the Manhattan Bridge (Board Review 2 – 3), however, do not capture the alleged incident. Given that this incident occurred on the Manhattan Bridge, there were no other nearby sources of video that may have captured this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: An officer threatened individuals with the use of force.

Known Facts and General Descriptions

After meeting the barricades on the Manhattan side of the bridge, about 15 to 20 demonstrators crossed over three lanes onto the Brooklyn-bound side with two lanes and walked around there. § 87(2)(b) described (Board Review 4) the Brooklyn-bound lanes to be on the left-hand side if someone were standing on the bridge facing Manhattan. § 87(2)(b) climbed onto the maintenance platform, stood on the far side of that platform, close to the concrete wall, and looked towards the Brooklyn side of the bridge. After walking along this platform for about 30 minutes, § 87(2)(b) saw an unknown officer driving a marked NYPD SUV, located about 100 yards away from where he was located, from the Brooklyn side towards Manhattan at "highway speeds"—approximately 50 miles per hour—towards the group of 15 to 20 demonstrators without slowing down. § 87(2)(b) stood approximately 200 yards away from the police barricades on the Manhattan side of the bridge, and approximately 20 feet away from the arch on the bridge. § 87(2)(b) was not able to see the gender of this officer or if they were uniformed. The SUV's lights flashed, but no officer issued any commands over the loudspeaker. As the police vehicle approached at full speed, the unknown officer swerved slightly, possibly to dodge some demonstrators. The demonstrators jumped in all directions, over the walls that were located on both sides of the lane, to avoid impact

with the SUV. The police vehicle drove at the same speed until it reached the barricade, when the officer turned the vehicle around and stopped for a minute. § 87(2)(b) assumed that the officer in the vehicle waited long enough to allow some people, who were confused and had their hands up, to walk into the lane again. The officer then resumed speeding the vehicle back towards the Brooklyn side of the bridge at approximately the same speed that it had come. Once again, the remaining demonstrators, who were fewer than the initial 15 to 20 individuals, jumped out of the way to dodge the police vehicle. § 87(2)(b) speculated that the officer probably got orders to go back to Brooklyn. To § 87(2)(b)'s knowledge, no one was injured. He did not have or know of anyone with video footage of this incident.

Like § 87(2)(b) § 87(2)(b) also stood on the elevated median towards the center of the Manhattan bridge and remained there for the duration of the incident (Board Review 5). The entrance into Manhattan seemed to be blocked by the police. She saw two groups of demonstrators on the Manhattan side of the bridge: one was on the southbound lane and one was on the northbound lane. The group on the southbound lane consisted of approximately 10 to 15 demonstrators. From the Brooklyn side of the bridge, § 87(2)(b) heard yelling, "Get out of the way!" She saw that there was possibly another group of demonstrators on the Brooklyn end of the bridge and soon became aware of an unknown officer driving a marked NYPD SUV that was speeding, possibly going 80 miles per hour, from the Brooklyn side of the bridge towards the Manhattan side. The officer drove the SUV towards the group of demonstrators in the southbound lane, all of whom jumped out of the way. The officer then turned the vehicle around and drove back towards Brooklyn. The demonstrators were kept on the bridge till approximately 11 p.m.

Neither § 87(2)(b) nor § 87(2)(b) were able to see any officers inside of the vehicle, recall the license plate number, or a number on the police vehicle itself as the incident took place so quickly.

BWC

One request for BWC footage was met with negative results by the NYPD (Board Review 1) The search parameters covered all videos recorded within the 5th Precinct, with additional checks of Critical Response Command, Counter Terrorism, Narcotics, Lower Manhattan Security Initiative, World Trade Center Command, Citywide Strategic Response Group (SRG), Disorder Control Unit, and Combat Auto Theft Program (CAT) at 9 p.m. on June 2, 2020 and returned five non-responsive videos.

NYPD Documents Reviewed

To identify the subject officer, the undersigned requested the unfinalized Automated Roll Call System (ARCS) from Tour 3 of the 5th Precinct on the incident date (Board Review 6). While the ARCS stated that a few officers were assigned to a Detail and Floyd Demonstrations, it did not provide the location where those officers were assigned.

The investigation also requested Event information for any incidents occurring on the Manhattan Bridge between 7 p.m. through 10:30 p.m. (Board Review 7). The Event Chronology provided five Events that may have been related to this incident: #D20060227167, #D20060227157, #D20060227256, #D20060227315, and #D20060227448 (Board Review 9 – 13). These Events mentioned demonstrators at the Manhattan Bridge, but none of them mentioned a police vehicle driving towards demonstrators on either side of the Manhattan Bridge (Board Review

8 – 13).

CCRB received a detail roster from Patrol Borough Manhattan South on June 2, 2020 for case 202003834 (Board Review 14), however, this detail roster only listed the protest detail for East 14th Street Union Square in Manhattan. This roster did not provide any coverage for the Manhattan Bridge.

On June 25, 2020, Huascar Robles, Director, Community Affairs for the Division of Bridges for the New York City Department of Transportation (DOT) informed the CCRB that any surveillance cameras located within the Manhattan Bridge would not be monitored by DOT personnel. He indicated that these would be monitored by the NYPD.

On December 7, 2020, the NYPD Inspector General's office at the NYC Department of Investigation confirmed that they did not possess any video footage related to the Manhattan Bridge on the incident date.

TARU footage sent by the NYPD on January 26, 2021 provided two handheld videos: one that was 4 minutes and 31 seconds long (Board Review 2), and the other which was 2 minutes and 33 seconds long (Board Review 3). Neither of the videos appeared to be related to this incident as the first video took place on the street across from nearby stores and the second appears to take place on the Manhattan Bridge, but only shows police interactions with detained individuals. Neither of the videos show demonstrators standing on the Manhattan Bridge or any marked NYPD SUV moving on the bridge.

On July 8, 2020 and July 13, 2020, the undersigned searched several social media sites for any video footage related to this event. The searches provided negative results related to this incident.

On July 8, 2020, the investigation conducted searches of different search engines to find any media coverage but was unable to find any related to this incident.

Concurrent Investigations

On September 3, 2020, Sergeant Salvatore Desiano of the NYPD-CCRB Liaison Unit confirmed that a complaint was never filed with IAB regarding a police vehicle driving towards a crowd of demonstrators at the Manhattan Bridge on the incident date.

Ranking Officers and Officers Interviewed

No officers were confirmed to be on scene at the time of this incident due to lack of documentation related to this specific incident, unavailable relevant video evidence, and the lack of any identifiable information on the unknown officer driving the NYPD SUV and details regarding the vehicle itself. § 87(2)(g)

Allegation Recitation and Disposition

Both § 87(2)(b) and § 87(2)(b) both noted that there were demonstrators present on the Manhattan Bridge when they saw an unknown officer in the marked NYPD SUV speedily approaching the group of demonstrators from the Brooklyn side of the bridge. As the operator did not slow down the vehicle, the demonstrators had to jump out of the way to avoid being hurt. After the SUV reached the police barricade on the Manhattan side, the driver turned the vehicle around, waited a minute, and drove back towards the Brooklyn side.

Neither § 87(2)(b) nor § 87(2)(b) were able to see the unidentified officer operating the

SUV. Additionally, they were unable to recall any other details about the SUV besides it being a marked NYPD vehicle.

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) or § 87(2)(b) have been party (Board Review 15 – 16).

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- As of February 17, 2021, there is no record of any Notices of Claim being filed with the Office of the New York City Comptroller related to this incident (Board Review 19).
- § 87(2)(b) [Redacted]
[Redacted]

Squad No.: 11

Investigator: Tahreem Khan Inv. Tahreem Khan February 17, 2021
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 02/17/21
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Santosh Prakash	Team: Squad #2	CCRB Case #: 202004071	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 9:30 PM	Location of Incident: Penn Street and Wythe Avenue	Precinct: 90	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 06/06/2020 6:17 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 06/06/2020 6:17 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Luis Negron	26287	968665	090 PCT
3. DC Charles Mcevoy	00000	895710	CD OFF
4. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aaron Husbands	04274	965752	079 PCT
2. DI Timothy Skretch	00000	926130	079 PCT
3. CCA Jeffrey Maddrey	00000	899501	C A B
4. SGT Akil Guy	03541	954274	079 PCT
5. LT Michael Butler	00000	948725	CD OFF
6. LT Henry Daverin	00000	945645	090 PCT
7. DI William Glynn	00000	932718	081 PCT

Officer(s)	Allegation	Investigator Recommendation
A. DC Charles Mcevoy	Force: Deputy Chief Charles Mcevoy authorized the use of physical force against § 87(2)(b)	
B. Officers	Force: Officers struck § 87(2)(b) with batons.	
C. Officers	Force: Officers used physical force against § 87(2)(b)	
D. An officer	Abuse: An officer threatened § 87(2)(b) with the use of force.	
E. POM Luis Negron	Abuse: Police Officer Luis Negron did not obtain medical treatment for § 87(2)(b)	

Case Summary

On June 6, 2020, § 87(2)(b) reported this complaint via the CCRB's call processing system.

On June 4, 2020, at approximately 9:30 PM, § 87(2)(b) was amidst a large gathering of protestors who were met by a line of police officers at the intersection of Penn Street and Wythe Avenue in Brooklyn. Under the authorization of Deputy Chief Charles McEvoy, the officers at the intersection allegedly suddenly charged at the departing civilians without warning and came running at them from the rear with their batons out (**Allegation A: Physical Force – § 87(2)(g)**). § 87(2)(b) turned back and saw two uniformed officers running towards him. The officers allegedly struck § 87(2)(b) on the back with their batons and forcibly took him to the ground (**Allegations B, C: Force: Baton as Club, Physical Force – § 87(2)(g)**). Although § 87(2)(b) was not resisting physically, one of the officers told the other, "Tase him!" (**Allegation D: Threat of Force (Verbal) – § 87(2)(g)**). § 87(2)(b) was handcuffed without being tased.

§ 87(2)(b) was then taken to a large van or bus holding other protestors who had been arrested. § 87(2)(b) realized that he had sustained an injury to his right hand and, as the vehicle made its way to Brooklyn Central Booking, § 87(2)(b) told a nearby escorting officer, identified by the investigation as Police Officer Luis Negron (of the 90th Precinct), that his hand was broken and requested medical attention. Police Officer Negron, however, failed to obtain medical treatment for § 87(2)(b) (**Allegation E: Abuse of Authority: Refusal to Provide Medical Attention – § 87(2)(g)**). After approximately three hours in Central Booking, § 87(2)(b) was released with a summons for violating the Curfew (Board Review 16) and without being provided medical attention. After he was released, § 87(2)(b) went to § 87(2)(b), where he was diagnosed with a fractured finger on his right hand (Board Review 39).

§ 87(2)(b)'s bicycle, from which he was removed by officers as they arrested him, was never returned to him (this allegation is being addressed separately in CCRB case number § 87(2)(b)). The CCRB investigated multiple separate complaints filed by different individuals regarding the actions of officers at Penn Street and Wythe Avenue on the night of June 4, 2020, under case numbers 202004204, 202003962, 202004011, and 20203980.

The CCRB obtained no relevant Body-Worn Camera footage of any police activity at the location (Board Review 22). Video footage was obtained from civilian-recorded sources and surveillance cameras (Board Review 24-36).

Findings and Recommendations

Allegation (A) Force: Deputy Chief Charles McEvoy authorized the use of physical force against § 87(2)(b)

Allegation (B) Force: Officers used physical force against § 87(2)(b)

Allegation (C) Force: Officers struck § 87(2)(b) with batons.

Allegation (D) Abuse of Authority: An officer threatened § 87(2)(b) with the use of force.

§ 87(2)(b) was interviewed by telephone on July 7, 2020 (Board Review 01-02). Witness § 87(2)(b) was interviewed by telephone on November 17, 2020 (Board Review 03). Deputy Inspector Timothy Skretch was interviewed on September 8, 2020 (Board Review 12).

Deputy Chief Jeffrey Maddrey was interviewed on February 10, 2021 (Board Review 14). Deputy Inspector William Glynn was interviewed on March 3, 2021 (Board Review 13). Deputy Chief Charles McEvoy was interviewed on August 12, 2021 (Board Review 15).

Known Facts and Circumstances

The following facts are undisputed: On the evening of June 4, 2020, several hundred individuals were gathered at McCarren Park in Brooklyn to participate in a protest against the recent police-involved death of Minneapolis resident George Floyd. The McCarren Park event ended at some point before 8:00 p.m., the time at which Mayor Bill De Blasio’s Curfew Order went into effect for the night. As the attendees dispersed from the park, a large contingent of the protestors continued to march south through Williamsburg, and ultimately arrived at Penn Street and Wythe Avenue. At this intersection, they were met by a line of shielded officers. Pursuant to the Curfew Order, officers broadcasted orders to disperse. At some point after 9:00 PM, the officers at the intersection were mobilized to begin arresting protestors still in the area for Curfew violations. § 87(2)(b) was one of approximately 25 individuals who were arrested at the location. At issue in this section of the complaint are two questions: the identities of the officers who arrested § 87(2)(b) and the lawfulness of their use of force against him.

§ 87(2)(b) stated that the march, having been peaceful and orderly, began to disperse after encountering the police formation at Penn Street and Wythe Avenue. § 87(2)(b) was already moving away from the police line on his bicycle and was heading home with the flow of the dissipating march. Because he happened to be located near the rear of the departing procession, § 87(2)(b) suddenly became aware of police activity behind him. He then turned to see multiple officers with their batons out, charging at the crowd from behind. § 87(2)(b) stopped momentarily to observe that officers were striking people with their batons and detaining them at random. § 87(2)(b) was approached by two uniformed officers, an approximately 6’1” tall heavysset black male and an approximately 5’11” tall heavysset white male, both with their batons drawn. The officers then “lunged” at § 87(2)(b) without issuing any orders whatsoever, and repeatedly struck him with their batons. The officers then forcibly took him down to the ground, at which point the unidentified white male officer got on top of him and began to handcuff him. § 87(2)(b) denied resisting in any manner, but the white male officer kept saying, “Stop resisting!” At one point, the unidentified black male officer stated, “Tase him!” Neither officer though drew or deployed their tasers and § 87(2)(b) was handcuffed without any further force. The two officers then escorted § 87(2)(b) to a large police van nearby carrying numerous other arrested protestors. Once they sent him in to be seated, § 87(2)(b) did not see these two officers again. These officers issued no summonses to § 87(2)(b).

The investigation obtained a witness statement from § 87(2)(b) a complainant/victim in one of the previously discussed related case (202004204). § 87(2)(b) s account of the sudden mobilization – that he was turning away from the intersection with the rest of the crowd when officers suddenly charged at them from the rear – was consistent with § 87(2)(b) s. Like § 87(2)(b), § 87(2)(b) was also tackled to the ground and handcuffed by two unidentified officers. As he was on the ground, § 87(2)(b) s observed a bearded white male across the street – identified by the investigation as § 87(2)(b) – being tackled to the ground by two uniformed officers. Because § 87(2)(b) was soon escorted to the prisoner bus, he did not see what other actions were taken against § 87(2)(b) and could not describe the arresting officers in any way.

Body-Worn Camera Footage

Requests for all BWC footage pertaining to the police activity at Penn Street and Wythe Avenue

were submitted in this case and in case numbers 202004204, 202003962, 202004011, and 20203980. The NYPD's Legal Bureau, however, found no relevant footage and the request made in this case yielded negative results, as did the requests submitted in the related cases.

Other Video Footage

The combined efforts of the related investigations produced a significant amount of cell phone and surveillance camera footage of the incident at large: 1.) civilian-recorded footage retrieved from Twitter; 2.) cell phone recordings provided by complainant/victims; 3.) and surveillance camera footage from four different surrounding properties. Viewed in their totality, the video footage – particularly those recorded by civilians – helped establish a street-level perspective on Penn Street and Wythe Avenue, from different vantage points and through varying points in time – from the scene as it initially was, with officers lined up in rows at the intersection, to their eventual mobilization to effect arrests. However, the quality and duration of the recordings made it untenable to perform a frame-by-frame or image analysis, whether for officer identification purposes, or for better discerning the nature and sequence of the action depicted. Similarly, none of the surveillance footage captured any aspect of the incident with sufficient clarity: some camera scopes were not wide enough to see a full view of the intersection, while others were obstructed or angled away from the street. § 87(2)(b) s arrest was not observed in any of the videos provided by his attorney or obtained independently in this case or the related cases.

NYPD Documents Reviewed

Collectively, the separate investigations requested all relevant police documentation pertaining to Penn Street and Wythe Avenue, from the surrounding Precincts, Patrol Borough Brooklyn North, and any Strategic Resource Groups in the area. However, the NYPD found no relevant Threat-Resistance-Injury (TRI), AIDED, or Medical Treatment reports (Board Review 23). Detailed Rosters and Finalized Roll Calls for the zones proximate to the incident location were provided, but in a piecemeal manner and with significant delays (Board Review 21). Additionally, the rosters lacked much of the basic information necessary for subject officer identification. The paperwork showed at least 175 officers (from different commands) as assigned to cover protest-related activity in Brooklyn North, with personnel divided into more than 20 mobile field units, comprised of eight officers each. However, none of the rosters made any reference to assignments near the incident location; rather, the rosters only noted “Cadman Plaza Park” (approximately two miles from Penn Street and Wythe Avenue) or “George Floyd Protests” (with no geographical specifics) as their post descriptions (Board Review 21). Furthermore, the rosters provided little to no information on the tour durations of the deployed teams. No unusual occurrence reports or event memoranda were prepared either (Board Review 21). IAB confirmed that the NYPD had no additional detail rosters to provide.

Ultimately, the CCRB received only two sets of materially useful documents: the Mass Arrest Report (MAR) generated for the incident, listing pedigree and charging information for everyone arrested at Penn Street and Wythe Avenue (Board Review 18); and § 87(2)(b) s summons for Curfew violation, issued under section 3-108 of the Administrative Code (Board Review 16). The MAR shows that Police Officer Luis Negron and Police Officer Aaron Husbands were designated as the arresting officers overseeing the mass processing and issuance of summonses at Central Booking.

In their CCRB interviews, Police Officer Negron and Police Officer Husbands both stated that they responded to the scene in a back-up capacity and effected no arrests themselves (Board Review 04, 06). Both officers also stated that they were individually instructed, each by a different supervisor

they could not identify, to secure the prisoners in the transport bus, to facilitate their removal to Brooklyn Central Bookings, and to process summons and release the arrested. As a result, Police Officer Negron happened to issue eight summonses that night, including § 87(2)(b) s, even though he was not involved in their apprehension or detention. Neither Police Officer Negron nor Police Officer Husbands observed § 87(2)(b) s arrest or identify the officers who actually arrested § 87(2)(b) or the supervisors who instructed them to issue summonses to him and the other arrested individuals.

Concurrent Investigations

To the CCRB’s knowledge, the NYPD did not conduct any concurrent investigations into § 87(2)(b) s allegations.

Ranking Officers

Deputy Inspector Timothy Skretch was interviewed on September 8, 2020. Deputy Chief Maddrey was interviewed on February 10, 2021. Deputy Inspector Glynn was interviewed on March 23, 2021. Deputy Chief McEvoy was interviewed on August 12, 2021.

The above-noted high-ranking officers were interviewed about the allegations specific to this case and each of the related cases, as well as about broader issues concerning the command structure, operational dynamics, and tactical measures in effect at the incident location, before, during, and after the arrests. In substance, the officers all denied witnessing or participating in any use of force during the arrests, though each of them was present at the scene for some period of time. None of the officers recognized § 87(2)(b) by name or photograph, and did not recall interacting with him in any manner on the night of the incident. Deputy Chief McEvoy (who has since retired from the NYPD) identified himself as the commanding officer in charge at the scene; he further stated that he alone issued the order to his officers – including those at or around the line at the intersection – to begin arresting any protestors who were not complying with the Curfew order. Deputy Chief McEvoy was unable to identify who he verbalized this command to, or how it was then communicated to other officers. Neither he nor any of the other ranking personnel were able to name or describe or characterize any of the arresting officers.

Allegation Recitation and Disposition

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Abuse of Authority: Police Officer Luis Negron did not obtain medical treatment for § 87(2)(b)

It is undisputed that Police Officer Negron was § 87(2)(b) s assigned arresting officer and rode with him to Central Booking, and that at some point § 87(2)(b) informed him that he had a broken finger and needed medical attention. In dispute is whether Police Officer Negron became

aware of § 87(2)(b)'s injury and need for medical attention at the beginning of their acquaintanceship, in the transport to Central Booking, or at the end, several hours later, when Police Officer Negron was releasing him from Central Booking with a summons.

§ 87(2)(b) stated that he first began to feel pain in his right hand shortly before boarding the prisoner bus. During the ride to Central Booking, § 87(2)(b) got the attention of an escorting officer in his vicinity, identified by the investigation as Police Officer Negron. § 87(2)(b) informed Police Officer Negron that he required medical attention and told him that his hand was broken. Police Officer Negron though said something about “seeing a doctor” at Central Bookings, without taking any further action. Even after he was lodged in a cell, Police Officer Negron never followed up with § 87(2)(b) and ultimately never obtained any medical attention for him.

Once released, § 87(2)(b) immediately took a cab to § 87(2)(b), where, as per his medical records, he was X-rayed at approximately 3:53 AM and diagnosed with “a fracture... through his fifth digit with soft tissue swelling.” (Board Review 39) § 87(2)(b) also sustained bruising to his back, knees, and arms, and abrasions to his face and neck.

§ 87(2)(b) was transported to Central Bookings in the same bus as § 87(2)(b) § 87(2)(b) was seated near § 87(2)(b) and specifically recognized § 87(2)(b) whom he did not personally know, as the individual he had seen getting tackled to the ground earlier. § 87(2)(b) stated that § 87(2)(b) repeatedly asked the escorting officer in the bus, Police Officer Negron, for medical attention, stating that his finger was broken.

Police Officer Negron stated that, inside the bus, he counted approximately 24 handcuffed individuals. Police Officer Negron, Police Officer Husbands and two other officers— he did not know or recognize them – joined him. Soon thereafter, a Captain he did not know stopped by and instructed the officers to transport the individuals to Brooklyn Central Booking and issue curfew violation summons to each of them.

When presented with a photograph of § 87(2)(b) Police Officer Negron acknowledged that he was one of the prisoners he summonsed on June 4. Police Officer Negron recalled nothing notable about § 87(2)(b)'s appearance or demeanor and initially said he did not recall him complaining about injuries or requesting medical attention. Police Officer Negron stated that he did not hear § 87(2)(b) do so during the bus ride and denied engaging with him during transport. However, Police Officer Negron went on to state that § 87(2)(b) eventually did inform him – as he was being released and being issued the summons – that he required medical attention because his finger was broken. This was the first time he had raised the complaint in his presence. Police Officer Negron asked § 87(2)(b) if he wanted to be taken to a hospital or if he wished to do so independently upon his release. § 87(2)(b) answered that he wished to go on his own.

Per NYPD Patrol Guide Procedure 210-04, when a prisoner requires or requests medical aid, the officer must request an ambulance and remove the prisoner to a hospital directly from place of arrest (Board Review 40).

§ 87(2)(g)
[REDACTED]

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tahreem Khan	Team: Squad #11	CCRB Case #: 202004110	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/03/2020 8:30 PM	Location of Incident: Tillary Street and Cadman Plaza West	Precinct: 84	18 Mo. SOL 12/3/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/08/2020 4:50 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 06/08/2020 4:50 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Evgeny Kramar	5881	968548	094 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Evgeny Kramar	Abuse: Police Officer Evgeny Kramar refused to provide his shield number to § 87(2)(b)	
B.POM Evgeny Kramar	Abuse: Police Officer Evgeny Kramar refused to provide his shield number to an individual.	
C.POM Evgeny Kramar	Abuse: Police Officer Evgeny Kramar obstructed his shield number.	

Case Summary

On June 8, 2020, § 87(2)(b) filed this complaint online with the CCRB.

On June 3, 2020 at approximately 8:30 p.m., § 87(2)(b) was participating in a protest which reached the intersection of Tillary Street and Cadman Plaza West in Brooklyn, where § 87(2)(b) met an unidentified female whom he did not know. Both § 87(2)(b) and the unidentified female interacted with Police Officer Evgeny Kramar, of the 94th Precinct. PO Kramar allegedly refused to provide his shield number to § 87(2)(b) and the individual (**Allegation A: Abuse of Authority – § 87(2)(g)**; **Allegation B: Abuse of Authority – § 87(2)(g)**). Additionally, PO Kramar obstructed his shield number with a mourning band (**Allegation C: Abuse of Authority – § 87(2)(g)**).

§ 87(2)(b) was neither arrested nor was he issued a summons as a result of this incident.

PO Kramar's Body-Worn Camera footage, sent by the New York City Police Department, was obtained on June 30, 2020. The footage will be discussed in further detail below.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Evgeny Kramar refused to provide his shield number to § 87(2)(b)

Allegation (B) Abuse of Authority: Police Officer Evgeny Kramar refused to provide his shield number to § 87(2)(b)

Allegation (C) Abuse of Authority: Police Officer Evgeny Kramar obstructed his shield number.

The investigation established the following facts:

On June 3, 2020 at approximately 8:30 p.m. in the vicinity of Tillary Street and Cadman Plaza West in Brooklyn, § 87(2)(b) was marching with other protesters and was met with a line of police officers. The remaining details of this incident are in dispute.

PO Evgeny Kramar's BWC video, located in IA #37 (Board Review 4). At the 14:12 timestamp, § 87(2)(b) appears on the video as he stands in front of PO Kramar and takes pictures of PO Kramar. At 14:26, § 87(2)(b) shifts his body and appears to be speaking to someone standing to the right of PO Kramar. § 87(2)(b) points at PO Kramar and states, "he's covering his badge number" and then points at the officer standing to the right of PO Kramar and states, "you're not covering your badge number." As § 87(2)(b) is standing there, the crowd behind him appears to disperse and the background noise is not as prominent as it was towards the beginning and middle of the video. At 14:33, § 87(2)(b) and § 87(2)(b)—a White female, possibly with blonde hair, who appears to be the same height as § 87(2)(b)—stand next to each other. § 87(2)(b) points at PO Kramar and states to the individual, "His badge number is covered. A lot of your badge numbers are covered." At 14:34, the individual then comes very close to the left of PO Kramar's BWC, and then goes back to stand next to § 87(2)(b) who is standing directly in front of PO Kramar. Both § 87(2)(b) and the individual state something, which is not clearly audible. At the 15:01 mark, an unknown male officer states something along the lines of "You going to move," or "You got to move" to § 87(2)(b) and the female individual. The individual then steps forward so she is standing closer to and in front of PO Kramar. The individual positioned her body to speak to the unknown officer, who appeared to have been standing to the right of PO Kramar. She told the unknown officer that she was looking at his colleague's badge number. The unknown officer said something that could not be fully understood over the video, but sounded like the unknown officer was stating, "You are not supposed to be this close" and that "You are not supposed to be out here." At 15:10, as she stood in front of PO Kramar, the individual faced possibly the same officer who stood to the right of PO Kramar pointed

at PO Kramar's BWC, and stated, "I am asking for your colleague's badge number." She then said that she was hard of hearing and asked the officer to speak up. The female civilian then told the unidentified officer that she felt he was not responding to what she was saying. At 15:32, the § 87(2)(b) and the unidentified female walked away. The interaction lasted about a minute and 20 seconds from the point where § 87(2)(b) appeared to take pictures, to the point where he and the individual left.

§ 87(2)(b) (Board Review 1) stated that when he was marching North on Cadman Plaza West with other unknown individuals, he saw approximately 50 to 100 officers who formed a line, standing arm to arm, to prevent the marchers from moving forward. Behind those officers stood an additional 50 officers. Many of the officers had black bands covering their shield numbers. § 87(2)(b) was positioned in front of PO Kramar, who also had a one-inch wide opaque elastic black band covering his shield number.

§ 87(2)(b) asked PO Kramar to uncover his shield and PO Kramar did not do anything in response. § 87(2)(b) then asked PO Kramar what his shield number was, to which PO Kramar did not respond. Although § 87(2)(b) was not able to see PO Kramar's shield number, § 87(2)(b) was able to see his nameplate, which stated "Kramar." § 87(2)(b) took a picture (Board Review 2) of PO Kramar, which displayed PO Kramar's last name and his covered shield number.

In a follow up call after his interview, § 87(2)(b) clarified that although he had attended the protest alone, he had interacted with a White female who possibly had blonde hair, was in her late 20's, appeared to be the same height as § 87(2)(b) —about 5'5" or 5'6" tall, and she held a cell phone in her hand. § 87(2)(b) did not know this individual's name or have any contact information for her. During their interaction, she was also asking why PO Kramar's shield number was covered. That is all § 87(2)(b) recalled about his interaction involving the individual.

PO Kramar (Board Review 3) testified that he was directed by an unknown supervisor to "hold the line" at the intersection to ensure that the protesters do not pass the line and go onto the road. PO Kramar saw a crowd of approximately 200 to 300 people approaching the line where he was. The protesters were yelling, screaming, and threatening the officers. PO Kramar did not hear any individuals in the crowd ask him any identifying information as there was a lot of noise from the crowd as they were shouting, the police vehicle sirens were also going off in the background, there were correspondences over the radios of multiple officers, and officers were trying to speak to each other during this time too. PO Kramar stated that he was wearing a helmet that blocked his ears, reducing the sounds that he was able to hear.

PO Kramar was not familiar with who § 87(2)(b) is, nor did he recall interacting with someone fitting § 87(2)(b)'s physical description as there were a lot of people who were moving around. PO Kramar did not have any direct interactions with any civilians. He did review his BWC the day before the first time he was called to the CCRB for this case [July 7, 2020] because he did not know what the incident was about. When PO Kramar reviewed his BWC prior to his CCRB interview, PO Kramar observed individuals make statements along the lines of, "show your badges" or "show your numbers," but PO Kramar did not hear or see any statements directed at him as there were also other officers present. PO Kramar recalled from his BWC that there was a woman talking to an officer regarding a badge number. An officer responded to her, but the woman stated that she could not hear the officer. The officer then repeated the statement and the woman once again stated that she could not hear. The woman then walked away. PO Kramar stated that neither the officers nor the civilians could hear each other because of the noise.

PO Kramar initially stated that on the date of the incident, his shield was visible, but he was unsure if his shield number became covered. PO Kramar also wore a helmet that had his current shield number written on it. PO Kramar did not recall if he wore a mourning band, though someone previously showed a photograph of himself that was published by Fox News from June 3, 2020, which showed that he was wearing a mourning band. PO Kramar did not recall any civilians informing him that his shield number was covered. Typically, when PO Kramar wore his mourning

band on his shield, he wore it above his shield number to ensure that his shield number is visible.

PO Kramar was presented with the photograph located in IA 27, which was taken by § 87(2)(b) on his cell phone. PO Kramar recognized himself in the photograph and confirmed that he was wearing a mourning band in it. PO Kramar stated that it appeared that his mourning band slid down a little, covering his shield number. At the time of the photograph was taken, PO Kramar was not aware that his mourning band had slid down, obscuring his shield number, nor did he intentionally move his mourning band to cover his shield number. PO Kramar did not recall seeing his mourning band covering his shield number at all on this day.

Officers should clearly state their name, rank, shield number and command to anyone who requests it. NYPD Patrol Guide Procedure 203-09 (Board Review 5). Upon the death of a member, officers may wear a black elastic mourning band that is 0.5 inches wide on their shield, covering the seal of the city, but leaving their shield number, rank, or designation visible. NYPD Patrol Guide Procedure 204-17 (Board Review 8).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
 - [REDACTED]
 - [REDACTED]
- PO Kramar has been a member of service for under one year and has not been a subject in any previous CCRB complaints.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of August 21, 2020, the Office of the New York City Comptroller does not have any records of a Notice of Claim being filed regarding this incident (Board Review 7).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have any prior convictions in New York State (Board Review 9).

Squad No.: 11

Investigator: Tahreem Khan Inv. Tahreem Khan November 18, 2020
Signature Print Title & Name Date

Squad Leader: Edwin Pena IM Edwin Pena 11/18/20
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

Officer(s)	Allegation	Investigator Recommendation
J.SGT Kenneth Rice	Abuse: Sergeant Kenneth Rice detained § 87(2)(b)	[REDACTED]
K.SGT Kenneth Rice	Abuse: Sergeant Kenneth Rice detained § 87(2)(b)	[REDACTED]
L.SGT Kenneth Rice	Abuse: Sergeant Kenneth Rice detained § 87(2)(b)	[REDACTED]

Case Summary

On June 8, 2020, § 87(2)(b) § 87(2)(b) filed this complaint with the CCRB via the CCRB website about the detainment of Legal Observers (LO's) from the National Lawyers Guild (NLG) at a protest against police brutality on June 4, 2020 (**01 Board Review**). § 87(2)(b) is a reporting non-witness. On June 16, 2020, the CCRB found a letter on the Twitter account of lawyer § 87(2)(b) § 87(2)(b), condemning the targeting and detention of LO's during the June 4, 2020 protest in the Mott Haven neighborhood of the Bronx (**06 Board Review**). On June 17, 2020, CCRB contacted § 87(2)(b) to proceed with this case. On June 19, 2020, § 87(2)(b) communicated to the CCRB via email that he and attorneys § 87(2)(b) and § 87(2)(b) were representing thirteen legal observers who had been detained during the June 4, 2020, protest: § 87(2)(b) § 87(2)(b) and § 87(2)(b).

On June 4, 2020, at approximately 8:00 PM, Sergeant Kenneth Rice of the NYPD Legal Bureau detained § 87(2)(b) § 87(2)(b) and § 87(2)(b) in the vicinity of East 136 Street, between Brook Avenue and Brown Place in the Bronx (**Allegation A-L- Abuse of Authority: § 87(2)(g)**).

This case was originally assigned to Supervising Investigator Mac Muir and was reassigned to Supervising Investigator Tessa Yesselman.

This case was marked sensitive due to media coverage (**03 Board Review-06 Board Review**).

None of the above listed legal observers were arrested or issued summonses.

The CCRB received body worn camera footage (**08 Board Review**) and a video prepared by the Human Rights Watch of this incident (**38 Board Review**).

Findings and Recommendations

- Allegation (A) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (B) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (C) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (D) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (E) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (F) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (G) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (H) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (I) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (J) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (K) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)
- Allegation (L) Abuse of Authority: Sergeant Kenneth Rice detained** § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) provided written testimony to the CCRB detailing their experience on June 4, 2020 (**Board Review 09-Board Review 20**).

§ 87(2)(b) and § 87(2)(b) provided statements to the CCRB (22 Board Review-30 Board Review). § 87(2)(g) § 87(2)(b) and § 87(2)(b) declined to provide statements to the CCRB.

On June 4, 2020, § 87(2)(b) (23 Board Review), § 87(2)(b) (22 Board Review), § 87(2)(b) (20 Board Review), § 87(2)(b) (27 Board Review), § 87(2)(b) (30 Board Review), § 87(2)(b) (32 Board Review), § 87(2)(b) (26 Board Review), § 87(2)(b) (31 Board Review), § 87(2)(b) (29 Board Review), § 87(2)(b) (25 Board Review), § 87(2)(b) (24 Board Review), § 87(2)(b) and § 87(2)(b) arrived at “The Hub,” a major commercial center located in the area of East 149th Street and 3rd Avenue. The group traveled to the area in anticipation of a protest against police brutality and were going to the protest to serve as legal observers (LO’s) with the National Lawyers Guild (NLG). The general responsibilities of LO’s are to observe protests and to collect the names and other identifying information of people arrested at the protest so that the NLG could provide jail support after the protest. All of the LO’s were wearing lanyards around their neck from the NLG that said they were legal observers and listed the date they had completed the legal observer training. All of the LO’s carried a written attestation of essential services from the NLG that stated LO’s were exempted workers under the order directing the terms of the curfew (33 Board Review). Lastly, all of the LO’s except for § 87(2)(b) were wearing neon green hats from the NLG.

At approximately 7:20 PM, protesters began to march on 3rd Avenue. The LO’s split into pairs and dispersed themselves among the crowd of protesters so that they could observe the march as it moved. On June 4, 2020, a citywide curfew was in effect from 8:00 PM through 5:00 AM. As it neared 8:00 PM, the protesters turned on to East 136th Street. The LO’s observed that the police presence was growing larger and that a group of police officers wearing armor and riot gear had formed a line ahead of the group so that protesters could not pass by them, and that another line of officers was forming at the rear of the group, effectively blocking the protesters in between the two lines of officers. At or around 8:00 PM, an automated message began playing stating that the curfew started at 8:00 PM and anyone who remained in the area would be in violation of the curfew. Almost simultaneously, the two lines of police officers started to walk towards each other, closing in on the protesters, and the police started making large scale arrests. § 87(2)(b) was placed in zip ties and taken into custody as soon as the arrests began. The rest of the LO’s set out to attempt to gather identifying information from as many people as possible who were in custody and, except for § 87(2)(b) were incrementally detained. Multiple LO’s attempted to explain to the officers detaining them that they were exempt from the curfew and tried to show the officers the written attestation. None of the officers were responsive to these efforts.

AC Lehr (37 Board Review) stated that prior to responding to The Hub, he attended a muster meeting at the 40th Precinct station house. Also present at the meeting was Chief of Department Terence Monahan, SRG Chiefs Harry Wedin and John Dadamo, Inspector Gerard Dowling from SRG, Deputy Inspector Robert Gallitelli from the 40th Pct and his commanding officer Captain Isaac Soberal, Transit Chief Ed Delatorre, commanding officer from PSA 7 Deputy Inspector John Potkay, SRG Bikes captain Dave Miller, Chief Jesus Pintos from PBBX, Sgt. Kenneth Rice from NYPD Legal, Inspector Robert Rios from NYPD Intelligence, and various personnel from TARU. During the meeting, there was discussion about the 8:00 PM curfew, and discussion about how a reminder about the curfew would be made via Loud Range Acoustic Device (LRAD). There was discussion about essential workers, because of the finest message that exempted essential workers from the curfew. AC Lehr considered essential workers to be city, state, and federal employees, medical workers, and grocery store personnel. On duty EMT’s would be exempt from the curfew

and would be allowed to render aid past the curfew. There was no discussion about legal observers and no discussion about potential arrests of legal observers or what to do if a legal observer was arrested and it was AC Lehr's belief that legal observers were not exempt from the curfew. The CCRB showed AC Lehr a document from the National Lawyers Guild called an Attestation of Essential Services (**33 Board Review**) and he stated that he had never seen the document before, including on location at the protest on June 4, 2020.

In the minutes leading up to 8:00 PM, the LRAD played a message advising protesters of the curfew and telling them to leave the area. The sidewalks were open to the protestors and, prior to 8:00 PM, they were not kept from leaving. At approximately 8:00 PM, AC Lehr was standing at East 136th Street between Brown and Brook Avenue and he made the decision that arrests should start. AC Lehr made this decision after considering the following: the violent history of the groups organizing the protest (FTP and Decolonize This Place); arrests were made prior to the protest of people intending to come to the protest with a gun, accelerant, and hammers; protest organizers had refused a dialogue with the police department prior to the protest; the event organizers openly advertised against the curfew; protestors held signs that said "F" the curfew; protestors yelled "F" the curfew; the LRAD warnings did not have the desired effect; and he was a mile away from The Hub which he was charged with protecting. AC Lehr was standing with Sgt. Rice, Chief Dadamo and Ins. Jerry Dowling from SRG when he made this decision. Sgt. Rice told AC Lehr that he had standing to start arrests. AC Lehr did not recall having any conversation with Sgt. Rice about arresting legal observers at this time.

Sgt. Rice (**36 Board Review**) stated that on the day of the protest, he was working as a police department attorney for the NYPD Legal Bureau. Sgt. Rice was tasked with providing legal advice to executive level officers and rank and file police officers. Sgt. Rice provided advice about any legal issue which arose during the protest and was not assigned to give advice about any one particular topic. Sgt. Rice's role was both proactive and reactive, in that prior to responding to the protest he spoke with executives, and at the protest he dispensed legal advice in real time. Because Sgt. Rice was acting as an attorney during this protest, his conversations with officers are protected under attorney-client privilege. Prior to going to the protest, Sgt. Rice met with high ranking officers at the 40th Precinct stationhouse. Sgt. Rice declined to say what was discussed and what, if any, advice he dispensed during this meeting because of the aforementioned attorney-client privilege. Sgt. Rice declined to say whether there was conversation about the possibility of effecting mass arrests at the protest, and if large scale arrests were made, what tactics would be used to affect them. Sgt. Rice declined to say whether there was any conversation about mass arrests regarding anticipated curfew violation because of attorney-client privilege.

On June 4, 2020, the mayor and the New York State Empire Development Corporation enacted a curfew which began at 8:00 PM and concluded at 5:00 AM. It was therefore the police departments legal position that the curfew came into effect at 8:00 PM and lasted until 5:00 AM, and that during these hours everyone who was on the street or otherwise in public that was not part of an exempted category would be in violation of the curfew. Exempted parties included essential workers, NYPD officers, FDNY employees, and EMT's. Sgt. Rice did not know every classification of person exempted from the curfew and stated that the executive order issued by the mayor listed all of them. Legal observers were not one of the groups exempt from the curfew. Sgt. Rice is familiar with legal observers and the National Lawyers Guild. Lawyers were also not exempt from curfew and had been advised to continue to offer their services remotely. Sgt. Rice was shown a document (**33 Board Review**) titled "Attestation of Essential Services." Sgt. Rice had not previously seen the document and did not know if legal observers were equipped with the document on June 4, 2020.

When Sgt. Rice initially arrived at the protest, he considered it to be a legal assembly because people are permitted to gather in public spaces. Once the protesters left The Hub, they began walking towards a NYCHA complex and people began to walk in the street. Sgt. Rice stopped thinking of the assembly as legal when protesters began walking in the street because the protesters were blocking vehicular traffic. Sgt. Rice did not know why officers did not arrest protesters when they began to walk in the street because he does not make operational decisions, he only advises officers about what they can do. Sgt. Rice declined to say if he participated in any conversation at this time about making mass arrests of protesters walking in the street because of attorney-client privilege. Sgt. Rice walked at the rear of the group of protesters. Beyond seeing protesters walking in the street, Sgt. Rice did not observe any other infractions as the group progressed from The Hub towards Brook Avenue.

The NYPD started making arrests just after 8:00 PM, when the curfew started. Sgt. Rice could not speak to the charges of the hundreds of people who were arrested, but once the department started making the arrests at the least, everyone was in violation of the curfew and walking in the street. Sgt. Rice remained at the rear of the group of protesters once the group reached the area of East 136th Street and Brook Avenue. Sgt. Rice was shown a video (**38 Board Review**) made by the Human Rights Watch entitled “US: New York Police Planned Assault on Bronx Protesters.” Sgt. Rice recognized himself as the officer pictured at the 6:21 mark. At this point of the protest, protesters were being arrested for curfew violation. At 6:48, Sgt. Rice recognized himself as the officer approving the arrest of “green hats,” in reference to legal observers. Sgt. Rice stated that at this point, he had observed officers attempting to bring a legal observer into custody and thought that the officers looked unsure of themselves, which made him think that the officers were unsure as to if they could arrest the legal observers. The officers were interacting with the legal observer near a parked car. Sgt. Rice did not know what lead up to the interaction and did not know who the officers were. After observing the interaction, Sgt. Rice said that legal observers could be arrested. Sgt. Rice explained that he did not issue a command that legal observers be arrested, but instead simply said that arresting them was permissible. As seen in the video, Sgt. Rice made this announcement loudly and to the group at large, and not towards a specific legal observer or police officer.

Chief Monahan (**35 Board Review**) stated that at some point during the morning on June 4, 2020, the NYPD’s Intelligence (Intel) division internally distributed copies of flyers detailing the events planned to take place in Mott Haven that same evening. These flyers said, “Come out tonight to the Mott Haven neighborhood” with flame images and were generated by a group called “F12,” which stands for “Fuck the Police.” Chief Monahan was in touch with AC Lehr throughout the day because AC Lehr was the commanding officer in the Bronx. At some point on the afternoon of June 4, 2020, AC Lehr supervised a planning meeting at the 40th Precinct stationhouse, which Chief Monahan did not attend. Later that afternoon, Chief Monahan met with AC Lehr at the 40th Precinct stationhouse, and AC Lehr told Chief Monahan what his plans were for that evening, how many personnel he had, and that the situation was fluid because it was unknown how large the protest group would be. Chief Monahan was not involved in any decision-making regarding any pre-planned force to be used against the Mott Haven protestors, including “compressing” or “packing” the protestors using physical force.

Chief Monahan stated that he was familiar with legal observers and the National Lawyers Guild. The NYPD Legal Bureau did not classify legal observers as essential workers under the Mayor’s curfew. Chief Monahan was not aware of any conversation between the Mayor’s Office and the NLG before the Mott Haven protest. Chief Monahan was not aware of a legal attestation that stated legal observers were exempted from the curfew. Chief Monahan did not believe that legal observers

are allowed to cross police lines, but believed that legal observers are allowed to take notes and gather the names of civilians who are detained and arrested.

Between 8:15 p.m. and 8:30 p.m., Chief Monahan arrived at East 135th Street and Brook Avenue in the Bronx to respond to a radio transmission that NYPD officers had “stopped” the protest group in that location. Chief Monahan did not know why the group was stopped in that area, and did not instruct any officer to stop the group in that area. Chief Monahan was not aware of any strategic or tactical reason why NYPD officers would have stopped the protest in that area. Protestors were already being placed into custody when he arrived. Chief Monahan was approached by a member of the Legal Aid Society to bring to his attention that multiple legal observers—who were identifiable by their green hats—were handcuffed. Chief Monahan stated that he never ordered the arrest of legal observers. Chief Monahan’s understanding was that a Lieutenant from the NYPD Legal Bureau was the one who decided to arrest the legal observers. The investigation determined that the lieutenant referenced by Chief Monahan was Sgt. Rice. Chief Monahan was asked if he knew who Sgt. Rice was and responded that he did not. Chief Monahan stated that Sgt. Rice made the decision to arrest the legal observers because they were not considered essential workers under the curfew. Chief Monahan did not know if the legal observers were brought into police custody for any other reason besides violating the curfew.

At approximately 9:00 p.m., in the vicinity of East 136th Street and Brook Avenue in the Bronx, Chief Monahan told PO1, a Lieutenant on scene, that the handcuffed legal observers were to be released. A member of the NLG told Chief Monahan that not all the NLG legal observers on scene were wearing green hats, as they had run out of the green hats to distribute to the legal observers. Chief Monahan told the NLG member to identify to the Lieutenant which members of the handcuffed group were legal observers without green hats, and after doing so the remaining legal observers were released. Chief Monahan explained that he made the decision to release the legal observers based on his discretion and experience at past protests.

Assistant Deputy Commissioner of Legal Matters (ADCLM) Oleg Chernyavsky is a civilian member of the NYPD (**45 Board Review**). He has the equivalent rank of a two-star chief. In his role he supervises the NYPD criminal attorneys, including Sgt. Rice. ADCLM Chernyavsky stated that prior to June 4, 2020, there was a conversation within Legal Affairs about who was exempt from the curfew and who was not. ADCLM Chernyavsky did not recall the date of this conversation. ADCLM Chernyavsky was the ranking executive at the conversation. Also present were lawyers from the criminal unit because they are the personnel deployed to the events. ADCLM Chernyavsky did not recall if Sgt. Rice was present. The conversation was not specifically about legal observers, but legal observers were discussed. The conversation about legal observers was that they were not exempt from enforcement about the curfew.

The executive order putting the curfew in place exempted certain categories of people from enforcement. The exempted groups were primarily determined via guidance from the Empire State Development Corporation (ESDC) guidelines. The ESDC guidelines were put forth in April 2020 and were amended several times to determine what were essential businesses and who were essential workers. ESDC is a state entity and then Governor Cuomo used them to operationalize his statewide executive orders. The NYPD’s approach to enforcing the curfew was shaped by the ESDC guidelines and the enforcement was dictated by who was considered exempt, with the understanding that enforcement could not be taken against people who were exempt. The ESDC guidance on exempt groups down into categories, including: healthcare, operations, infrastructure, manufacturing, retail, services, news media, financial institutions, professional services, and a host of other categories within each of those groups. “Professional services” in the guidance included legal services. The guidance says that lawyers were to work remotely and that any in person work

should be limited to in support of essential businesses and services. ADCLM Chernyavsky stated that protests aren't essential businesses or services. Not all legal observers are attorneys. If any of the legal observers at the event were attorneys, they met the first prong of eligibility, but were not there in support of essential businesses or services, so they did not meet the second prong for exemption. If a legal observer was not an attorney, they did not meet the first step of exemption eligibility.

ADCLM Chernyavsky did not recall if Sgt. Rice was present during the conversation. If Sgt. Rice was not present, he would have received this guidance via word of mouth. ADCLM Chernyavsky knew that Sgt. Rice received the information because he gave the correct advice at the June 4, 2020 protest, by advising that legal observers could be taken into custody. ADCLM Chernyavsky did not recall having any conversation with Sgt. Rice while Sgt. Rice was at the protest.

Prior to the June 4, 2020 protest, ADCLM Chernyavsky was not aware of communication from staff at the mayor's office saying that legal observers were exempt from the curfew. ADCLM Chernyavsky learned about the communication in the following days after the protest. ADCLM Chernyavsky stated that if he had been aware of the communication prior to the protest it would not have impacted his stance that legal observers were not exempt because it did not alter the guidance from ESDC. ADCLM Chernyavsky referenced EO 202.19, which was released by then Governor Cuomo on March 7, 2020, and prohibited local governments and departments of health from changing the guidance. If ADCLM Chernyavsky knew about the communication from the mayors office it could have impacted discretion, but it is ADCLM Chernyavsky's understanding that discretion was ultimately used at the scene because the legal observers were released.

On April 17, 2021, Governor Andrew Cuomo signed Executive Order 202-19 (**46 Board Review**), which says: "No local government or local department of health shall take any actions that could affect public health without consulting with the state department of health. No local government shall take any action that could impede or conflict with any government actions, or state actions, with respect to managing the COVID-19 public health emergency."

On June 1, 2020, Mayor DeBlasio instituted an 8:00 PM to 5:00 AM curfew (**44 Board Review**), with the following parties exempt: "police officers, peace officers, firefighters, first responders, emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies."

On January 14, 2021, Attorney General of the State of New York Letitia James filed a lawsuit regarding the use of "brutal force and a pattern of false arrests stemming from peaceful protests since May 2020" against the City of New York, Mayor Bill de Blasio, Police Commissioner Dermot Shea, and Chief of Department Terence Monahan (**34 Board Review**). The suit defines legal observers as legal workers, law students, and lawyers trained by non-profit organizations to observe and document police responses to protests. The lawsuit also details how Mayor de Blasio's curfew orders exempted legal observers. On June 1, 2020, the Chief of Staff for Assemblyman Dan Quart, Amanda Wallwin, emailed the Chief of Staff for the Mayor's Office of State Legislative Affairs, Jenny Sobelman, to ask if there were plans to exempt legal observers from the curfew. On June 1, 2020, Ms. Sobelman responded to Ms. Wallwin's email and wrote that legal observers were to be exempt from the curfew. Persephone Tan, employed by the Mayor's Office of City Legislative Affairs, affirmed Ms. Sobelman's assertion that legal observers were exempt from the curfew, writing that legal observers were "as essential as it gets."

The CCRB obtained the above-mentioned emails by Ms. Wallwin, Ms. Sobelman, and Ms. Tan (**33 Board Review**). The CCRB also obtained a copy of the written attestation of Essential Services from the National Lawyers Guild that the legal observers were equipped with during the protest (**33 Board Review**). The attestation states: The Chief of Staff of Mayor De Blasio, Office of State Legislative Affairs, has confirmed in writing to the Chief of Staff of Assembly Member Dan Quart that volunteers providing ‘jail, legal, and medical support,’ including both lawyers and non-lawyers providing legal support to clients who have been arrested in connection with a protest, are exempted workers under the order directing the terms of the curfew.”

§ 87(2)(g) [REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
- Sgt. Rice has been a member of service for nine years and has been a subject in one previous case with one allegation and no substantiations. § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- According to the Office of Court Administration (OCA), none of the civilians in this case have a history of criminal convictions in New York City (**39 Board Review**).
- On September 2, 2020, attorneys § 87(2)(b) and § 87(2)(b) filed notices of claim on behalf of § 87(2)(b) and § 87(2)(b). The claims allege: “the following damages, among others: Compensatory damages for past and/or future emotional and/or physical pain and suffering; compensatory damages for unlawful physical restraint and imprisonment; compensatory damages for violation(s) of Claimant’s constitutional rights; compensatory damages for other economic damages; diverse general and special damages; and punitive damages, all in amounts to be determined by a jury. The claimants also demand that the City of New York, the NYPD, and their employees, agents, and representatives take immediate steps to preserve all documents, electronically stored information (including but not limited to all video footage and audio recordings relevant to

the claim, and all metadata associated therewith), and tangible things relevant to the claims or defenses relating to this matter... In the "Total Amount Claimed" field below, it says \$0.00. Claimant's damages are not zero, but the complaints clarify that the field in the automated would not permit an entry stating that the Claimant's damages will be determined by a jury (**43 Board Review**)."

Squad No.: 4

Investigator:	<u>Tessa Yesselman</u> Signature	<u>SI Tessa Yesselman</u> Print Title & Name	<u>12/03/2021</u> Date
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Squad Leader:	<u>Raquel Velasquez</u> Signature	<u>IM Raquel Velasquez</u> Print Title & Name	<u>12/03/2021</u> Date
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Reviewer:	Signature	Print Title & Name	Date
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CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Trevor Hackett	Team: Squad #13	CCRB Case #: 202004179	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 9:10 PM	Location of Incident: Vicinity of Dekalb Avenue and Classon Avenue	Precinct: 88	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/10/2020 7:55 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/10/2020 7:55 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. CPT Ryon Malcolm	00000	925654	088 PCT
4. CCA Jeffrey Maddrey	00000	899501	PBBN

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. COD Terence Monahan	00000	876747	CD OFF

Officer(s)	Allegation	Investigator Recommendation
A.CPT Ryon Malcolm	Force: Captain Ryon Malcolm authorized the use of physical force against individuals.	
B.CCA Jeffrey Maddrey	Force: Chief Jeffrey Maddrey participated in the use of force against individuals.	
C.CCA Jeffrey Maddrey	Force: Chief Jeffrey Maddrey authorized the use of nightsticks/asps/batons against individuals.	
D.CCA Jeffrey Maddrey	Force: Chief Jeffrey Maddrey authorized the use of police shields against individuals.	
E. Officers	Force: Officers used physical force against Individuals.	
F. Officers	Force: Officers used physical force against individuals.	
G. An officer	Force: An officer used physical force against § 87(2)(b)	
H. An officer	Force: An officer struck § 87(2)(b) with a baton.	
I. Officers	Force: Officers struck individuals with batons.	
J. Officers	Force: Officers struck § 87(2)(b) with riot shields.	
K. Officers	Force: Officers struck § 87(2)(b) with riot shields.	
L. Officers	Force: Officers struck individuals with riot shields.	
M. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
N. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) [REDACTED]	[REDACTED]
O. An officer	Discourtesy: An officer spoke discourteously to individuals.	[REDACTED]

Case Summary

On June 10, 2020, § 87(2)(b) filed this complaint via the CCRB website on behalf of herself, her friend, § 87(2)(b) and unidentified individuals.

On May 29, 2020, at approximately 9:10 p.m., § 87(2)(b) and § 87(2)(b) were attending a Black Lives Matter march with several hundred other protesters, headed eastbound on Dekalb Avenue towards Classon Avenue in Brooklyn. When the protestors, who were marching in the street, reached the 88th Precinct stationhouse, Captain Ryon Malcom of the 88th Precinct authorized officers to push the crowd onto the sidewalk (**Allegation A – Force**, § 87(2)(g)). Shortly afterwards, Chief Jeffrey Maddrey of Patrol Borough Brooklyn North ordered a line of unidentified officers to push the crowd westbound on Dekalb Avenue (**Allegations B, C, and D – Force**, § 87(2)(g)) (**Allegation E – Force**, § 87(2)(g)). § 87(2)(b) observed officers wrestling with protesters in the street (**Allegation F – Force**, § 87(2)(g)). An unidentified officer, PO1, pushed § 87(2)(b) who fell back into § 87(2)(b) which caused them both to fall to the ground (**Allegation G – Force**, § 87(2)(g)). § 87(2)(b) stood up and began walking away when another unidentified officer, PO2, pushed her in the back with his baton twice in quick succession, first hitting her right arm and then hitting her left hand, which resulted in a fractured left index finger (**Allegation H – Force**, § 87(2)(g)). § 87(2)(b) saw multiple other unidentified officers strike unidentified protesters with their batons (**Allegation I - Force**, § 87(2)(g)). As § 87(2)(b) and multiple other unidentified protestors attempted to leave the protest, a group of unidentified officers, including PO3, used riot shields to push them against a fence (**Allegation J, K, and L – Force**, § 87(2)(g)) and an officer, PO3, told them to “Get the fuck out of here” (**Allegation M, N, and O - Discourtesy**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were not arrested or summonsed.

Several body-worn camera (“BWC”) videos of this protest were obtained from NYPD Legal in response to requests stemming from this case and five other CCRB cases stemming from this protest (**Board Review 1-37**). TARU footage was obtained but did not contain footage of the interactions involved in this case (**Board Review 38**). § 87(2)(b) said she had cell phone video of the incident, but she ultimately declined to provide it to the investigation.

Allegation E – Force: Officers used physical force against individuals.

Allegation F – Force: Officers used physical force against individuals.

Allegation G – Force: An officer used physical force against § 87(2)(b)

Allegation H – Force: An officer struck § 87(2)(b) with a baton.

Allegation I – Force: Officers struck individuals with batons.

Allegation J - Force: Officers struck § 87(2)(b) with riot shields.

Allegation K – Force: Officers struck § 87(2)(b) with riot shields.

Allegation L – Force: Officers struck individuals with riot shields.

Allegation M – Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation N - Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation O – Discourtesy: An officer spoke discourteously to individuals.

Known facts and general descriptions:

After being interviewed by the CCRB, contact attempts were made to § 87(2)(b) in an attempt to ask follow-up questions regarding this complaint, but she declined to participate in the investigation further because she did not want to relive the incident by continuing to speak about it. She also declined to sign HIPAA forms that would have granted the investigation access to her medical records related to the fractured finger she said she sustained during this incident.

At the time of her CCRB interview, § 87(2)(b) was unable to recall her exact location during this incident. She said she and § 87(2)(b) were walking eastbound on the northern sidewalk of Dekalb Avenue when they encountered two rows of officers somewhere between St. James Place and Classon Avenue. § 87(2)(b) and § 87(2)(b) were standing along a black fence. [A Google Maps search revealed the fence § 87(2)(b) described spans 178-yards between Steuben Street and Classon Avenue.]

§ 87(2)(b) did not specify how far she was standing from the officers who wrestled with unidentified protesters in the street, but she said she was positioned too far away to clearly see or describe the parties involved. She described PO1, the officer who pushed § 87(2)(b) (who fell back into § 87(2)(b) which caused them both to fall to the ground), as a light-skinned man, who was heavy set, dressed in a dark blue uniform, and was wearing a helmet with a face shield. § 87(2)(b) described PO2, the officer who pushed her in the back with his baton twice, as a black man, who was 5’8” tall, with muscular arms, broad shoulders, a muscular or heavysset build, in his mid-30s, and dressed in a dark blue uniform, gloves, and a helmet with a face shield. She alleged that other officers struck unidentified protesters with their batons at the location, but said the situation was too chaotic for her to recall any physical descriptions or identifying information about those parties either. With exception to PO3, § 87(2)(b) was unable to describe the other officers who pushed her, § 87(2)(b) and the unidentified protesters with their riot shields against the fence. § 87(2)(b) described PO3, one of the officers who did this and the officer who ordered the protesters to “Get the fuck out of here,” as a white man who was 5’6” tall, in his late 40s, wearing glasses, and dressed in a dark blue uniform and gloves (**Board Review 39**).

§ 87(2)(b) was unavailable to the investigation (see IAs for contact attempts).

Video Evidence:

One BWC footage request generated under another CCRB case stemming from the same protest yielded eight BWC videos that contained footage generally consistent with § 87(2)(b)'s account of the protest that evening, though the footage does not capture the interactions described by § 87(2)(b) nor are any civilians matching the descriptions § 87(2)(b) provided for herself or § 87(2)(b) visible in the footage. A review of these BWC videos identified 14 officers with shield numbers visible on their helmets.

A second BWC request was generated for BWC footage from these 14 officers, as well as any footage capturing the northern sidewalk of Dekalb Avenue, west of Classon Avenue, along the black fence § 87(2)(b) described (**Board Review 44**). This request yielded 37 videos, of which nine contain footage of officers engaging with protesters on Dekalb Avenue between Classon Avenue and Steuben Street, and only one video which contains footage of the northern sidewalk (**Board Review 33**). These videos depict officers shoving, kicking, and using baton strikes against protesters as the crowd is pushed eastbound on Dekalb Avenue. Officers are also seen detaining several protesters on the ground. Because no one fitting § 87(2)(b)'s description of herself nor any individual fitting § 87(2)(b)'s description of § 87(2)(b) are captured in these videos, and because without § 87(2)(b)'s continued cooperation, the investigation was unable to determine if any of the interactions captured in these videos were the ones she witnessed from her location, (which as detailed above, she was unable to specifically identify during her CCRB interview), an IAB referral was generated under CCRB # 202007723 to address them.

The second BWC request also yielded one video from Captain Malcolm. In Captain Malcolm's BWC footage, between the 00:00 and 00:14 minute marks of the media player timestamp (visible at the bottom of the screen), an unidentified officer asks Captain Malcolm what to do about protesters who were beginning to arrive near the stationhouse. Captain Malcolm says, “Push them on the

sidewalk.” Between 00:20 and 02:00, Captain Malcolm runs into a crowd of protesters and arrests § 87(2)(b) on the ground. While on the ground, Captain Malcom is immediately surrounded by dozens of protesters. He radios for additional officers. Protesters stand within feet of him and yell at him to get off the individual and let him go. Captain Malcolm stands up and again radios for assistance as he begins to escort the individual through the crowd of protesters, who continue to yell at him. Several additional officers arrive and order the crowd to back up. At 02:09, Captain Malcolm says “He [the individual] did that to the car. I saw him.” Officers escort the individual from the crowd of protesters, who are chanting, “let him go.” Officers repeatedly order the crowd to back up. Between 03:45 and 04:19, an unidentified officer asks Captain Malcolm what to do about the protesters “in the middle.” Captain Malcom says to push them “out of the way.”

Between 04:55 and 05:25, Chief of Patrol Fausto Pichardo is captured speaking on the phone. He states that there are about 500 protesters at the location and asks Captain Malcolm if any protesters are inside the stationhouse. Captain Malcolm says no. Chief Pichardo says into the phone, “We’re going to have to take some collars over here” and “We’ve got the whole stationhouse secure.” At 06:00, Captain Malcolm, who is standing on the Classon Avenue side of the stationhouse, radios to Central Command that a crowd is trying to overrun the stationhouse. He orders officers to secure the south side of the stationhouse and to not let anyone pass.

At 10:50, Captain Malcolm walks to Dekalb Avenue, east of Classon Avenue, and gives numerous orders to protesters in the street to move onto the sidewalk. At 11:15, Captain Malcolm says to an unidentified officer, “Can you make sure they get on the sidewalk please?” At 11:45, Captain Malcolm walks back towards the stationhouse and the large crowd, which had previously formed on Dekalb Avenue on the western side of the stationhouse, is no longer there. At 11:55, an oversized crowd is reported to be at Fort Green Park. At 14:50, Captain Malcolm instructs officers to go to Fort Green Park and says that he has the situation at the stationhouse “covered.” Several officers remain outside while Captain Malcolm eventually enters the stationhouse.

A TARU request did not yield any footage that captured the interactions described by § 87(2)(b) (Board Review 38). The incident occurred along the southeastern side of the Pratt Institute Campus, but an inquiry made to the Pratt Institute Security Office revealed that they had no video surveillance cameras posted at the incident location. Social media searches revealed various videos of police interactions at this protest, but none capture individuals fitting the descriptions of § 87(2)(b) or § 87(2)(b) or the area along the fence that § 87(2)(b) described.

Concurrent Investigations:

No concurrent investigations were pursued related to this complaint.

NYPD Documents Reviewed:

Event documents from within the confines of the 88th Precinct reveal numerous jobs, some of which occurred at the 88th Precinct stationhouse. They include calls for additional units in regard to large crowds, objects being thrown at officers, fires, and police vehicles being vandalized and destroyed (Board Review 42).

The Patrol Borough Brooklyn North Detail Roster contained 59-pages, many of which were illegible, of officers from various commands who were deployed to numerous locations within the Patrol Borough, including the 88th Precinct, Fort Greene, the Brooklyn Bridge, the Manhattan Bridge, Cadman Plaza, Albee Square, and other locations (Board Review 43). Of the pages that were legible, six included a total of 56 officers from various commands who were deployed to unspecified locations within the 88th Precinct. Considering the number of officers listed on the

illegible pages of the Detail Roster, as well as the visible (in video footage) police presence at the 88th Precinct stationhouse, these officers only account for a fraction of the officers who ultimately responded to the stationhouse, for which there is no known documentation.

Ranking Officers:

Captain Ryon Malcolm, the Commanding Officer of the 88th Precinct, and Chief Jeffrey Maddrey of Patrol Borough Brooklyn North were identified as high-ranking officials on scene during the protest. Chief of Department Terrence Monahan was also interviewed regarding this case.

Chief of Patrol Fausto Pichardo was identified as one of the highest-ranking officers on scene. He was not interviewed because he retired from service on November 13, 2020 (**Board Review 50**).

Officers Interviewed:

Captain Malcolm stated that earlier in the evening, a level two mobilization (described as a rapid deployment of one sergeant and eight officers from every command to a specific location) had been mobilized to a protest at the Barclays Center, where approximately 1,000 protesters were in attendance. After leaving the Barclays Center, some of the protesters headed to Fort Green Park, and Captain Malcolm followed. While at Fort Green Park, Captain Malcolm heard a protester say the crowd was marching to the 88th Precinct stationhouse, and he requested that the level two mobilization be moved to that location. (Captain Malcolm stated that there was no documentation of the specific officers or commands that arrived in response to the level two mobilization, and no documentation was revealed to the investigation.)

Captain Malcolm entered his vehicle and drove to the stationhouse, passing by the marching protesters on the way. He arrived at and stood outside of the stationhouse with a small group of 20-25 officers whom he could not identify. Chief Maddrey, Chief Pichardo, and Chief Michael Lepetri of Crime Control Strategies were present on scene. Captain Malcolm ordered officers to place metal barriers on Dekalb Avenue to secure the stationhouse. He did not issue any other commands regarding what to do about the approaching crowd of protesters at this time.

The crowd of approximately 1,000 protesters arrived at the stationhouse from Dekalb Avenue. A separate crowd, which had separated from the group on Dekalb Avenue, arrived from Classon Avenue, seemingly in an attempt to “flank” the stationhouse. Approximately 10 minutes after the protesters first began to arrive, they became aggressive and began throwing objects at officers and damaging police vehicles. Captain Malcolm witnessed a protester smash the windshield of a marked patrol car. He pulled the protester away from the patrol car, which caused the protester to fall to the ground. Unidentified officers handcuffed the protester on the ground and escorted him back to the stationhouse. Captain Malcolm entered the stationhouse, and he remained inside to supervise the mass arrests that ensued.

As Captain Malcolm entered the stationhouse, he observed numerous additional unidentified officers with helmets and riot shields arriving, and he observed unidentified officers begin to push the crowd eastbound on Dekalb Avenue. Captain Malcolm denied witnessing any of the allegations made by § 87(2)(b) [REDACTED]. During his CCRB interview, Captain Malcolm initially denied issuing any orders to use force against protesters and stated that he did not have the authority to do so. As the Borough Commander, Chief Maddrey was the one with the authority to authorize specific types of force to disperse the crowd, though Captain Malcolm did not know if any such orders were given. Upon reviewing his BWC footage, where between the 03:45 and 04:19 minute-marks of the media player timestamp (visible at the bottom of the screen), in response to an unidentified officer asking what to do about the protesters “in the middle,” Captain Malcolm says to “push them out of the way,” Captain Malcolm said he did not recall issuing this order but noted, based on the footage,

that it was given after protesters had surrounded the stationhouse and begun to damage property **(Board Review 40)**.

Chief Monahan stated that earlier in the evening, while present at the Barclays Center, he learned that protestors there planned to later march to the 88th Precinct stationhouse, and that protestors planned to “take over a stationhouse.” Chief Monahan did not specify his source of knowledge for this information. Chief Pichardo and Chief Maddrey travelled to the 88th Precinct stationhouse to supervise the NYPD response to this protest’s planned change of venue. NYPD Operations assembled a mobilization of officers to respond to the stationhouse. Chief Monahan was not present at the stationhouse and did not direct any officers to use force against protesters at the location **(Board Review 45)**.

Chief Maddrey stated that he was at the Barclays Center earlier, but left and headed to the 88th Precinct stationhouse at approximately 8:30pm, upon receiving a phone call from Chief Monahan, who said there was a credible source of information that protestors were going to attack and “burn down” the stationhouse. Chief Maddrey arrived at the stationhouse before any protestors did. He spoke with Captain Malcolm and other officers in preparation for the protestors’ arrival. Chief Maddrey told the group of approximately 20 to 30 officers to form a line on Dekalb Avenue to prevent protestors from entering the stationhouse. Aside from his concerns about the stationhouse being attacked by protestors, Chief Maddrey was also concerned that police vehicles and officers’ personal vehicles, which were parked on DeKalb Avenue, were going to get damaged.

When the group of protestors became visible and neared the stationhouse, a few at the front of the crowd charged the front line of officers and began pushing and punching officers. A few protestors also jumped on officers’ personal vehicles and police vehicles, attempted to set vehicles on fire, and threw rocks, bricks, and bottles at officers. Protestors tried to enter the rear yard area of the stationhouse and officers denied them entry and pushed them back. The officers’ objective at this point was to protect themselves and the nearby vehicles, and they began making arrests. At one point, a male protester picked up a cobblestone. Chief Maddrey made eye contact with this male protester and said, “You’re going to kill somebody with that.” The male protester put it down. Chief Maddrey described the scene as “complete chaos” and noted that “at this point, we were just fighting for our lives.” The officers had no helmets or riot equipment.

Chief Maddrey radioed for additional units with riot shields to respond to the location and additional units from multiple commands, including officers with riot shields, ultimately arrived, though Chief Maddrey could not recall which units or which commands. Chief Maddrey ordered the unidentified officers to advance toward the crowd and push them back in order to get the crowd away from the stationhouse and the police vehicles. Once the officers reached the crowd, many civilians pushed, punched, and bit officers. Many officers wrestled with civilians to handcuff them. Chief Maddrey himself pushed back protestors who were approaching arrests-in-progress, pulled protestors off of officers, and pulled officers up off the ground. Chief Maddrey denied using his asp to strike civilians, but said some officers, whom he was unable to identify, used their batons to push civilians back. Chief Maddrey denied witnessing any officer swing at or strike any protestors with their baton. He did not see any officer use a riot shield to push any protester nor did he use or hear any other officer use profanity.

By this point, many officers had sustained injuries. One Commanding Officer, Deputy Inspector John Mastronardi of the 75th Precinct, was hit in the face by a flying brick, which shattered his teeth, some of which he lost permanently. A lieutenant from the NYPD Legal Bureau sustained a head injury. The Commanding Officer of Central Park, Captain William Gallagher, was hit in the head and bled from his ear.

Chief Maddrey did not provide any additional specific supervisory directives to officers on scene because the situation was so chaotic that there was no opportunity to do so. No paperwork was prepared to document the additional units who responded to the scene due to the chaotic nature of the event (**Board Review 41**).

Allegation Recitation and Disposition:

§ 87(2)(g)
[Redacted]

Allegation A – Force: Captain Ryon Malcom authorized the use of force against individuals.

Allegation B – Force: Chief Jeffrey Maddrey participated in the use of force against individuals.

Allegation C – Force: Chief Jeffrey Maddrey authorized the use of nightsticks/asps/batons against individuals.

Allegation D – Force: Chief Jeffrey Maddrey authorized the use of police shields against individuals.

As discussed above, despite Captain Malcom’s lack of independent recall regarding any orders he gave regarding officers using force against protesters, his BWC footage captures him instructing officers to push protesters onto the sidewalk and later to move protesters out of the way.

Chief Maddrey acknowledged issuing an order for officers to push the crowd of protesters back from the 88th Precinct stationhouse and stated that he waited to give this order until additional officers with riot shields had arrived. Chief Maddrey acknowledged that he participated in pushing the crowd back himself, and that he witnessed other officers use their batons to push the crowd back.

Chief Maddrey stated that prior to his arrival at the stationhouse, Chief Monahan, who was not present at this event, informed him that there was a credible source of information that “protestors” were going to attack and “burn down” the stationhouse. § 87(2)(g) Chief Monahan said in his CCRB interview that the information he was made aware of was that protesters planned to march to the 88th Precinct stationhouse and “take over a stationhouse.” § 87(2)(g)

[Redacted]

NYPD Patrol Guide, Procedure 221-01 states that force may be used when it is reasonable to ensure the safety of an officer or a third person, or otherwise protect life. In all circumstances, any application or use of force must be reasonable under the circumstances (**Board Review 46**). NYPD Strategic Response Group Training Materials state the riot shields should be utilized when a crowd becomes or is suspected of becoming hostile and has engaged in throwing projectiles or liquids at

police lines (**Board Review 51**).

Captain Malcom and Chief Maddrey both described a chaotic scene where protesters had become aggressive and some, but not all, were attacking officers and damaging police vehicles. § 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
- This is the first CCRB complaint to which § 87(2)(b) [REDACTED] has been a party (**Board Review 43**).
- Captain Malcolm has been a member of service for 21 years and has been a subject in one additional complaint and two additional allegations, neither of which were substantiated. § 87(2)(g) [REDACTED]
- Chief Maddrey has been a member of service for 29 and has been a subject in 17 CCRB complaints and 38 allegations, of which three were substantiated.
 - #9501293 involved substantiated allegations of physical force, threat of arrest, and discourtesy (word). The Board did not make a discipline recommendation and the NYPD imposed no discipline.
 - § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 26, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this to incident (**Board Review 49**).
- According to the Office of Court Administration (OCA), neither § 87(2)(b) [REDACTED] nor § 87(2)(b) [REDACTED] has any history of convictions in New York City (**Board Review 47, 48**).

Squad No.: 13

Investigator: _____ Inv. Trevor Hackett _____ 06/08/2021
Signature Print Title & Name Date

Squad Leader: _____ IM Laura Kastner _____ 06/08/2021
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Sylvia Davidovicz	Team: Squad #12	CCRB Case #: 202004183	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 5:30 PM, Thursday, 06/04/2020 8:15 PM, NA, 06/04/____ 10:30 AM	Location of Incident: Brook Avenue and 136th Street in the Bronx; Bergen Avenue and 148th Street in the Bronx; 125 Queens B	Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/10/2020 7:53 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/10/2020 7:53 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Hugo Batista	02386	952449	SRG 2
4. POM Nicholas Rios	06583	955377	PSA 7
5. POM Matthew Miret	07813	961955	PSA 7
6. CPT JULIO DELGADO	00000	918927	SRG 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Umid Karimov	24026	964081	078 PCT
2. SGT Iran Lopezmaceda	01652	928666	SRG 2

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: At the intersection of East 148th Street and Bergen Avenue in the Bronx, officers took photographs of § 87(2)(b) and individuals.	
B. POM Nicholas Rios	Force: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios struck individuals with a baton.	
C. An officer	Force: At the intersection of East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.	
D. POM Nicholas Rios	Abuse: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios refused to provide his shield number to § 87(2)(b)	
E. Officers	Abuse: At the intersection of East 136th Street and Brook Avenue in the Bronx, officers refused to provide their shield numbers to § 87(2)(b)	
F. POM Matthew Miret	Discourtesy: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Matthew Miret spoke discourteously to § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
G.POM Hugo Batista	Abuse: At Queens Central Booking, Police Officer Hugo Batista questioned § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On June 10, 2020, § 87(2)(b) submitted this complaint online.

On June 4, 2020, § 87(2)(b) and other unidentified friends of § 87(2)(b) and § 87(2)(b) attended a 2020 police brutality protest in the Bronx. At approximately 5:30 p.m., while § 87(2)(b) and other individuals waited near the intersection of East 148th Street and Bergen Avenue in the Bronx for the protest to begin, officers took photographs of them and their car's license plate (**Allegation A: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) and other civilians participated in a peaceful protest in the Mott Haven neighborhood of the Bronx.

At approximately 8:15 PM, at the intersection of East 136th Street and Brook Avenue, officers positioned themselves in front of and behind the crowd of protesters and pushed them from both sides with batons and bicycles, causing injuries to those in the crowd. This allegation is the subject of CCRB case 202006855, in which § 87(2)(b) and § 87(2)(b) are listed as victims. Officers standing at the front of the crowd struck protesters with fists and batons. This general allegation is covered by CCRB case 202006855. Police Officer Nicholas Rios struck multiple people with a baton (**Allegation B: Force**, § 87(2)(g)). An officer struck § 87(2)(b) with a baton (**Allegation C: Force**, § 87(2)(g)). Officers deployed pepper spray against the crowd of protesters, affecting § 87(2)(b) and other individuals. These allegations are addressed in CCRB case 202006855. Many of the other officers who responded to the protest were wearing black bands on their shields, concealing their shield numbers (**Allegation D: Abuse of Authority**, § 87(2)(g)), including Police Officer Rios (**Allegation E: Abuse of Authority**, § 87(2)(g)).

Officers put many of the protesters, including § 87(2)(b) and § 87(2)(b) into zip tie handcuffs and detained them for several hours before releasing most of them with summonses. These allegations are addressed under CCRB case 202006855. § 87(2)(b) was placed in handcuffs before § 87(2)(b). When § 87(2)(b) told the nearby officers that they should also arrest him if they were arresting § 87(2)(b) Police Officer Matthew Miret said, "Shut the fuck up," to § 87(2)(b) (**Allegation F: Discourtesy**, § 87(2)(g)). After § 87(2)(b) had been transported to Brooklyn Central Booking to receive his summons, PO Batista asked § 87(2)(b) if he believed in Fidel Castro's political policies and if he believed the police should be defunded (**Allegation G: Abuse of Authority**, § 87(2)(g)). § 87(2)(b) was released with a desk appearance ticket for unlawful assembly.

The CCRB has received body-worn camera video from many of the officers involved in the response to the anti-police brutality protest in the Mott Haven neighborhood of the Bronx associated with multiple investigations. Videos relevant to the case and copied from other cases and videos provided to the investigation by the NYPD are attached to the casefile (Board Reviews 07, 08, 09, 16, 17, 24, 30, 31, and 32; Summaries in Board Reviews 13, 14, 15, 18, 19, 25, 33, and 34) Civilian-provided footage of the protest has also been added to the casefile (Board Review 05, Summaries in Board Reviews 10 and 11).

Findings and Recommendations

Allegation (A) Abuse of Authority: At the intersection of East 148th Street and Bergen Avenue in the Bronx, officers took photographs of § 87(2)(b) and individuals.

In his CCRB interview, § 87(2)(b) stated that he, § 87(2)(b) and several of their friends whose

names he declined to provide met up near the starting place for the protest at approximately 5:30 PM (Board Review 12). While they waited in one of the friend's cars, three officers used cell phones to take pictures of § 87(2)(b) his friends, and their car's license plate. § 87(2)(b) and his friends asked the officers what they were doing and told the officers to leave them alone. The officers did not respond. The officers were described as uniformed males with slim or regular builds who were wearing helmets and clear visors. One officer was described as black of Hispanic with a dark skin complexion, and the other officers were described as white of Hispanic with light complexions.

In the statement she provided with her initial CCRB complaint, § 87(2)(b) stated that at the intersection of 148th Street and Bergen Avenue in the Bronx, officers used cell phones to photograph her and her car's license plates (Board Review 01). § 87(2)(b) formally withdrew her complaint on June 18, 2020. § 87(2)(b) did not describe the officers.

During his CCRB interview, § 87(2)(b) stated that he had cell phone video depicting the incident. The undersigned investigator made multiple attempts to obtain this footage from § 87(2)(b) via email and called multiple times to follow up. § 87(2)(b) did not provide footage of this incident to the investigation.

A BWC requests for footage captured during this incident returned negative results with the search parameters 40th Precinct and 4:30 PM through 6:30 PM (Board Review 28).

The investigation reviewed the 40th Precinct Roll Call for the date and time of incident (Board Review 53). The Roll Call does not list any assignments at the reported incident location.

The investigation also reviewed the Patrol Borough Bronx's Detail Roster for the protest (Board Review 54). Although the detail roster lists several assignments within the confines of the 40th Precinct, there are no posts at the reported incident location.

In his CCRB interview, PO Miret stated that he was not aware of any investigative actions by police officers immediately before the protest on June 4, 2020 that would have involved police officers photographing civilians or their cars (Board Review 39). PO Miret stated that he did not see any police officers photographing civilians or their cars when he was stationed near the intersection of 148th Street and Bergen Avenue in the Bronx.

§ 87(2)(g)
[REDACTED]

Allegation (B) Force: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios struck individuals with a baton.

At East 136th Street and Brook Avenue, officers standing at the front of the crowd struck protesters with fists and batons. This general allegation is covered by CCRB case 202006855.

In his CCRB interview, § 87(2)(b) stated that when he was at East 136th Street and Brook Avenue,

officers at the front of the crowd of protesters swung their batons at civilians, possibly striking them. § 87(2)(b) stated that one of the officers who he saw strike multiple civilians was holding his baton “like a baseball bat,” swinging the baton outward while holding it at its base with both hands. He described the officer that performed this action as a uniformed white male with a stocky build and a helmet.

An article titled “Woman Shoved to Pavement by Cop During Spring Anti-Racism Protests Battles Pain as She Seeks Justice” by Yoav Gonen and Eileen Grench, published in The City on November 4, 2020, includes a photograph of an officer identified by the investigation as PO Rios holding a baton above his head by its handle in one hand while standing in front of a crowd of protesters (Board Review 46, photograph isolated in Board Review 45).

Cell phone video recovered from Twitter by the CCRB depicts a crowd of at least 30 officers and a crowd of numerous civilians. It is not possible to give an estimate of the number of civilians since the video footage is pointed away from the crowd towards the officers. The officers are not surrounded by the officer, and appear to have cleared the roadway behind them, identified by the investigation as Brook Avenue, with officers at the curb of Brook Avenue facing towards civilians at or near the sidewalk. An officer with a beard, identified as PO Rios, striking at civilians with a baton at the intersection of East 136th Street and Brook Avenue (Board Review 40, summary in Board Review 41, original Twitter post in Board Review 48). At 00:04 seconds into the video, PO Rios grabs the right arm of a man wearing a green hat who is covering his head with his arms. At 00:06 seconds, PO Rios strikes the individual with his baton in a downward stabbing motion, hitting either his neck, shoulder, or upper arm. Another civilian in the crowd then pulls the man wearing the green hat backwards into the crowd. At 00:08 seconds into the video, a white male wearing a black shirt grabs the end of PO Rios’ baton for less than one second. PO Rios pulls his baton away from the individual. From 00:16 to 00:21 seconds, PO Rios is depicted deploying four more baton strikes in the direction of the crowd. This video does not depict any civilians throwing any items at officers.

§ 87(2)(b) provided the investigation with cell phone video footage (Board Review 05, labeled as IMG-2899 (1).MOV in the dropdown list, Summary in Board Review 10). The video footage is 11-seconds in length. This footage depicts PO Rios standing at the front of a group of uniformed officers facing a large group of civilians. PO Rios is depicted swinging his baton toward the protesters, holding the baton with two hands at its base. PO Rios deploys five baton strikes over about 10 seconds. The targets of the first two strikes at 00:00 seconds and 00:02 seconds are not depicted. The target of the third strike at 00:06 seconds is a white male who stands about one foot closer to PO Rios than the other civilians with his elbows bent so that both of his hands are up at his chest. The fourth strike is deployed against the crowd in general, all of whom are standing two to three feet from PO Rios and have their hands up at their chests. The fifth strike is deployed against a white male wearing red gloves who reaches out toward PO Rios with both hands. This video does not depict PO Rios being struck by any objects or civilians’ hands. This video does not depict civilians throwing any items at officers.

PO Rios provided a statement to the CCRB (Board Review 44). In his CCRB testimony, PO Rios stated that when he first stood in front of the crowd of protesters at the intersection of 136th Street and Brook Avenue, he held his baton horizontally in front of his body and pushed forward with one hand on each end of the baton. § 87(2)(b) in the crowd then grabbed the center of PO Rios’ baton and tried to take it from him. PO Rios did not know how many civilians attempted to take his baton from him. He also reported that people in the crowd struck him with a wooden drumstick and what PO Rios believed to be a tennis ball filled with concrete, and that civilians attempted to take his pepper spray and expandable baton from his belt. PO Rios stated that after he pulled his baton

away from this individual, he began deploying baton strikes toward civilians in the crowd. PO Rios stated that he mostly struck in a downward “slashing” motion at a 45-degree angle, or toward specific people he was targeting. PO Rios could not remember how many baton strikes he attempted. He stated that he aimed for people’s arms and torsos but that he did not know where all of his strikes landed because all of the people in the crowd were constantly in motion. PO Rios stated that he struck civilians near the front of the crowd because they were attempting to remove his police equipment from his body and to strike him with objects. PO Rios deployed baton strikes against individuals who he believed were trying to take his equipment from his belt. PO Rios believed that he struck people in the hands and arms and did not recall striking anyone on the head or face with his baton. PO Rios stated that many people in the crowd shouted profanities at him as he deployed baton strikes. PO Rios could not remember if any civilians stated that they were being pushed from behind.

No AIDED reports were generated in relation to this incident.

No Threat Resistance Injury reports were generated in relation to this incident.

According to Patrol Guide Procedure 221-01, “Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances” (Board Review 49). The procedure goes on to note that “in determining whether the use of force is reasonable, members of the service should consider the following:

- a. The nature and severity of the crime / circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and / or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the [members of service]
- h. Size, age, and condition of the subject in comparison to the [member of service]
- i. Subject’s violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant / narcotic which would affect pain tolerance or increase the likelihood of violence

The procedure further notes that “when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force.”

Video footage confirms that at least one civilian made contact with PO Rios’ baton and at least one person reached towards PO Rios at the time that he swung his baton. No civilians were depicted making contact with other pieces of equipment in PO Rios’ possession. The video evidence also showed that PO Rios was at the front of a line of officers at the time he used his baton, and that he advanced towards the civilians when using his baton. While cell phone and social media videos depicting PO Rios show that at least some of the strikes he deployed were against individuals who were grabbing at his baton or reaching out toward him, the footage also shows that PO Rios deployed multiple strikes against individuals whose hands were empty and held either in front of their bodies or protecting their heads.

Patrol Guide Procedure 221-01 notes that force should be used to ensure safety, protect life, or

place someone in custody. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (C) Force: At the intersection of East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.

In his CCRB interview, § 87(2)(b) stated that an officer struck a friend he identified only as § 87(2)(b) in the head with a baton, resulting in an injury that required stitches. § 87(2)(b) declined to provide any contact information or identifying information for § 87(2)(b). The investigation was able to identify § 87(2)(b) as § 87(2)(b) via a Notice of Claim (Board Review 57 and Board Review 58). § 87(2)(b) described § 87(2)(b) as a 5’9” tall white male with a slim build, black hair that he wore tied behind his hear, a “scruffy” beard, and possibly a black backpack. § 87(2)(b) stated that he would tell § 87(2)(b) about the investigation and provide him with the undersigned investigator’s contact information.

Contact attempts were made to § 87(2)(b) in connection with CCRB 202105251, but to date § 87(2)(b) has not contacted the investigation or provided a statement to the CCRB. In his Notice of Claim, § 87(2)(b) reported that he was on Brook Avenue where officers organized

themselves in a formation known as a kettle and prevented protestors from leaving the area. Three officers climbed on top of a civilian car and struck protestors from above with their batons. A white male officer sprayed § 87(2)(b) and others with pepper spray. An officer described as a “hefty white male with short red hair in a white shirt and helmet with the number 577 on the side” “attacked” § 87(2)(b) in an unspecified manner. An officer – described as a white male dressed in riot gear – “held his baton high above his head and swung it down on § 87(2)(b) s] head at full speed, causing § 87(2)(b) to crumple to the ground. The officer dressed in riot gear repeatedly struck § 87(2)(b) on the head. As a result of the force, § 87(2)(b) sustained the following injuries: a laceration to his head that required four staples, a broken right wrist, and a traumatic injury to his left knee that impeded his ability to walk for three weeks.

The allegation that § 87(2)(b) was pepper sprayed is addressed in CCRB 202100606.

§ 87(2)(b) provided two cell phone videos to the investigation that depict two officers sitting on top of a car and using batons to strike in the direction of a crowd of civilians (Board Review 05, summaries in Board Reviews 10, 11). None of the civilians visible in the crowd match § 87(2)(b) s description of § 87(2)(b) none appears to have been struck in the head, and none appears to be injured. These videos do not depict an officer leaning across the row of bicycle-mounted officers to strike at civilians with a baton.

BWC videos provided to the CCRB in relation to the police response to this protest depict individuals near the front of the crowd of protestors being struck by NYPD officers’ fists and batons. None of these civilians precisely matches § 87(2)(b) s description of § 87(2)(b) No civilians matching § 87(2)(b) s description of § 87(2)(b) are depicted with a bleeding head wound.

In their CCRB interviews, both PO Rios and PO Miret stated that they did not see any officers strike any civilians in the head with a baton. PO Rios and PO Miret both stated that they did not see any civilians with bleeding head injuries.

A request for AIDED reports prepared for civilians in relation to the police response to the protest at the intersection of East 136th Street and Brook Avenue in the Bronx returned negative results (Board Review 21).

§ 87(2)(g)
[REDACTED]

Allegation (D) Abuse of Authority: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Nicholas Rios refused to provide his shield number to § 87(2)(b)

Allegation (E) Abuse of Authority: At the intersection of East 136th Street and Brook Avenue in the Bronx, officers refused to provide their shield numbers to § 87(2)(b)

In her original CCRB complaint narrative, submitted via the CCRB’s website, § 87(2)(b) stated that officers “hid their names and badge numbers” (Board Review 01). No more detail on the allegation was provided in § 87(2)(b) s written statement. § 87(2)(b) did not provide a detailed telephone statement to the investigation.

The photograph of PO Rios included in a The City article titled “Woman Shoved to Pavement by Cop During Spring Anti-Racism Protests Battles Pain as She Seeks Justice” shows PO Rios’ shield number obscured by a black mourning band (Board Review 46, photograph isolated in Board Review 45).

In his CCRB interview, PO Rios stated that he had initially positioned his mourning band in the center of his police shield, directly above his shield number. He stated that he wears his mourning band whenever a police officer is killed during police action, which PO Rios stated occurs almost every day. PO Rios stated that his mourning band tends to fall down and obscure his shield number because it is old, and the elastic is worn out. At the time of the incident, PO Rios had owned his mourning band for approximately two years. When asked if he first noticed that his mourning band was loose and likely to obscure his shield number before or after June 4, 2020, PO Rios stated that he did not know.

According to Patrol Guide procedure 204-17, officers “may wear black elastic mourning band, ½ inch wide, on the shield, covering the seal of the city, but leaving the shield number or rank designation visible, upon the death of a member” (Board Review 47).

§ 87(2)(g)

§ 87(2)(g)

Allegation (F) Discourtesy: At the intersection of East 136th Street and Brook Avenue in the Bronx, Police Officer Matthew Miret spoke discourteously to § 87(2)(b)

In his CCRB interview, § 87(2)(b) stated that after an officer put § 87(2)(b) into zip tie handcuffs, § 87(2)(b) told the officer that if he was going to arrest § 87(2)(b) he should also arrest § 87(2)(b). A different officer replied, “Shut the fuck up.” A third unnamed officer then put § 87(2)(b) in zip tie handcuffs. § 87(2)(b) described the officer who told him to “shut the fuck up” as being a different officer from his assigned arresting officer. § 87(2)(b) described the officer who said, “Shut the fuck up,” as a 5’8” tall white male officer with a beard and in his mid-30s to early 40s.

Footage provided to the CCRB by TARU depicts § 87(2)(b) and § 87(2)(b) at the time that § 87(2)(b) was detained (Board Review 42, Summary in Board Review 43). At 01:21 minutes into the video, § 87(2)(b) and § 87(2)(b) are depicted standing near the hood of a car. At 01:41 minutes into the video, an officer with helmet number 7813 and a full beard is depicted holding his baton horizontally in two hands, using it to push against a white male with a slim build whose arms are down at his sides and who is turned partially away from the officer. The individual is moving slowly. His eyes appear to be swollen. At 01:46, an officer grabs § 87(2)(b)’s wrist and pulls her away from § 87(2)(b) and out of view of the camera. At 01:50 minutes into the video, § 87(2)(b) says, “If you’re gonna take people, take me.” The officer with helmet number 7813 says, “Shut the—,” and then is drowned out by the noise of the crowd. § 87(2)(b) turns toward him

immediately after he makes this statement. The camera then moves away and the rest of their interaction is not captured.

According to CTS, PO Miret's shield number is 7813.

In his CCRB statement, PO Miret stated that he did not recall if he had told any civilians, "Shut the fuck up," during the incident. In his CCRB interview, PO Miret stated that he did not know if he was the individual depicted in the TARU video speaking to § 87(2)(b) PO Miret stated that he did not remember what his facial hair had looked like at the time of the incident but that he had had a full beard and moustache in the past. During his CCRB interview, PO Miret acknowledged that his shield number was 7813.

In his CCRB interview, PO Batista stated that he was assigned § 87(2)(b)'s arrest but that the arrest was assigned to him after § 87(2)(b) had already been detained and he did not witness § 87(2)(b) being detained (Board Review 37).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Patrol Guide Procedure 200-02 directs officers to "render our services with courtesy and civility" (Board Review 54).

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (G) Abuse of Authority: At Queens Central Booking, Police Officer Hugo Batista questioned § 87(2)(b)

In his CCRB interview, § 87(2)(b) stated that his arresting officer, PO Batista, spoke with him at Queens Central Booking at 125-01 Queens Boulevard while processing his arrest. § 87(2)(b) was wearing a Cuban flag necklace at the time of the incident. § 87(2)(b) stated that PO Batista noticed the necklace and told § 87(2)(b) that his father had studied in Cuba. PO Batista then asked § 87(2)(b) something like, "Do you believe in the Castro regime?" § 87(2)(b) told PO Batista that he did not want to talk about that. PO Batista then asked § 87(2)(b) if he believed that the police should be defunded. After fingerprinting § 87(2)(b) PO Batista took him back to a cell where he remained for two more hours. When PO Batista returned, § 87(2)(b) asked him why he had not been read his Miranda rights. PO Batista stated that he had not questioned § 87(2)(b) so it was not necessary to read him his rights. In his CCRB interview, § 87(2)(b) stated that he believed PO Batista had been directed to question him about his political beliefs during his arrest processing. In his CCRB interview, § 87(2)(b) stated that there were no other civilians or officers nearby when PO Batista asked these questions. § 87(2)(b) reported that he was ultimately issued a summons for unlawful assembly.

In his CCRB interview, PO Batista affirmed that he interacted with § 87(2)(b) and noted that he had an independent recollection of § 87(2)(b) PO Batista reported that after he prepared § 87(2)(b)'s arrest paperwork, he fingerprinted § 87(2)(b) asked PO Batista about his

rights, specifically whether PO Batista was allowed to ask him questions and why PO Batista had not read him his Miranda Rights. PO Batista told him that it was not like television, and that he did not have to read the Miranda rights because he was not being questioned in connection with an investigation. The CCRB interviewer drew PO Batista’s attention to an image of § 87(2)(b) depicting § 87(2)(b) wearing a Cuban flag necklace, and asked PO Batista if he had had a conversation about the flag necklace. PO Batista replied, “Actually we did... We ah... We had a conversation... Oh yeah, I mentioned Puerto Rico because I thought it was a Puerto Rican flag. And I was telling him that my family was from Catalina. And that’s about it.” PO Batista stated that he did not ask § 87(2)(b) anything else about Cuba. He stated that Castro did not come up in their conversation, he denied asking § 87(2)(b) whether the police should be defunded, and stated that he did not ask § 87(2)(b) any questions about his political beliefs. PO Batista stated that he was never instructed to ask arrested protesters about their political beliefs or about any specific issues. PO Batista reported that all of the individuals whose arrests he processed were released with desk appearance tickets.

There is no record of § 87(2)(b) s arrest or any criminal court proceedings stemming from this incident (Board Review 61).

The investigation located images of the flag of Puerto Rico (Board Review 55) and the flag of Cuba (Board Review 56). The flag of Puerto Rico has alternating red and white horizontal stripes, with three red stripes and two white stripes, and a blue isosceles triangle with a white star inset in the triangle. The flag of Cuba has alternating blue and white horizontal stripes, with three blue stripes and two white stripes, and a red isosceles triangle with a white star inset in the triangle.

In his CCRB interview, Sgt. Lopez Maceda stated that he was not instructed to question detained protesters about their political beliefs and was not aware of any other officers being instructed to question detained civilians about their political beliefs.

It is undisputed that PO Batista and § 87(2)(b) had a conversation arising from § 87(2)(b) s Cuban flag necklace. PO Batista stated that he mistook the Cuban flag for the flag of Puerto Rico, and that he spoke with § 87(2)(b) about Puerto Rico. Namely, PO Batista said that he told § 87(2)(b) § 87(2)(b) about his Puerto Rican heritage. It is also undisputed that the flag of Cuba and the flag of Puerto Rico have several similar characteristics.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- PO Batista has been a member of service for eight years and has been subject in three other CCRB cases with three allegations, none of which were substantiated.
- PO Miret has been a member of service for four years and has been a subject in four other CCRB cases and 18 allegations, none of which were substantiated.
- PO Rios has been a member of service for seven years and has been a subject in eight other CCRB cases and 39 allegations, seven of which were substantiated.
 - 201507072 involved a substantiated allegation of a frisk against PO Rios. The Board recommended Command Discipline B and the NYPD imposed formalized training.

- 201608922 involved substantiated allegations of two frisks, other abuse of authority, and refusal to provide name or shield number against PO Rios. The Board recommended Command Discipline A and the NYPD imposed Command Discipline A.
- 201706642 involved two substantiated charges of physical force against PO Rios. The Board recommended Charges and the NYPD imposed the loss of ten vacation days.
- § 87(2)(b) _____

Mediation, Civil and Criminal Histories

- Complaints arising from the NYPD response to the 2020 police brutality protests were not eligible for mediation.
- § 87(2)(b) _____'s attorney § 87(2)(b) _____ filed a Notice of Claim on § 87(2)(b) _____'s behalf on August 26, 2020 (Board Review 38). The Notice of Claim states that § 87(2)(b) _____'s damages in relation to the incident will be determined by a jury.
- According to the Office of Courts Administration (OCA), § 87(2)(b) _____ has no history of criminal convictions in New York City (Board Review 36).
- According to OCA, § 87(2)(b) _____ has no history of criminal convictions in New York City (Board Review 36).
- There is no record of § 87(2)(b) _____'s arrest or any criminal court proceedings stemming from this incident (Board Review 61).

Squad No.: 12

Investigator:	<u>Sylvia Davidovicz</u> Signature	<u>Inv. Sylvia Davidovicz</u> Print Title & Name	<u>05/07/2021</u> Date
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Squad Leader:	<u>Carlmais Johnson</u> Signature	<u>IM Carlmais Johnson</u> Print Title & Name	<u>October 26, 2021</u> Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zev Carter	Team: Squad #3	CCRB Case #: 202004204	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 9:15 PM	Location of Incident: In front of 66 Penn Street	Precinct: 90	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/12/2020 11:34 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/12/2020 11:34 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. DI Timothy Skretch	00000	926130	079 PCT
3. LT Henry Daverin	00000	945645	079 PCT
4. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Aaron Husbands	04274	965752	079 PCT
2. POM Ernest Joseph	17085	957718	073 PCT
3. SGT Akil Guy	03541	954274	079 PCT
4. DC Charles Mcevoy	00000	895710	CD OFF
5. LT Michael Butler	00000	948725	CD OFF
6. CCA Jeffrey Maddrey	00000	899501	PBBN
7. DI William Glynn	00000	932718	081 PCT
8. POM Kyle Calenda	05856	963426	PBBN
9. POM Michael Lisante	02021	954070	PBBN
10. DTS Brian Greig	03374	947048	CD OFF

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b)	
B. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
C. An officer	Force: An officer used physical force against § 87(2)(b)	
D. An officer	Force: An officer struck § 87(2)(b) with a baton.	
E. An officer	Discourtesy: An officer acted discourteously toward § 87(2)(b)	
F. An officer	Abuse: An officer damaged § 87(2)(b)'s property.	
G. An officer	Abuse: An officer seized § 87(2)(b)'s property.	
H. Officers	Abuse: Officers seized § 87(2)(b)'s property.	
§ 87(4-b), § 87(2)(g)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On June 12, 2020, § 87(2)(b) filed this complaint with the CCRB over the phone.

On June 4, 2020, at approximately 7:30 p.m., § 87(2)(b) and 1,000 to 2,000 others were in a protest march against police brutality that started in McCarren Park in Brooklyn. The protestors marched in the Williamsburg neighborhood of Brooklyn until they reached the intersection of Penn Street and Wythe Avenue at approximately 9:15 p.m. Assistant Chief Jeffrey Maddrey, Police Officer Michael Lisante, and Police Officer Kyle Calenda of Patrol Borough Brooklyn North, Deputy Chief Charles McEvoy and Lieutenant Michael Butler of the Office of the Chief of Department, Deputy Inspector William Glynn of the 81st Precinct, Deputy Inspector Timothy Skretch, Lieutenant Henry Daverin, Sergeant Akil Guy, and Police Officer Aaron Husbands of the 79th Precinct, Police Officer Ernest Joseph of the 73rd Precinct, and dozens of other officers blocked the group's path and started to arrest protestors. In front of 66 Penn Street in Brooklyn, an officer allegedly pushed § 87(2)(b) to the ground (**Allegation A: Force**, § 87(2)(g)). An officer allegedly told § 87(2)(b) "Get the fuck on the ground. Get the fuck on the ground. Shut the fuck up." (**Allegation B: Discourtesy**, § 87(2)(g)). An officer allegedly punched § 87(2)(b) in the temple (**Allegation C: Force**, § 87(2)(g)). An officer allegedly jabbed § 87(2)(b)'s abdomen with a baton (**Allegation D: Force**, § 87(2)(g)). An officer allegedly crushed § 87(2)(b)'s eyeglasses under his boot (**Allegation E: Abuse of Authority**, § 87(2)(g); **Allegation F: Discourtesy**, § 87(2)(g)). An officer allegedly seized § 87(2)(b)'s cell phone (**Allegation G: Abuse of Authority**, § 87(2)(g)). Officer allegedly seized § 87(2)(b)'s and other civilians' bicycles (**Allegation H: Abuse of Authority**, § 87(2)(g)). § 87(4-b), § 87(2)(g)

§ 87(2)(b) and 25 others were arrested. At a Mass-Arrest Processing Center in Brooklyn Central Booking, PO Husbands issued § 87(2)(b) criminal court summons #§ 87(2)(b), § 87(2)(b) for disobeying curfew. § 87(2)(b) sustained a laceration on his forehead; bruises on his left arm, left shoulder, and front of his torso; swelling around his left temple; redness around his wrists; numbness and tingling in his hands; and abrasions on his knee, arms, nose, forehead, and back. He sought medical attention from a telemedicine provider.

This case contains cell phone video footage from § 87(2)(b) social media, cell phone footage from CCRB case 202004021, and from a building near the incident location from CCRB case 202003976 (**01-09 Board Review**). The investigation received several irrelevant body-worn camera (BWC) video files that show officers processing other protestors' arrests in a stationhouse (**37 Board Review**).

Assistant Chief Maddrey has since been promoted to the Chief of Community Affairs. Deputy Chief McEvoy is on terminal leave from the NYPD. Lieutenant Daverin has been reassigned to the 90th Precinct. PO Listante has been reassigned to Intelligence Bureau Criminal Intelligence Section. PO Calenda has been reassigned to the Community Affairs Bureau.

Findings and Recommendations

Allegation (A) Force: An officer used physical force against § 87(2)(b)

Allegation (B) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (C) Force: An officer used physical force against § 87(2)(b)

Allegation (D) Force: An officer struck § 87(2)(b) with a baton.

Allegation (E) Abuse of Authority: An officer damaged § 87(2)(b)'s property.

Allegation (F) Discourtesy: An officer acted discourteously toward § 87(2)(b)

Allegation (G) Abuse of Authority: An officer seized § 87(2)(b)'s property.

Allegation (H) Abuse of Authority: Officers seized § 87(2)(b)'s property.

The following facts are undisputed: On June 4, 2020, at between approximately 7:30 p.m. and 9:30 p.m., § 87(2)(b) was marching with a large group of protestors that walked from McCarren Park in Brooklyn to the intersection of Penn Street and Wythe Avenue in Brooklyn. The march was against police brutality. A curfew was in effect on the night of the incident at 8:00 p.m. Officers arrested multiple protestors in the vicinity of Penn Street and Wythe Avenue. PO Husbands was assigned as § 87(2)(b)'s "arresting officer" at Brooklyn Central Booking.

In his CCRB interview, § 87(2)(b) stated that on June 4, 2020, at approximately 7:30 p.m., he brought his bicycle to McCarren Park in Brooklyn and gathered with multiple other individuals. **(10 Board Review)**. When the group of protestors reached the intersection of Penn Street and Wythe Avenue, their path was blocked by 100-200 officers standing in a line. § 87(2)(b) stood in front of 66 Penn Street with 200-300 tightly packed protestors standing between him and the officers. § 87(2)(b) started to record the incident with his cell phone. § 87(2)(b) and the other protestors chanted and stood still for approximately five minutes. The protestors then turned around and walked on Penn Street back toward Bedford Avenue. § 87(2)(b) never heard any announcements or orders coming from the officers.

§ 87(2)(b) stated that as he was walking away, he turned back toward Wythe Avenue and saw people moving quickly behind him **(10 Board Review)**. Then, a white male officer wearing a white shirt pushed him backward. A second white male officer in a white uniform pushed him a second time and said, "Get the fuck on the ground. Get the fuck on the ground. Shut the fuck up. You wanted smoke, you got it." § 87(2)(b) did not understand the second officer's reference to smoke and could not see either officer's face. § 87(2)(b) was not able to describe these officers in greater detail. § 87(2)(b) tripped and fell to the ground with his bicycle. § 87(2)(b) was surrounded by two to four officers. § 87(2)(b) felt punches on his head and abdomen and jabs from a baton on his abdomen. § 87(2)(b) only saw the hands of the officers who were using force against him and they all looked white and male. § 87(2)(b) started to yell "Unprovoked!" and, "I am being beaten by the NYPD. I am being punched. I am being hit with batons." An unidentified officer yelled, "Shut the fuck up!" Officers turned § 87(2)(b) onto his stomach and handcuffed him. § 87(2)(b) did not see the officers. Then, § 87(2)(b)'s eyeglasses fell off. § 87(2)(b) uses his glasses for distance and could still see what was going on after they fell off.

§ 87(2)(b) stated that after he was handcuffed, he was still holding his cell phone **(10 Board Review)**. § 87(2)(b) heard an unidentified officer say, "Get his phone. Get his fucking phone." An officer removed the phone from his hand. § 87(2)(b) could not see the officer who did this. One of the officers, whose face § 87(2)(b) did not see, picked the eyeglasses off the ground and asked § 87(2)(b) whether they belonged to him. § 87(2)(b) confirmed that they were his. The officer put the glasses underneath his boot and crushed them. § 87(2)(b) was taken away from the scene of his arrest without his bicycle, glasses, or cell phone.

§ 87(2)(b) stated that officers transported him and other arrestees from the vicinity of Penn Street and Wythe Avenue to Brooklyn Central Booking **(10 Board Review)**. § 87(2)(b) was never given a voucher for any of his property. § 87(2)(b) was released later that night with a summons for disobeying curfew. He never learned the identity of the officers who used force against him. § 87(2)(b) arrived home at approximately 3:00 a.m. on June 5, 2020. On June 5, 6, and 7, 2020, § 87(2)(b)

§ 87(2)(b) took photos of his injuries with an old phone. His injuries included: a laceration in the middle of his forehead; swelling and soreness above his left temple; bruising on his abdomen and both shoulders; abrasions all the way down the length of his right knee and on both of his elbows; numbness in his left hand and tingling in his right hand. He attributed the swelling, soreness, cuts, and bruises to the officers' punches and baton blows while he was on the ground; the scrapes to his fall after the officers pushed him; and the numbness and tingling to the tight zip ties. On June 6, 2020, § 87(2)(b) picked his phone up from a member of the Shomrim (a Jewish volunteer public safety group). The phone, which a Shomrim member found underneath a vehicle, was crushed and almost inoperable. § 87(2)(b) retrieved the video he recorded from the storage card on the phone. Between June 5 and 10, 2020, he called and visited the 90th Precinct, the Strategic Response Group, Brooklyn Central Booking, and the 79th Precinct to retrieve his bicycle, but was not successful. On June 7, 2020, § 87(2)(b) had a telemedicine appointment with a doctor to have his injuries documented.

The investigation located 12 potential witnesses from a collection of written testimony published by the New York State Office of the Attorney General (**38 Board Review**). The investigation was able to contact seven of these individuals, but none of them witnessed the events as § 87(2)(b) described them.

§ 87(2)(b)'s telemedicine document notes that he was diagnosed with "shoulder lesions" (**11 Board Review**). Photographs of § 87(2)(b)'s injuries show that he sustained a laceration on his forehead; bruises on his left arm, left shoulder, and front the front of his torso; swelling around his left temple; redness around his wrists; numbness and tingling in his hands; and abrasions on his knee, arms, nose, forehead, and back (**12-15 Board Review**).

In his CCRB interview, Deputy Inspector Glynn stated that at approximately 9:00 p.m. he was on routine patrol in the 81st Precinct when he was ordered by Patrol Borough Brooklyn North executive officers to respond to the 90th Precinct to monitor the protest group related to this case (**16 Board Review**). When Deputy Inspector Glynn arrived, he saw "several thousand" protestors on the streets and sidewalks. He exited his car and followed the protestors on foot, transmitting their location. Eventually, Deputy Inspector Glynn was at the intersection of Penn Street and Wythe Avenue with 80-100 officers and numerous protestors. Deputy Inspector Glynn could not identify any of the officers there other than Deputy Inspector Skretch. Deputy Inspector Glynn ordered officers to line up shoulder to shoulder at the intersection to ensure officer safety and control the disorder at the location. Deputy Inspector Glynn did not direct anyone to do anything else and had not decided on what his next action was going to be. For minutes, he stepped behind the line to grab officers and tell them to fall back into formation but was ultimately not able to organize the officers. Deputy Inspector Glynn physically assisted in the arrest of a violent individual – a white or Hispanic male who he could not describe any further – during the formation of the line. A group of officers independently broke from formation and walked down Penn Street. Deputy Inspector Glynn followed. As he walked, he saw protestors "fighting" with officers. Deputy Inspector Glynn knew from NYPD records that multiple summonses were issued and multiple people were arrested, but he did not recall being involved in any of these encounters.

Deputy Inspector Glynn denied pushing § 87(2)(b) backwards to the ground (**16 Board Review**). Deputy Inspector Glynn did not recall telling § 87(2)(b) "Get the fuck on the ground" or "Shut the fuck up." He denied punching § 87(2)(b) on the temple and did not recall jabbing or striking § 87(2)(b)'s abdomen with a baton. Deputy Inspector Glynn did not recall taking § 87(2)(b)'s phone out of his hands. Deputy Inspector Glynn did not recall crushing § 87(2)(b)'s eyeglasses with his foot. Deputy Inspector Glynn did not recall whether he saw another officer seize bicycles.

In his CCRB interview, PO Joseph stated that he was in a police van observing the group of protestors when AC McEvoy ordered officers to exit their vehicles at Penn Street and Wythe Avenue (**17 Board Review**). He and other officers blocked the intersection. Chief McEvoy ordered officers to arrest the protestors. PO Joseph arrested a protestor who was not § 87(2)(b) PO Joseph did not witness any other officers using force and could not tell what was going on around him because he was focused on arresting the other protestor.

In his CCRB interview, Deputy Inspector Skretch stated that at approximately 9:15 p.m., he and Lieutenant Daverin went to Penn Street and Wythe Avenue because it was not far from where they were working at the 79th Precinct stationhouse (**18 Board Review**). When Deputy Inspector Skretch arrived, he saw that DI Glynn, Deputy Chief McEvoy, and Lieutenant Butler were already there. He and Chief McEvoy ordered officers to form a line in the middle of the street with Lieutenant Butler and Lieutenant Daverin. Deputy Inspector Skretch waited in the line and then saw officer start to pass by him to make arrests. He walked approximately 15 feet down Penn Street and detained a white female for violating curfew while other officers continued further down the street. Deputy Inspector Skretch did not see any other officer arrest someone. Deputy Inspector Skretch and Assistant Chief Maddrey walked down Penn Street together. Deputy Inspector Skretch saw several detained prisoners and 5-10 unattended bicycles. Deputy Inspector Skretch knew that the bicycles would be stolen if they were left unattended on the street, so he used his radio to request that a van come to the location and collect the bicycles. He assumed that the responding van would be from the Mobile Field Force. He never saw officers collecting the bicycles and never found out what happened to them, whether they were vouchered, or where they were taken. He did not see any other articles of lost property at the location. Deputy Inspector Skretch did not use physical force or use an asp or baton against a protester during this incident. He did not say, “Get the fuck on the ground. Get the fuck on the ground. Shut the fuck up. You wanted smoke, you got it.” He did not confiscate or damage any protester’s cell phone or step on a protester’s glasses.

In his CCRB interview, Lieutenant Daverin stated that at approximately 9:15 p.m., he and Deputy Inspector Skretch went to the location and saw 15-20 other officers and hundreds of protestors (**19 Board Review**). A supervisor who Lieutenant Daverin could not identify ordered officers to line up. Lieutenant Daverin stood in front of the line of officers and faced the protestors. Lieutenant Daverin believed that a supervisor ordered the officers to disperse the protestors, because he saw that officers began to move from behind him toward the protestors to arrest them. Lieutenant Daverin helped another officer restrain a female protestor, the continued to walk on Penn Street by himself. He denied punching § 87(2)(b) using his baton, and saying “get the fuck on the ground,” “shut the fuck up,” or “get the fuck down.” Lieutenant Daverin did not take anybody’s cell phone out of their hand or damage a cell phone. He did not step on anybody’s eyeglasses. Lieutenant Daverin did not remember seeing any property left on Penn Street. He did not witness Deputy Inspector Skretch use his radio to order officers to collect bicycles or other property that had been left at the scene.

In his CCRB interview, PO Husbands stated that he and other officers from his command were at a mobilization point on Randall’s Island for a few hours before Sgt. Guy instructed to go to Penn Street and Wythe Avenue (**20 Board Review**). When PO Husbands arrived at 9:25 p.m., he saw around 75 protestors at the location and many protestors on the street. Officers had already arrested around 30 people. PO Husbands brought an arrestee, who was not § 87(2)(b) to a prisoner bus, guarded the prisoner bus, and went to Brooklyn Central Booking. There, a 5’8” tall male Sergeant or Lieutenant of an unknown race with medium brown complexion from an unknown command assigned him as § 87(2)(b) and multiple others’ arresting officer. PO Husbands did not interact with § 87(2)(b) before this moment.

In his CCRB interview, Assistant Chief Maddrey stated that at approximately 8:45 p.m., he heard one or more “distress calls” on the radio on the night of the incident and drove to the Williamsburg neighborhood (**21 Board Review**). Assistant Chief Maddrey did not state who the distress calls were from. Near Rutledge Street, Assistant Chief Maddrey met with Deputy Inspector Skretch. He saw protestors running and asked Deputy Inspector Skretch what was going on. Deputy Inspector Skretch responded that there were people protesting and officers arresting them. Assistant Chief Maddrey told Deputy Inspector Skretch to regroup the officers and get them back in formation. Then, Assistant Chief Maddrey drove to Penn Street and Wythe Avenue. There, he saw 100-150 protestors and 40-50 officers in a “stand-off.” Assistant Chief Maddrey did not know which commands these officers were from. Assistant Chief Maddrey walked into the middle of the confrontation, told the officers to stand down and return to their posts, and told the protestors to go home. The protestors dispersed orderly. There were three or four other officers in white shirts on scene, and they were mostly lieutenants, but he did not recall what commands they were from. Chief Maddrey did not observe any officer use force against any civilian at Penn Street and Wythe Avenue. Assistant Chief Maddrey did not see any officer handcuff any civilian there. Assistant Chief Maddrey stated that protestors sustained any injuries at the intersection. Assistant Chief Maddrey did not hear any officer say “Get the fuck on the ground” or “Shut the fuck up” to any civilian. He did not witness any officer taking a cell phone out of a protestor’s hands or crush a pair of eyeglasses under their foot. Assistant Chief Maddrey did not witness Deputy Inspector Skretch call for any officers to collect bicycles and take them from the location.

In his CCRB interview, Deputy Chief McEvoy stated that at an unspecified time, he responded to Deputy Inspector Glynn’s request for help (**22 Board Review**). He followed the group’s movements for multiple blocks and the group stopped at Penn Street and Wythe Avenue. There were NYPD officers and vehicles in the group’s path, but he did not order this to happen. After waiting for officers to warn the protestors to disperse, he ordered officers in his immediate vicinity to arrest protestors for violating curfew. Deputy Chief McEvoy approached multiple individuals, placed his hand on their arms to detain them, and then instructed nearby officers to finalize the arrests. Deputy Chief McEvoy did this three to five times during this incident, but stated he did not actually place handcuffs on any individual during this incident or use any force beyond placing his hand on their arm. Deputy Chief McEvoy did not push § 87(2)(b) to the ground. Deputy Chief McEvoy denied telling § 87(2)(b) to “get the fuck on the ground” or “shut the fuck up.” He denied punching § 87(2)(b)’s head and jabbing him with a baton. Deputy Chief McEvoy did not tell another officer to “get § 87(2)(b) s] fucking phone.” Deputy Chief McEvoy denied crushing § 87(2)(b)’s glasses under his boot. Finally, Deputy Chief McEvoy did not witness any other officer take these actions.

In his CCRB interview, Lieutenant Butler stated that at an unspecified time, he and Deputy Chief McEvoy responded to the location at the same time (**23 Board Review**). He and other officers formed a line while ordering protestors to leave the location and obey curfew. Lieutenant Butler waited at Penn Street and Wythe Avenue for “several minutes.” Once protestors started marching towards the line of officers at Penn Street and Wythe Avenue while screaming and throwing bottles, officers started to arrest them. Lieutenant Butler may have placed protestors under arrest, though he did not recall any specific incidents or any of the specific actions he took to help place any protestor under arrest. He also may have assisted in his normal supervisory capacity during this incident, such as assisting in lifting a handcuffed individual off of the ground, or helping to secure handcuffs on an arrestee, but he did not recall a specific instance when he did so. Lieutenant Butler did not recall whether he placed a hand on § 87(2)(b)’s right shoulder and push him to the ground. He did not recall punching an individual on their temple. He did not recall whether he jabbed an individual with an asp. Lieutenant Butler did not see anyone strike an arrestee with a baton or punch them. He did not recall whether he told § 87(2)(b) “Get the fuck on the ground” or “Shut

the fuck up.” Lieutenant Butler did not recall whether he put handcuffs on anybody while they were recording the incident with a cell phone. He did not believe that he removed a cell phone from anyone’s hand. Lieutenant Butler did not purposefully or accidentally step on anybody’s eyeglasses during the incident but stated that he could have stepped on anything on the ground that night. Lieutenant Butler did not seize any property.

None of the officers interviewed for this case recognized § 87(2)(b) from his photograph.

Video footage from a nearby building at 731 Wythe Avenue in IA #118, titled “\ch03_20200604205148.mp4,” depicts this incident, but not § 87(2)(b) s arrest (**09 Board Review**). At 15:38, numerous police officers arrive at the intersection on foot and by car. At 17:12, officers begin to form a line at the end of Penn Street. At 18:01, the group of protestors arrives at the end of Penn Street and halts in front of the officers. More officers come to the intersection and line up. At 22:38, officers start to run toward the crowd. The protestors run away from the officers. At 24:49, officers begin to bring arrested protestors back toward the intersection. At 25:32, officers walking § 87(2)(b) backward to the intersection enter the right side of the frame. The officers’ faces and identifying information is not visible due to the distance at which the event was recorded.

§ 87(2)(b) recorded the video titled, “\VidLeadingToAssaultFrMyPhone.mp4” in IA #16 (**01 Board Review**). The video shows a large group of protestors facing the intersection of Penn Street and Wythe Avenue. The protestors chant and stand still until they start to turn around at 1:13. At 1:35 in the recording, officers start to arrest protestors. Protestors start to run away from the officers. § 87(2)(b) yells, “Whoah! Whoah! Unprovoked! I’m getting out of here!” as an officer says, “Get the fuck down.” § 87(2)(b) yells, “I’m down!” The video does not show officers’ faces or identifying information because the camera’s lens is covered. None of the officers interviewed for this case identified their voices making the statement or recognized it otherwise.

§ 87(2)(b) s friend found the video titled, “\PostZipTie.mp4” in IA #16 on Twitter and sent it to him (**01 Board Review**). At the beginning of the file, a white bicycle is visible on the ground. At 0:10 in the recording, the video shows two male officers, one officer in a white shirt and one in a blue shirt, escorting § 87(2)(b) away from the scene of the arrest. § 87(2)(b) s injuries are not visible. § 87(2)(b) shouts his name and says that he was protesting peacefully when officers “beat” and “punched” him. The officers’ faces and identifying information is not visible.

A video from Twitter user § 87(2)(b) in IA #38 also shows protestors facing a line of officers at the intersection (**02 Board Review**). A second video from the same user in IA #39 shows the moment that protestors began to run away from the officers while they arrested people (**03 Board Review**). The video shows officers arresting protestors but does not capture § 87(2)(b) s arrest.

§ 87(2)(b) provided the investigation with a photograph of his white bicycle (**39 Board Review**). A video from Twitter user § 87(2)(b) in IA #225 was recorded in front of 66 Penn street after § 87(2)(b) was arrested and taken from the location (**08 Board Review**). The video shows officers tending to an injured arrested protestor. At 0:12 in the recording, a white bicycle is visible on the ground. The bicycle is also visible at 0:05 in the recording of a video that was uploaded by the same user, located in IA #223 (**07 Board Review**).

The investigation received BWC footage of officers processing arrests at a stationhouse (**24 Board Review**). The footage was not related to this incident. The NYPD also searched for footage from the incident time period from the 90th Precinct, Strategic Response Group, Critical Response Command, Counterterrorism Bureau, Narcotics Borough Brooklyn North, and City-Wide Traffic and did not locate any relevant videos (**25 Board Review**).

A Threat, Resistance, and Injury (TRI) report was not created for § 87(2)(b) (26 Board Review). Property vouchers were not created for § 87(2)(b) (26 Board Review).

The photograph of officers in IA #226 shows the line of officers at the intersection of Penn Street and Wythe Avenue (27 Board Review). Three officers in white shirts are visible in the center of the photograph: Lieutenant Butler (left), Lieutenant Daverin (center), and Deputy Inspector Skretch (right). Each officer identified himself in his CCRB interview (18, 19, 23 Board Review).

§ 87(2)(b)

The New York City Department of Investigation’s Office of the Inspector General for the NYPD did not note which officers participated in this incident in their report of the NYPD’s response to protests (29 Board Review). A UF-49/Unusual Occurrence Report was not created by Patrol Borough Brooklyn North or the 90th Precinct (30, 31 Board Review).

“In partnership with the community, we pledge to ... protect the ... property of our fellow citizens and impartially enforce the law.” NYPD Patrol Guide Procedure 200-02 (33 Board Review).

§ 87(2)(g)

The investigation was not able to identify any additional white male officers in white shirts uniforms who responded to Penn Street and Wythe Avenue. Those officers matching the description who were present for this incident denied taking part in § 87(2)(b) s arrest. In addition, the investigation could not identify any officers who participated in § 87(2)(b) s arrest due to lack of documentation and the large number of officers present. § 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

§ 87(4-b), § 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) [REDACTED] has been a subject (**34 Board Review**).
- Deputy Inspector Skretch has been a member of service for 21 years and has been a subject in 12 cases and 19 allegations, one of which was substantiated.
 - 201901603 involved a substantiated allegation of refusal to show a search warrant. The Board recommended command level instructions and the NYPD imposed instructions.
 - § 87(2)(g) [REDACTED]
- Lt. Daverin has been a member of service for 13 years and has been a subject in 35 other cases and 105 allegations, of which eight were substantiated.
 - 201502623 involved substantiated allegations of frisk, refusal to provide name/shield, and vehicle search allegations against Lt. Daverin. The Board recommended Command Discipline A for all three allegations, and the NYPD imposed the recommended discipline.
 - 201604699 involved a substantiated allegation of entry/search of premises against Lt. Daverin. The Board recommended Command Discipline B, and the NYPD imposed no penalty.
 - 201911006 involved substantiated allegations of a frisk, two stops and one discourtesy-word against Lt. Daverin. The Board recommended Command Discipline B, and the NYPD is yet to impose any penalty.
 - § 87(4-b), § 87(2)(g) [REDACTED]

[REDACTED]

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 202004222	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:18 PM, Friday, 09/18/2020 , Wednesday, 10/07/2020	Location of Incident: West Street near the intersection of Morris Street; 100 Church Street	Precinct: 01	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 06/11/2020 7:22 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 06/11/2020 7:22 PM		

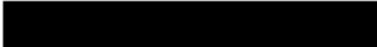
Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Christophe Boria	26858	953693	SRG 4
2. SGT Daniel Nicoletti	05379	942271	GVSD Z1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jonathan Ku	20058	951890	SRG 4
2. DT3 Mike Civil	02114	935092	GVSD Z1
3. LCD William Buchanan	00000	924993	GVSD Z1
4. POM Scott Obenauer	23942	935422	SRG 4
5. POM Edward Mendez	00689	933017	SRG 1
6. POM Michael Rivera	26688	948413	SRG 2
7. SGT Catherine Kunst	01788	943284	SRG 4
8. POM Patrick Connolly	12224	930038	SRG 3
9. POM Rafael Morla	13749	956114	SRG 3
10. POM Carl Becker	11065	954539	SRG 3
11. SGT Benjamin Nelson	4010	947818	GVSD Z1

Officer(s)	Allegation	Investigator Recommendation
A.SGT Daniel Nicoletti	Force: On June 2, 2020, West Street near the intersection of Morris Street in Manhattan, Sergeant Daniel Nicoletti struck § 87(2)(b) with a baton.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		
D.POM Christophe Boria	Untruthful Stmt.: On September 18, 2020, at 100 Church Street in Manhattan, Police Officer Christophe Boria provided a false official statement to the CCRB.	

Officer(s)	Allegation	Investigator Recommendation
E.SGT Daniel Nicoletti	Untruthful Stmt.: On October 7, 2020, at 100 Church Street in Manhattan, Sergeant Daniel Nicoletti provided a misleading official statement to the CCRB.	

Case Summary

On June 11, 2020, § 87(2)(b) filed this complaint via the CCRB website.

On June 2, 2020, at approximately 8:18 p.m., a large protest occurred in the vicinity of West Street and Morris Street in Manhattan. A city-wide curfew was in effect starting at 8:00 p.m. Hundreds of civilians and at least 50 police officers were present for this protest, which police officers dispersed. In the course of dispersing the protest, PO Christopher Boria of SRG4 arrested § 87(2)(b). As PO Boria placed § 87(2)(b) in restraints, Sergeant Daniel Nicoletti struck § 87(2)(b) with a baton (**Allegation A – Force: Nightstick a club, § 87(2)(g)**). § 87(2)(b) was issued a summons for violating the curfew.

§ 87(4-b), § 87(2)(g)

On September 18, 2020, Police Officer Christophe Boria provided a false official statement to the CCRB (**Allegation D – Untruthful Statement: False Official Statement**). On October 7, 2020, Sgt. Nicoletti provided a false official statement to the CCRB (**Allegation D – Untruthful Statement: Misleading Official Statement**).

The CCRB received BWC footage from the NYPD's Legal Bureau relating to this case (BR22-27) and it was reviewed (BR07) as well as from § 87(2)(b) (BR17-21, summarized BR05). The investigation also linked BWC footage provided to the CCRB regarding Case No. 202004048 (BR29-76, summaries attached to BR96) and Case No. 202003978 (BR77-84, summaries attached to BR95).

Findings and Recommendations

Allegation (A) Force: On June 2, 2020, at West Street near the intersection of Morris Street in Manhattan, Sergeant Daniel Nicoletti struck § 87(2)(b) with a baton.

On the night of June 2, 2020, a curfew was in effect in New York City beginning at 8:00PM.

§ 87(2)(b) in her statement to the CCRB (BR08), stated that on June 2, 2020, at approximately 8:18PM, she heard noise from her open, westward facing window. She turned towards it. She observed a protest on the street below, involving civilians on foot and carrying and riding bicycles. Below the window § 87(2)(b) she did not know who was later identified by the investigation as § 87(2)(b) § 87(2)(b) was face down on the ground; she did not see how he came to be on the ground. An officer identified by the investigation as PO Boria was kneeling beside § 87(2)(b) and holding his left arm, while an officer knelt near § 87(2)(b) holding his right arm. § 87(2)(b)'s hands were pinned by his sides, where the officers were holding them. § 87(2)(b)'s hands were not in restraints. § 87(2)(b)'s body was wiggling slightly but § 87(2)(b) could not tell if § 87(2)(b) was moving on his own or if the officers were moving § 87(2)(b). An officer identified by the investigation as Sgt. Nicoletti walked north within a few feet of where the officers held § 87(2)(b) to the ground. As Sgt. Nicoletti walked by where officers held § 87(2)(b) to the ground, he turned towards § 87(2)(b) raised his nightstick to shoulder height, and struck § 87(2)(b) in the calves with his nightstick, once. Other protestors were in the vicinity but did not appear to be within five feet of where officers held § 87(2)(b) on the ground. There were more officers in the area than protestors. No protestors moving by were interacting with the officers who were holding § 87(2)(b). After Sgt. Nicoletti struck § 87(2)(b) the two officers holding § 87(2)(b) appeared to gesture towards

something and Sgt. Nicoletti continued moving north with them. Within a few seconds the officers restrained § 87(2)(b)'s hands in plastic zip ties. § 87(2)(b) stopped watching what was happening with § 87(2)(b) at this point (BR08). § 87(2)(b) provided testimony to the CCRB that was consistent with that of § 87(2)(b) (BR16).

The investigation was unable to reach § 87(2)(b) despite making five calls and sending two letters to two possible addresses for § 87(2)(b)

§ 87(2)(b) provided the investigation with video footage she recorded that captured the incident (BR20, summarized BR05). § 87(2)(b) recorded this video on her cell phone, facing down from her apartment window. At 00m17s into the video § 87(2)(b) identified by the investigation as § 87(2)(b) wearing grey pants, black boots, and a dark long sleeve top can be seen on the ground near the center of the frame. Two officers, one of which the investigation identified to be PO Boria, are kneeling next to § 87(2)(b) Sgt. Nicoletti, identified by the investigation, is standing near § 87(2)(b)'s feet. At 00m018s, a white male officer with brown hair wearing a short-sleeve white shirt and no helmet is seen walking away from § 87(2)(b) and proceeding north on West Street. Sgt. Nicoletti is wearing a short-sleeve uniform shirt with chevrons at his biceps, and black gloves. § 87(2)(b) is laying on the ground, face toward the ground, with his left side elevated and his right arm under his torso. Eight other officers are within a radius of approximately five yards, but not interacting with § 87(2)(b) or the officers interacting with § 87(2)(b) These officers are walking away from the interaction. At approximately 00m18s into the video, Sgt. Nicoletti raises a black baton in his right hand above his head and strikes § 87(2)(b) across the back of the legs on or near the calf with the baton once. § 87(2)(b) lifts his lower legs, curling them towards his back. As he does so, his body rolls or is rolled so that it is facing the ground and the torso is flat to the pavement. It is unclear in the footage whether the officers kneeling on the right and left of § 87(2)(b) observe Sgt. Nicoletti's action. The officers to § 87(2)(b)'s left and right bring § 87(2)(b)'s hands together and one of the officers uses white plastic zip ties to restrain § 87(2)(b)'s hands. In the lane of traffic to the left of § 87(2)(b) is a white Access-A-Ride van with blue insignia.

The investigation located video evidence that depicted § 87(2)(b)'s interaction with officers.

- PO Ku's BWC was obtained in connection with CCRB 202003978 (BR91, summarized BR07). In this video, officers are depicted walking north towards protesters on West Street as the protesters walk west away from the officers. At approximately, 00m50s, officers begin to arrest protesters. At 00m59s in the recording, there is a black male depicted at the center of the screen who is walking backwards, away from officers. The black male – who the investigation identified as § 87(2)(b) – has short locks and is wearing a dark blue jacket, and grey trousers. At 01m04s, a white male officer with a short-sleeve white shirt, brown hair, and no helmet is depicted. This officer was identified by the investigation as Lieutenant William Buchanan as per his NYPD Officer Photograph (BR110). At 01m06s, officers including Lieutenant Buchanan are depicted running in front of PO Ku towards § 87(2)(b) and other protesters in his immediate vicinity. Visible at this time in the lane of traffic to the left of § 87(2)(b) and the officers is a white Access-A-Ride van with blue insignia. At 01m12s, officers begin to apprehend protesters. At the same time, numerous officers surround § 87(2)(b) Although the officers' exact actions are obscured by the fact that their bodies are turned away from the cameras and the presence of numerous officers whose bodies block the camera's view of § 87(2)(b) it appears that the officers make physical contact with § 87(2)(b) At 1m13s, an unidentified officer raises his baton and swings it below his knees towards § 87(2)(b) It is unclear due to the positioning of officers immediately around § 87(2)(b) whether § 87(2)(b) is on the ground at the time the baton moves towards him. At the conclusion of this action, § 87(2)(b) is depicted on the ground. It is not clear if or where the baton makes contact with § 87(2)(b) This unidentified officer is

wearing a short-sleeve uniform shirt with no chevrons depicted on the right biceps of the shirt, and is not wearing gloves. Lt. Buchanan stands behind the group of officers observing. PO Ku continues walking forward past this group of officers.

- Lieutenant Peter Sotiriou's BWC was reviewed (BR63). At approximately 03m27s, an officer is depicted holding § 87(2)(b) by the arm. A screenshot of this image is attached in BR98. § 87(2)(b)'s hair is worn with short locks. The Access-A-Ride van is depicted in the background when Lieutenant Sotiriou turns towards the street at approximately 04m15s in the recording.

The investigation also obtained video of Sgt. Nicoletti at the protest in the immediate vicinity of where the incident occurred:

- The investigation reviewed video footage from § 87(2)(b) provided to the CCRB in connection with CCRB 202003978 (BR93). This footage depicts officers walking towards protestors who are walking north on West Street. Lieutenant Buchanan is depicted at 00m20s waking north on West Street, away from the white Access-a-Ride van. Sgt. Nicoletti is depicted at 00m56s, with his name plate and shield number visible. Sgt. Nicoletti is depicted wearing black gloves, a short-sleeved NYPD uniform shirt with chevrons on the left and right biceps of the shirt, and a helmet.

Sgt. Nicoletti testified that he responded to the incident location with members of his team. On scene, Sgt. Nicoletti's team and other officers deployed south of where protestors congregated. Sgt. Nicoletti's direct supervisor on scene, Lieutenant William Buchanan, instructed him to disperse the crowd. Sgt. Nicoletti's duties for the day involved preventing protestors from entering the Battery Tunnel. Sgt. Nicoletti and his team walked up the West Side Highway [also known as West Street] towards protestors and gave verbal instructions to leave the area. The demeanor of the crowd started to change, and became aggressive and "hectic." Protestors threw bottles, bikes, and barricades at police officers, and made verbal threats that he could not recall. Sgt. Nicoletti did not recall specifically how he went about dispersing the crowd but believed he would have given verbal orders to disperse and walked forward toward protestors. Sgt. Nicoletti believed he had his baton in his hands at this time, but did not recall how specifically he held it, speculating that he would have held it with two hands in front of himself, or pointed tip downward in one hand by his side. Sgt. Nicoletti did not recall if he pushed anyone forward or struck anyone with a baton while trying to disperse the crowd. He did not recall if he observed other officers strike individuals with their batons. As he moved, Sgt. Nicoletti walked behind Lieutenant Buchanan. The situation ended when the streets were empty and the crowd dispersed. Although other officers from Sgt. Nicoletti's team made arrests, Sgt. Nicoletti never debriefed with anyone about the protest and was never given information about the arrest of § 87(2)(b). During his CCRB interview, Sgt. Nicoletti was shown a still frame from cell phone footage generated by Brian Derrick (BR93). Sgt. Nicoletti identified himself in the video. Sgt. Nicoletti was shown § 87(2)(b) video footage. Although Sgt. Nicoletti said the setting was the one he recalled, he stated that the video did not independently refresh his memory. Sgt. Nicoletti stated that he could not identify any of the officers in the frame, including the sergeant in black gloves striking § 87(2)(b). Sgt. Nicoletti could not recall if he struck a protester in the legs as depicted in the video. He did not recall if he saw another officer do so, or if another officer described such a situation to him. (BR14).

In his CCRB statement, Sgt. Nicoletti stated that he was not equipped with a BWC on the date of incident.

In his testimony to the CCRB, PO Boria explained that he detained § 87(2)(b) and issued him a summons for failing to disperse. On the scene of the protests, PO Boria walked about thirty feet and grabbed § 87(2)(b) whom he described as a 5'8" black male with a slim build and medium-length

black hair who was dressed in a dark t-shirt that was possibly maroon. PO Boria told § 87(2)(b) that he was under arrest and should get on the ground. § 87(2)(b) got on the ground. Nothing else beyond § 87(2)(b) moving his own body occurred during the process of § 87(2)(b) getting on the ground. PO Boria did not use a forcible take down to bring § 87(2)(b) to the ground because § 87(2)(b) got on the ground when PO Boria asked him to do so. No other officer performed a forcible take down on § 87(2)(b) and PO Boria and § 87(2)(b) interacted one-on-one. PO Boria handcuffed § 87(2)(b) with zip-ties PO Boria had with him. § 87(2)(b) was not fighting PO Boria during the handcuffing process. PO Boria recalled many other people around him when he arrested § 87(2)(b) and people asking if PO Boria was “good,” but no other officers assisting him in placing § 87(2)(b) under arrest as § 87(2)(b) was not being combative and was acting passively. PO Boria did not see any officer strike § 87(2)(b) with a baton. He did not see any officer swinging a baton in a one-handed strike against § 87(2)(b)'s body (BR13).

PO Boria’s Memo Book (BR109) notes that § 87(2)(b) was taken into custody at the West Side Highway and Morris Street, and that he was issued a summons for violating Mayor’s Executive Order 118 regarding a curfew.

§ 87(2)(b) was issued a summons, but was not arrested on scene, so no arrest report was generated. No TRI was generated regarding § 87(2)(b)'s arrest.

The investigation determined that Sgt. Nicoletti was the subject of the complaint due to his physical and temporal proximity to the area where § 87(2)(b) was apprehended and the similarity of his appearance to the subject officer as depicted in the video. Sgt. Nicoletti’s physical and temporal proximity was determined by multiple sources of video evidence, which showed that he walked past the location of § 87(2)(b)'s apprehension within seconds of the apprehension. In his statement to the CCRB, Sgt. Nicoletti stated that he was in the immediate vicinity of Lieutenant Buchanan as he walked on West Street. Video evidence placed Lieutenant Buchanan as being present for § 87(2)(b)'s apprehension, and confirmed that Sgt. Nicoletti walked a few seconds behind Lieutenant Buchanan. While there were several officers depicted in the video footage, Sgt. Nicoletti’s appearance stood out in that he was dressed in a short-sleeve shirt, had chevrons on the biceps of his shirt, and had black gloves. § 87(2)(g)

NYPD Patrol Guide 221-01 governs NYPD use of force. Officers may use force to protect themselves and/or other people from harm, as well as to overcome resistance to take a suspect into custody. This use of force must be reasonable, and must take into consider the following factors when using force: The nature and severity of the crime/circumstances, the actions taken by the subject [of the force], the duration of the action, the immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the number of subjects in comparison to the number of members of service, the size, age, and condition of the subject in comparison to the members of service, the subject's violent history, if known, the presence of a hostile crowd or agitators, whether the subject was under the influence of any substance which would affect pain tolerance (BR94).

According to Patrol Guide 221-03, using an impact weapon constitutes a, “Level 2,” use of force. Per this procedure, a TRI must be generated for all Level 2+ uses of force.

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Allegation (D) Untruthful Statement: On September 18, 2020, at 100 Church Street in Manhattan, Police Officer Christophe Boria provided a false official statement to the CCRB.

On September 18, 2020, PO Boria provided a statement to the CCRB. PO Boria recalled numerous details of the apprehension of § 87(2)(b) and informed the CCRB that he interacted one-on-one with § 87(2)(b) that while officers asked if he was okay as he placed § 87(2)(b) in handcuffs, no one assisted him in this process. PO Boria also stated that he did not see any officer strike § 87(2)(b) with a baton. He noted minor details such as placing § 87(2)(b) in ziptie handcuffs and later replacing these with traditional handcuffs and the names of other officers that were present as he waited to process § 87(2)(b)'s summons.

During the interview, at 36:30 minutes in the recording, PO Boria was shown the video provided by § 87(2)(b) (Board Review 20). PO Boria stated that he was unsure whether he could identify himself in the frame, but believed that he was one of the depicted officers and stated that the depicted location was consistent with the location of his interaction with § 87(2)(b). PO Boria affirmed that the video depicted an officer swing a baton at § 87(2)(b) but he stated that he did not recall seeing something of that nature on June 2, 2020. PO Boria did not alter his testimony after viewing the video footage despite being given an opportunity to do so.

As discussed under Allegation A, the investigation determined that the person being apprehended in the video provided by § 87(2)(b) was § 87(2)(b). The investigation also determined that video provided by § 87(2)(b) depicts at least one officer assisting PO Boria in the process of handcuffing § 87(2)(b) as he lay on the ground. It is unclear from § 87(2)(b) video whether PO Boria witnessed Sgt. Nicoletti strike § 87(2)(b) with his baton.

According to Patrol Guide Procedure 203-08 (BR111), a false official statement is an intentional statement that a member of the service knows to be untrue, which is material to the outcome of an investigation, proceeding, or other matter in connection with which the statement was made.

The Patrol Guide further defines a material fact as a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such a fact would reasonably result in a different decision or outcome. A material

fact may be distinguished from an insignificant, trivial, or unimportant detail.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

Allegation (E) Untruthful Statement: On October 7, 2020, at 100 Church Street in Manhattan, Sergeant Daniel Nicoletti provided a misleading official statement to the CCRB.

Sgt. Nicoletti provided the CCRB with a statement on October 7, 2020. In his statement to the CCRB, Sgt. Nicoletti stated that he did not recall if he struck anyone with a baton as he and other officers dispersed the crowd. During the interview, Sgt. Nicoletti viewed PO Ku’s BWC footage (BR91), which depicted him shortly after force was used against § 87(2)(b) and he was able to identify himself in the footage. Sgt. Nicoletti was also shown the footage provided to the investigation by § 87(2)(b) at 44 minutes into the recording (Board Review 20). While Sgt. Nicoletti stated that the setting was familiar, he stated that he could not identify any officer in the frame, including the white male officer wearing black gloves and a short-sleeve shirt with chevrons on the biceps of the shirt. Sgt. Nicoletti stated that he did not recall striking anyone with his baton, and stated that his recollection of whether he struck anyone with a baton was not refreshed after seeing the footage provided by § 87(2)(b)

As discussed in Allegation A, the investigation determined that Sgt. Nicoletti used his baton to strike § 87(2)(b) as depicted in the video provided by § 87(2)(b)

Patrol Guide Procedure 203-08 (BR111) defines a misleading statement as a statement that is intended to misdirect the finder, and materially alter the narrative by:

- a. Intentionally omitting a material fact or facts,
- b. Making repeated claims of “I do not remember” or “I do not know” when a reasonable person under similar circumstances would recall, or have been aware of, such material facts, or
- c. Altering and/or changing a member’s prior statement or account when a member of the service is confronted with independent evidence indicating that an event did occur as initially described, will generally be considered a misleading statement

In his statement to the CCRB, Sgt. Nicoletti stated that he did not recall striking anyone with his baton, and further noted that his recollection of whether he performed this action was not refreshed by viewing the video that depicted him striking § 87(2)(b) with a baton. § 87(2)(g)

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [Redacted] has been a party (BR02).
- This is the first CCRB complaint to which § 87(2)(b) [Redacted] has been a party (BR01).
- Sgt. Nicoletti has been a member-of-service for 14 years and has been the subject of eight CCRB complaints and 21 allegations, none of which were substantiated. § 87(2)(g) [Redacted]
- PO Boria has been a member-of-service for eight years and has been the subject of three CCRB complaints and three allegations, none of which have been substantiated. § 87(2)(g) [Redacted]

Mediation, Civil and Criminal Histories

- This case was ineligible for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] has no history of convictions in New York City (BR04)
- According to OCA, § 87(2)(b) [Redacted] has no history of convictions in New York City (BR04).
- The charges generated regarding this case were dismissed or otherwise not prosecuted by the New York City District Attorney (BR04).
- As of February 12, 2021, the New York City Office of the Comptroller has no record of any notice of claim being filed in regards to this complaint (BR03).

Squad No.: 12

Investigator:	<u>Zachary Herman</u>	<u>Investigator Zachary Herman</u>	<u>05/12/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Carlmais Johnson</u>	<u>IM Carlmais Johnson</u>	<u>June 24, 2021</u>
	Signature	Print Title & Name	Date

Reviewer: _____

Signature

Print Title & Name

Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jackie Manginelli	Team: Squad #10	CCRB Case #: 202004300	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sat, 05/30/2020 , Sat, 05/30/2020 9:30 PM, Mon, 07/27/2020 9:22 AM	Location of Incident: [REDACTED]	Precinct: 13	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/15/2020 2:25 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 06/15/2020 2:25 PM		

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

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. POM Ali Hassan	01324	960642	105 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Nick Milentijevic	03660	930738	105 PCT
2. POF Samantha Saville	29610	967324	105 PCT
3. POM Brian Ortiz	16730	961044	105 PCT
4. POM Ryan Nelson	02834	961001	105 PCT
5. POM Imtiaz Mohamed	20557	950898	105 PCT
6. POM Jazer Suazo	28401	949997	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A . Officers	Force: On May 30, 2020, at an unknown location, officers used physical force against an individual.	A . § 87(2)(g) [REDACTED]
B . An officer	Force: On May 30, 2020, at an unknown location, an officer struck individuals with a baton.	B . § 87(2)(g) [REDACTED]
C . An officer	Force: On May 30, 2020, at an unknown location, an officer struck § 87(2)(b) [REDACTED] with a baton.	C . § 87(2)(g) [REDACTED]
D . POM Ali Hassan	Discourtesy: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan spoke discourteously to § 87(2)(b) [REDACTED].	D . § 87(2)(g) [REDACTED]
E . POM Ali Hassan	Force: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan struck § 87(2)(b) [REDACTED] with a baton.	E . § 87(2)(g) [REDACTED]
F . POM Ali Hassan	Force: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan struck an individual with a baton.	F . § 87(2)(g) [REDACTED]

Officer(s)	Allegation	Investigator Recommendation
G . POM Ali Hassan	Discourtesy: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan spoke discourteously to an individual.	G . § 87(2)(g)
H . POM Ali Hassan	Untruthful Statement: On July 27, 2020, at 100 Church Street in Manhattan, Police Officer Ali Hassan provided a misleading official statement to the CCRB.	H . § 87(2)(g)
§ 87(4-b), § 87(2)(g)		

Case Summary

On June 16, 2020, § 87(2)(b) filed the following complaint with the CCRB on-line.

On May 30, 2020, at an unknown time, § 87(2)(b) started marching with a Black Lives Matter march at Barclays Center in Brooklyn. He ran into his friend, § 87(2)(b) and they marched together. The march crossed over the Manhattan Bridge and into Manhattan. § 87(2)(b) lost track of § 87(2)(b) when they crossed over into Manhattan.

At an unknown time in the evening, in either Brooklyn or in Manhattan, § 87(2)(b) allegedly saw multiple unknown officers pull a man off his bike and tackle him to the ground (**Allegation A—Force: Other:** § 87(2)(g)). An unknown officer allegedly hit protesters with his baton (**Allegation B—Force: Nightstick as club:** § 87(2)(g)). The same unknown officer approached § 87(2)(b) and allegedly lightly hit him on his upper-body or his arm with a baton (**Allegation C—Force: Nightstick as club:** § 87(2)(g)).

The march continued and at approximately 9:30 p.m. in the vicinity of 14th Street and 4th Avenue in Manhattan, officers ran toward protesters and § 87(2)(b) ran away while recording on his cellphone. PO Ali Hassan ran toward § 87(2)(b) and shouted, “Get the fuck back! Get back!” (**Allegation D—Discourtesy: Word:** § 87(2)(g)). PO Hassan swung his baton and hit § 87(2)(b)'s lower legs and, using his baton, pushed § 87(2)(b) in the chest (**Allegation E—Force: Nightstick as club:** § 87(2)(g)). PO Hassan then approached a man holding a large shoulder-mounted camera and pushed him in the chest using his baton (**Allegation F—Force: Nightstick as club:** § 87(2)(g)). PO Hassan then asked § 87(2)(b) and the unknown cameraman, “You guys weren’t fucking things up, right?” (also, **Allegation D and G -Discourtesy: Word:** § 87(2)(g)). PO Hassan then walked away.

During his CCRB interview on July 27, 2020, at 100 Church Street in Manhattan, PO Hassan made a misleading statement to the CCRB (**Allegation H—Untruthful Statement: Misleading Statement:** § 87(2)(g), § 87(4-b), § 87(2)(g)).

§ 87(2)(b) submitted cellphone footage that captured this incident (**Board Review 03**). PO Hassan submitted cellphone footage that he took on his personal phone that captured the beginning of this incident prior to his interaction with § 87(2)(b) however, it did not capture any allegations (**Board Review 16**). There was no other footage of this incident (**Board Review 07**).

This case was added to the sensitive case list due to the press coverage of § 87(2)(b)'s cellphone video (**Board Review 14**).

Findings and Recommendations

Allegation A: Force: On May 30, 2020, at an unknown location, officers used physical force against an individual.

Allegation B: Force: On May 30, 2020, at an unknown location, an officer struck individuals with a baton.

Allegation C: Force: On May 30, 2020, at an unknown location, an officer struck § 87(2)(b) with a baton.

§ 87(2)(b) was interviewed over the phone on June 23, 2020 (**Board Review 01**). § 87(2)(b) was unavailable to the investigation. The cameraman could not be identified. PO Ali Hassan was interviewed at the CCRB on July 27, 2020 (**Board Review 02**).

§ 87(2)(b) stated that on May 30, 2020, at an unknown time in the evening, either in Brooklyn or Manhattan, protesters surrounded one or two parked police vehicles and unknown officers chased the protesters away. Two officers, then pulled a man off a bike and brought him to the ground. § 87(2)(b) approached the scene while recording. Additional officers then came and dispersed the protesters. One officer swung his baton at the protesters and hit § 87(2)(b) on his upper body or arm with his baton.

PO Hassan said he was not involved in any protest-related action earlier that day and was working on a 911-call in Queens that was not protest-related. PO Hassan did not witness an individual being pulled off a bike and tackled to the ground by two officers.

§ 87(2)(g)

Allegation D: Discourtesy: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan spoke discourteously to § 87(2)(b)

Allegation E: Force: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan struck § 87(2)(b) with a baton.

Allegation F: Force: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan struck an individual with a baton.

Allegation G: Discourtesy: On May 30, 2020, at 14th Street and 4th Avenue in Manhattan, Police Officer Ali Hassan spoke discourteously to an individual.

§ 87(2)(b) stated that at approximately 9:38 p.m., in the vicinity of 14th Street and 4th Avenue in Manhattan, multiple protesters surrounded one or two police vans and yelled at officers. Multiple officers then ran towards the protesters and § 87(2)(b) and other protesters ran away. § 87(2)(b) stopped running and stood on the street away from the police vehicles. PO Ali Hassan then approached him while he recorded with his cellphone in one hand and raised his other hand in the air. PO Hassan said something that § 87(2)(b) interpreted as asking them to leave. PO Hassan then hit him on his lower thigh with his baton and pushed § 87(2)(b) with the baton in his mid-section while telling him to leave. PO Hassan then pushed a press cameraman, who was standing to the left and slightly behind § 87(2)(b) with his baton. The cameraman was carrying a large shoulder-mounted camera and told PO Hassan that he was, "Press." § 87(2)(b) remained in place, continued to record, and PO Hassan walked away from them.

PO Hassan stated that he and his partner, PO Samantha Saville, were in a police van, with PO Brian Ortiz, PO Ryan Nelson, PO Imtiaz Mohamed, PO Jazer Suazo, and Sergeant Nick Milentijevic, when a large group of protesters surrounded the van chanting and cursing at them. Someone then threw a rock at the rear windshield of the van, which shattered the glass. There was also a trash fire on the street behind the police van. The officers exited the van and protesters threw bottles toward the police officers; however, no officers were hit. A few protesters dumped the trash fire out of the trash can and kicked pieces of the fire towards the police officers and some of the fire hit the rear bumper of their vehicle. The officers stood outside of the van while Sergeant Milentijevic called a code 10-13 over the radio, (officer needs assistance). Approximately thirty to forty additional officers arrived at the incident location and ran toward where PO Hassan and his fellow officers were standing. The protesters then ran away from the police van. All the officers formed a line

across the entire street and waited for the protesters to disperse on their own. Sergeant Milentijevic was in the line as well, but he did not give any instructions. Most of the protesters moved away from the officers in the line; however, some remained approximately two feet from the officers. The officers were not given any further instructions and did not move toward the protesters who eventually dispersed to different streets on their own. Neither PO Hassan nor the other officers used any force to disperse the protesters because the protesters did not come close enough to the officers for the officers to have to push them away. The officers were trained in the police academy to hold their baton in both of their hands and horizontally across their chest and push protesters on their upper chest if they came too close. PO Hassan did not have to do this, nor did he use his baton at all that evening. The officers stood in the line for approximately an hour until all the protesters left the street.

§ 87(2)(b)'s cellphone footage captures a portion of this incident (**Board Review 03**). At 01:08, PO Hassan takes out his baton and approaches § 87(2)(b). Another officer he is with walks away from him towards his left, and PO Hassan looks in his direction. PO Hassan appears to swing his baton towards § 87(2)(b)'s legs, but the baton is out of frame and whether the baton struck the leg cannot be seen. At 01:10, a thud sound is heard immediately after PO Hassan swings his baton. PO Hassan tells § 87(2)(b) to, "Get the fuck back! Get back!" He then holds his baton horizontally across his chest and pushes § 87(2)(b) in the chest with his baton. PO Hassan then pushes a man holding a large shoulder-mounted camera standing to § 87(2)(b)'s left with his baton. At 01:13, the man says that he is, "Press." PO Hassan asks, "You guys weren't fucking things up, right?" At 01:20, PO Hassan turns around and walks away from them.

After providing his initial narrative noted above, PO Hassan was shown the cell phone footage. PO Hassan then changed his statement saying that the officers were told to clear the street by an unknown supervisor. PO Hassan and the other officers ran towards the protesters as per those orders. PO Hassan ran towards § 87(2)(b) took his baton out, and swung towards § 87(2)(b)'s legs. PO Hassan missed and did not actually hit § 87(2)(b) with the baton. § 87(2)(b) cursed at PO Hassan and told him that he was not going to move back. PO Hassan held his baton horizontally and pushed § 87(2)(b) back with the baton. He did not know if § 87(2)(b) had anything to do with lighting the fire or throwing the rock through the windshield because there were close to one thousand protesters in the area. He also did not notice § 87(2)(b) recording at the time and did not notice the other male had a shoulder mounted camera. PO Hassan pushed that cameraman with his baton because he wanted to get him out of the street. PO Hassan was not given any specific instructions for how to deal with members of the press. PO Hassan identified his voice in the video as saying, "Get the fuck back, get back," and "You guys weren't fucking things up, right?" PO Hassan said he used profanity because he was scared, and it was a stressful situation.

PO Hassan was asked to indicate the time in the video when § 87(2)(b) cursed while saying that he is not going to move back. PO Hassan identified 01:14 as when § 87(2)(b) said this. However, the investigation could not hear § 87(2)(b) refusing to move at any point in the video, and at approximately 01:14 § 87(2)(b) is saying, "We're just standing here."

It was undisputed that PO Hassan said, "Get the fuck back," to § 87(2)(b) and, "You guys weren't fucking things up, right?" to § 87(2)(b) and the cameraman. It was undisputed that PO Hassan swung his baton toward § 87(2)(b)'s legs and pushed § 87(2)(b) and the cameraman with his baton.

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

According to Patrol Guide 200-02, The police department must maintain a higher standard of integrity than is generally expected of others because so much is expected of them. The police department must value human life, respect the dignity of each individual, and render their services with courtesy and civility (**Board Review 04**).

According to DCT Case Law 2017-17276, language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation (**Board Review 15**).

PO Hassan said he spoke discourteously because it was a stressful situation. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

According to Patrol Guide Procedure 221-01 (**Board Review 05**), when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of service should consider the following:

- A. The nature and severity of the crime or circumstances
- B. Actions taken by the subject
- C. The duration of the action
- D. The immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders
- E. Whether the subject is actively resisting custody
- F. Whether the subject is attempting to evade arrest by flight
- G. Number of subjects in comparison to the number of MOS
- H. Size, age, and condition of the subject in comparison to the MOS
- I. Subject's violent history, if known
- J. Presence of a hostile crowd or agitators
- K. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence

§ 87(2)(g)

§ 87(2)(g)

Allegation H: Untruthful Statement: On July 27, 2020, at 100 Church Street in Manhattan, Police Officer Ali Hassan provided a misleading official statement to the CCRB.

In his initial narrative, PO Hassan did not mention using his baton during this incident. When asked if he used his baton at all, he stated that he did not use it at all that evening and that he and all the officers stood in a line for approximately an hour until the protesters left the street on their own. He stated that no action was taken to clear the street beyond forming this line. During this portion of his interview, he was able to recall specific details about what occurred, such as being surrounded by protestors, having a rock being thrown through the back windshield of the police van, and a trash fire on the street. When presented with § 87(2)(b)'s cellphone video from the incident (**Board Review 03**), which showed him approaching and using his baton against § 87(2)(b) and the cameraman, PO Hassan said, "Watching the video, once we charged after them, we had to tell them to get back, that's it. I ran towards him, I took my baton out, I never struck him, it missed him, but then I used the horizontal and I pushed him back." PO Hassan also acknowledged pushing the press cameraman because he wanted him out of the street. PO Hassan provided no explanation for why he changed his statement when confronted with the video.

According to Patrol Guide Procedure 203-08, a misleading statement is a statement that is intended to misdirect the fact finder, and materially alter the narrative by: intentionally omitting a material fact or facts, or altering and/or changing a member's prior statement or account when a member of service is confronted with independent evidence indicating that an event did not occur as initially described. A material fact is a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail (**Board Review 08**).

In DCT Case Number 2017-18331, a Lieutenant was determined to have made statements that were knowingly misleading at the time she made them, and that the statements made were material false statements because they went beyond a mere denial of misconduct and instead offered an alternative factual scenario which, if believed, would absolve her of responsibility (**Board Review 12**).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]

[Redacted]

[Redacted]

[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
 - § 87(2)(b) [Redacted]
- PO Ali Hassan has been a member of service for four years and this is the first complaint for which he has been a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- A FOIL request for any Notice of Claim to the New York City Comptroller’s Officer, confirmed that § 87(2)(b) [Redacted] did not file a Notice of Claim for this incident (**Board Review 09**).
- § 87(2)(b) [Redacted]

Squad No.: 10

Investigator: Jackie Manginelli Inv. Jackie Manginelli 08/14/2020
Signature Print Title & Name Date

Squad Leader: Eric Rigie IM Eric Rigie 8/17/2020
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Edward Tsigel	Team: Squad #4	CCRB Case #: 202004315	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:18 PM	Location of Incident: West Street and Morris Street	Precinct: 01	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/16/2020 10:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 06/16/2020 10:56 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT David Lamarre	03547	947929	SRG 3
2. SGT Elliot Zinstein	05494	947634	TRN BUR
3. DT3 Chad Mack	06054	937000	VED ZN1

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Patrick Connolly	12224	930038	SRG 3
2. POM Anthony Buonomo	09259	954579	SRG 3
3. POM Harvey Rabel	18646	937321	SRG 3
4. POM Scott Obenauer	23942	935422	SRG 4
5. POM Adam Muniz	31861	955234	SRG 1
6. POM Edward Mendez	00689	933017	020 PCT
7. LT Peter Sotiriou	00000	924515	SRG 3

Officer(s)	Allegation	Investigator Recommendation
A.SGT Elliot Zinstein	Force: Sergeant Elliot Zinstein used physical force against § 87(2)(b)	
B.DT3 Chad Mack	Force: Detective Chad Mack hit § 87(2)(b) against the ground.	
C.DT3 Chad Mack	Force: Detective Chad Mack restricted § 87(2)(b)'s breathing.	
D.SGT David Lamarre	Discourtesy: Sergeant David Lamarre spoke discourteously to § 87(2)(b)	
§ 87(2)(g), § 87(4-b)		

Case Summary

On June 16, 2020, § 87(2)(b) filed this complaint on the CCRB website. On July 1, 2020, this case was closed pending litigation. On January 15, 2021, this case was reopened and investigated.

On June 2, 2020, at 8:18 PM, § 87(2)(b) was walking north on West Street in Manhattan when Sergeant Elliot Zinstein of the Training Bureau took her to the ground (**Allegation A – Force** – § 87(2)(g) Detective Chad Mack of the Vice Enforcement Division assisted in arresting § 87(2)(b) and allegedly slammed her head on the ground three times and then placed his hand or knee on her neck and restricted her breathing (**Allegations B and C – Force** – § 87(2)(g) Sergeant David Lamarre of Strategic Response Group 3 arrested § 87(2)(b) and spoke discourteously towards her (**Allegation D – Discourtesy** – § 87(2)(g)

§ 87(2)(g), § 87(4-b)

§ 87(2)(b) sustained two hematomas on her forehead (BR 08) and multiple scratches (BR 09) as a result of this incident.

§ 87(2)(b) was arrested and released with a summons (BR 10) for disobeying the 8:00 PM curfew on June 2, 2020, issued by Police Officer Patrick Connolly of Strategic Response Group 3, as a result of this incident. The summons was dismissed on July 1, 2020.

The CCRB received Body Worn Camera (BWC) videos across multiple protest cases, of which 13 were relevant to this incident (IA 107). Additionally, the CCRB received 5 videos (IA 63-67) and 4 photos (IA 59-62) that documented this incident, § 87(2)(b) injuries, and § 87(2)(g) social media post.

Findings and Recommendations

Allegation (A) Force: Sergeant Elliot Zinstein used physical force against § 87(2)(b)

A city-wide curfew was in effect from 8 PM on June 2, 2020, to 5 AM on June 3, 2020 (BR 01).

On June 2, 2020, § 87(2)(b) (BR 02) was an essential worker and was walking north on West Street in Manhattan on her way to work at the § 87(2)(b) at approximately 8:18 PM. § 87(2)(b) had her essential worker identification on a lanyard around her neck (BR 03). She observed a large group of officers attempting to disperse a large group of protestors on West Street due to an 8 PM city-wide curfew that was in place. When § 87(2)(b) reached the intersection of West Street and Morris Street Sergeant Zinstein tackled her to the ground from behind. Additional officers immediately assisted by handcuffing her and placing her under arrest.

Sgt. Zinstein was assigned to a mobile protest detail which was assigned to the West Side Highway protest. Sgt. Zinstein (BR 04) stated that he was informed by supervisors that everyone at the location of this incident was in violation of the curfew after 8:00 PM and was to be placed under arrest; however, he did not remember who instructed him to make the arrests. Essential personnel were allowed to be outside past the 8:00 PM curfew. He would determine if someone was essential personnel if they disclosed that to him, or by asking the individual himself. Sgt. Zinstein did not have an independent recollection of his interaction with § 87(2)(b) and stated that he could only speak to what he saw in his BWC footage.

Sgt. Zinstein was shown from 1:30 to 1:48 of his BWC footage (BR 05), in which § 87(2)(b) is seen walking up West Street with her back facing Sgt. Zinstein, and unaware that Sgt. Zinstein is approaching her. There are at least fifteen police officers in the vicinity of § 87(2)(b) and one civilian who is on the ground. Sgt. Zinstein runs towards § 87(2)(b) grabs her, tells her to get down, and takes her to the ground immediately without any prior instructions. Additional officers immediately approach § 87(2)(b) grab her, and begin to place her under arrest. Sgt. Zinstein immediately leaves the scene after the other officers approach. 0:00 to 0:30 of Police Officer Scott Obenauer's BWC video (BR 06) provides another angle of Sgt. Zinstein taking § 87(2)(b)

§ 87(2)(b) to the ground.

After viewing his BWC, Sgt. Zinstein stated that he took § 87(2)(b) to the ground because she was under arrest for violating the 8:00 PM city-wide curfew in place at the time. He did not remember why he made the decision to take § 87(2)(b) to the ground immediately without any prior instruction or effort to deescalate the situation. He did not know why he did not take steps to determine if she was an essential worker. He denied that he ever tackled § 87(2)(b) to the ground and stated that he guided her down.

The CCRB has six additional cases (202004684, 202003978, 202004048, 202004222, 202004232, 202100268) stemming from the same protest at West Street in Manhattan. The CCRB interviewed multiple supervisors who were involved in this protest. Inspector Gerard Dowling (Case# 202004684, IA 294), Deputy Inspector James McGeown (Case# 202003978, IA 412), Deputy Inspector Ronald Zedalis (Case# 202004048, IA 503), Captain Ronald Ramos (Case# 202004684, IA 302), Lieutenant William Buchanan (Case# 202004222, IA 290), and Lieutenant Michael Jennings (Case# 202004048, IA 443), were all present during this protest and all stated that they did not issue any instructions to officers regarding making arrests or issuing summonses if a civilian violated the 8:00 PM curfew during the protest.

Patrol Guide Procedure 221-01 (BR 07) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application of force must be reasonable under the circumstances. In determining whether the use of force is reasonable members of service should consider the nature and severity of the crime/circumstances, immediacy of the perceived threat or harm to the subject, members of the service and/or bystander, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, the number of subjects in comparison to the number of members of service (MOS), size, age, and condition of the subject in comparison to the MOS, and the presence of hostile crowd or agitators.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation (B) Force: Detective Chad Mack hit § 87(2)(b) against the ground.

Allegation (C) Force: Detective Chad Mack restricted § 87(2)(b)'s breathing.

§ 87(2)(b) (BR 02) stated that while being placed under arrest by the additional officers, she repeatedly told them that she was an essential worker. While she was being handcuffed, Det. Mack slammed her head against the ground three times. § 87(2)(b) sustained two hematomas on her forehead (BR 08) and multiple scratches (BR 09) as a result of being slammed. Det. Mack then placed his hand or knee on the back of § 87(2)(b) neck for approximately ten seconds and restricted her breathing. § 87(2)(b) yelled that she could not breathe twice. § 87(2)(b) was positioned face down on the ground. After she was handcuffed, she was transported to the Mass Arrest Processing Center (MAPC) in Brooklyn. She was later transported to § 87(2)(b)

Hospital in Brooklyn and received treatment for her injuries. After being treated, she was transported back to MAPC and stayed the night in a cell. She was released the following morning with summons for violating the 8PM curfew (BR 10).

Det. Mack (BR 11) stated that he observed officers handcuffing § 87(2)(b) and approached her to assist the other officers. Det. Mack placed his right hand on § 87(2)(b) shoulder area to hold her down against the ground. He did not take any other actions while assisting the other officers. Det. Mack denied slamming § 87(2)(b) head against the ground, placing any part of his body on § 87(2)(b) neck, restricting her breathing in any way, or seeing any other officer do that. Det. Mack was shown both videos noted below and reaffirmed that his hand was on § 87(2)(b) shoulder and that the videos do not provide a clear angle.

From 0:00 to 0:30 of PO Obenauer's BWC video (BR 06) § 87(2)(b) is seen being taken down to the ground by Sgt. Zinstein and additional unknown officers restraining her. At 0:18 Det. Mack is seen with his arm in the vicinity of § 87(2)(b)'s head however it is not seen where he is making contact or if he is applying any amount of pressure with his arm. From 1:20 to 1:50 of Sgt. Lamarre's BWC video 2/3 (BR 12) Sgt. Lamarre is seen placing § 87(2)(b) in flex cuffs. At multiple points throughout the footage, Det. Mack's hand is seen around § 87(2)(b)'s head on the very left of the frame, however it is not seen where he is making contact or if he is applying any amount of pressure with his arm. Additionally, § 87(2)(b) is continuously heard saying that she is essential personnel and that she is compliant. She is not heard saying that she cannot breathe. The videos do not show any officer hitting § 87(2)(b) head in any way, slamming it against the ground, or placing their knee in the vicinity of her neck. The videos do not capture a clear and complete angle of § 87(2)(b) head and neck.

§ 87(2)(b), § 87(2)(g)

Allegation (D) Discourtesy: Sergeant David Lamarre spoke discourteously to § 87(2)(b)

This allegation was not made by § 87(2)(b) and was heard in Sgt. Lamarre's BWC footage.

At 0:25 of Sgt. Lamarre's BWC footage (BR 12), Sgt. Lamarre approaches an unknown individual who is being placed under arrest by additional unknown officers and he is heard saying "Put your fucking hands behind your back." He leaves the scene and continues walking down the block. At 1:00 Sgt. Lamarre is seen approaching § 87(2)(b) while she is being restrained on the ground by at least five additional unknown officers. He assists the officers in placing § 87(2)(b) in handcuffs and arresting her and he is heard saying "Put your fucking hands behind your back." The BWC shows that there is a large group of officers and a large group of protesters at the location and multiple arrests being executed. There were no protestors in the immediate vicinity of § 87(2)(b) and the officers restraining her.

Sgt. Lamarre (BR 13) stated that he observed § 87(2)(b) being handcuffed and arrested by additional officers and approached them to assist the officers in restraining her. Sgt. Lamarre did not remember if he or any other officers used any profanities during this incident but stated that if he did then it would be to gain compliance and control of the situation by using a stern voice. Sgt. Lamarre was shown from 1:00 to 1:10 of his BWC footage (BR 12) in which he is heard saying "Put your fucking hands behind your back." Sgt. Lamarre did not know if he or any other officer made this statement and did not know if that was his voice which said it.

Patrol Guide Procedure 200-02 (BR 14) states that the department is committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

DCT Case no. 2018-18951 (BR 20) states that officers must act with decorum in their

interaction with civilians. It further states that disciplinary cases “have consistently held that when a police officer uses an otherwise impolite word during a stressful street encounter where that officer is attempting to maintain control of the situation, the police officer’s verbal slip does not rise to the level of actionable misconduct.”

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g), § 87(4-b)

[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED] has been party to one other CCRB complaint in which she was not a victim (BR 17).
- Sergeant Elliot Zinstein has been a member of service for 12 years and has been a subject in 8 CCRB complaints and 30 allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
- Detective Chad Mack has been a member of service for 16 years and has been a subject in 6 other CCRB complaints and 11 allegations, of which 1 was substantiated.:
 - 201402139 involved a substantiated allegation of a frisk against Det. Mack. The board recommended instructions and the NYPD imposed instruction and formalized training.
 - § 87(2)(g) [REDACTED]
- Sergeant David Lamarre has been a member of service for 12 years and has been a subject in 10 other CCRB complaints and 16 allegations, of which one was substantiated.:
 - 201604671 involved a substantiated allegation of a vehicle search against Sgt. Lamarre. The Board recommended command discipline and the NYPD did not impose any discipline.
 - § 87(2)(g) [REDACTED]

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- § 87(2)(b) [REDACTED] filed a Notice of Claim with the City of New York claiming severe and permanent physical and personal injury and is seeking 10 million dollars as redress (BR 18). There is no 50H hearing scheduled.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 202004474	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 10:20 PM	Location of Incident: 2273 Church Avenue	Precinct: 70	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/19/2020 4:05 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 06/19/2020 4:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. POM Justin Adetimirin	12522	965920	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dylan Mccann	14257	960907	067 PCT
2. POM Bledi Binaj	15833	963874	072 PCT
3. POM Tarik Haywood	14154	960648	070 PCT
4. POM Adnan Hussain	00333	961531	070 PCT
5. SGT Yevgeny Vaks	05179	947564	060 PCT
6. POM Adrian Theobald	31670	955573	075 PCT
7. POM Michael Sher	07435	951244	070 PCT
8. POM Jonathan Connors	10739	966000	071 PCT
9. POM Dionnys Hernandez	03844	961814	070 PCT
10. SGT Fitzroy Vigilance	04583	918667	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A. POM Justin Adetimirin	Force: Police Officer Justin Adetimirin used physical force against an individual.	
B. An officer	Force: An officer struck § 87(2)(b) with a police shield.	
C. An officer	Force: An officer used physical force against § 87(2)(b)	
D. An officer	Abuse: An officer did not obtain medical treatment for § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on June 19, 2020 via the online portal.

On the evening of May 30, 2020, § 87(2)(b) attended a protest that stopped at Bedford Avenue and Church Avenue in Brooklyn at approximately 9:30 p.m., where hundreds of civilians and officers gathered in the intersection. At approximately 10:20 p.m., when § 87(2)(b) was standing in front of the post office at 2273 Church Avenue and filming with his cell phone, a firework went off in front of the Shell Gas Station. Officers began running after civilians, and Police Officer Justin Adetimirin of the 81st Precinct pushed an unidentified individual (**Allegation A: Physical Force**, § 87(2)(b), § 87(2)(g)). Within seconds, § 87(2)(b) turned to his left and saw a male officer with a plastic shield run toward him and allegedly push him with his shield, causing him to fall onto the ground and hit his head (**Allegation B: Force- Shield, and Allegation C: Physical Force**, § 87(2)(g)). § 87(2)(b) passed out, and when he woke up, he had terrible pain all over his body, including his head, ribs, arms, and legs. A tall black male officer allegedly came up to him and said, “You gotta go, you gotta go. Are you okay?,” to which § 87(2)(b) said, “No, I need help, I need an ambulance.” Allegedly, the officer immediately walked away without calling an ambulance for § 87(2)(b) (**Allegation D: Abuse of Authority- Refusal to Obtain Medical Treatment**, § 87(2)(g)). § 87(2)(b) was not arrested or summonsed, but he was eventually transported by a § 87(2)(b) ambulance to § 87(2)(b) Hospital in Brooklyn.

§ 87(2)(b) provided eight cell phone videos that he took during the protest (Board Review #01). The most relevant video shows the moment the unidentified officer runs up to him, after which he falls (Board Review #33). BWC videos from related cases were reviewed and determined to be irrelevant to this incident.

Findings and Recommendations

Allegation (B) Force: An officer struck § 87(2)(b) with a police shield.

Allegation (C) Force: An officer used physical force against § 87(2)(b)

Known Facts and General Description

§ 87(2)(b) was interviewed by the CCRB via telephone on July 2, 2020 (Board Review #02). Police Officer Justin Adetimirin of the 81st Precinct was interviewed by the CCRB on September 16, 2020 (Board Review #03). Lieutenant Michael Butler of the Office of the Chief of Department was interviewed by the CCRB on September 22, 2020 for related case #202003799 (Board Review #04). Police Officer Bledi Binaj of the 72nd Precinct (who, at the time of the incident, was temporarily assigned to the 67th Precinct) was interviewed by the CCRB on October 2, 2020 (Board Review #05). Police Officer Dylan McCann of the 67th Precinct was interviewed by the CCRB on October 19, 2020 (Board Review #06). Police Officer Adnan Hussain of the 70th Precinct was interviewed by the CCRB on January 19, 2021 (Board Review #07).

§ 87(2)(b) testified that he arrived at the protest near Bedford and Church Avenues in Brooklyn at approximately 9:30 p.m. on May 30, 2020. He took videos with his cell phone throughout the night for the next hour. At 10:20 p.m., when § 87(2)(b) was standing in front of the post office at 2273 Church Avenue, a firework went off near the Shell Gas Station on Bedford and Church Avenues. A large group of civilians and officers started running West on Church Avenue, away from the Shell. § 87(2)(b) did not move, but continued filming, and on his left saw an approximately over 6’ tall, 200-pound uniformed white male in his 30s with a big build, wearing a helmet and holding a large white riot shield. The officer ran toward § 87(2)(b) without saying anything or issuing any orders.

§ 87(2)(b) stood frozen with both of his hands above his head and said, “I’m gone! I’m gone!” The officer hit the left/front side of § 87(2)(b) s body with his shield, causing § 87(2)(b) s body to move back two to three feet, and the right side of his head above his ear hit the iron gate in front of the post office. § 87(2)(b) believed that he blacked out for a few seconds as soon as his head struck the gate. § 87(2)(b) was eventually able to stand up on his own, walk a few blocks, and call an ambulance, which transported him to § 87(2)(b) Hospital in Brooklyn. The hospital records show that as of 11:06 p.m. on the night of the incident, § 87(2)(b) was experiencing extreme chest pain, difficulty breathing, potential rib fractures, and “slight volar subluxation” (dislocation) in his right hand (Board Review #08, #09).

Body-Worn Camera Footage and Other Video Evidence

Two requests for BWC were generated for this case, which were returned on July 7, 2020 with four videos (Board Review #10) and on July 20, 2020 with eight videos (Board Review #11), four of which were unique from the first request. These videos are all summarized in IA #69 (Board Review #12).

Two requests were sent through related case #202003841, the first of which was returned on June 23, 2020 with 10 videos, and the second of which was returned negative on July 13, 2020 (Board Review #13). Three requests were sent through case #202003800, the first of which was returned negative on June 22, 2020, the second of which was returned negative on September 15, 2020, and the third of which was returned negative on October 5, 2020 (Board Review #14). One video from Captain James Hepworth was also received for that case (Board Review #15). Two requests were sent through case #202003805, the first of which was returned on June 23, 2020 with 6 videos, and the second of which was never received (Board Review #16). Four requests were sent through case #202003782, the first of which was returned negative on June 24, 2020, the second of which was returned on July 15, 2020 with three videos, the third of which was returned on September 3, 2020 with 11 videos, and the fourth of which was returned negative on September 16, 2020 (Board Review #17). One request was sent through case #202006547, which was returned on October 27, 2020 with seventeen videos (Board Review #35). According to the receipts from NYPD Legal Bureau, searches for these videos included dozens of commands, including the 40th, 42nd, 60th, 67th, 68th, 69th, 70th, 71st, 72nd, 73rd, 75th, 110th, precincts, SRG, ESU, CRC, Counterterrorism, OCD, Recruit Training, ITB, PSA 1 and 3, Transit Bureaus 32 and 34, and Narcotics.

All BWC videos available were reviewed and did not show § 87(2)(b) s incident as he described it. The only video that appears to show § 87(2)(b) at all is at 09:50 in one BWC video of Police Officer Dionnys Hernandez from the 70th Precinct (Board Review #18). In that video, § 87(2)(b) is only seen for a few seconds standing on the sidewalk with many other protesters and appears to be filming on his phone.

A FOIL request to the US Postal Service for video footage from the post office at 2273 Church Avenue was returned negative on July 13, 2020 (Board Review #19). On June 15, 2020, Investigator Charlie Hartford performed fieldwork near the incident location for related case § 87(2)(g) a complaint which took place at the same protest and near Bedford and Church Avenues (Board Review #20). Inv. Hartford canvassed buildings 2713, 2717, 2723, 2801, 2802, 2803, 2804, and 2812 Church Avenue for external surveillance cameras. Inv. Hartford did not recover any relevant surveillance footage. On June 25, 2020, for related case #202003805, Investigator Zachary Herman reviewed security footage from exterior-facing cameras of a nearby business but found that the footage from these cameras was not retained from May 30, 2020. Investigator Herman also found that the exterior cameras at Chemplus pharmacy at 2606 Church Avenue were not functional, and that the Family Deli at 2604 Church Avenue did not have

cameras. No further available cameras were found (Board Review #21).

Four handheld TARU videos from case § 87(2)(g) were reviewed, one of which is attached in IA #82 and shows the post office at 2273 Church Avenue that § 87(2)(b) had been standing in front of (Board Review #22). § 87(2)(b) is not seen in this footage.

§ 87(2)(b) provided eight cell phone videos he took during the incident, one of which (IMG_0334) captures the incident and shows the unidentified officer running toward § 87(2)(b) at 37 seconds into the footage (Board Review #01, #33). The uniformed male officer, who appears to be white, of average height, with a slightly big build, wearing a helmet, and holding a small shield in his left hand stops and looks in the direction of the camera. At 38 seconds, he is seen running toward the camera, and the camera quickly pans to the right and begins to shake quickly. § 87(2)(b) says, "I'm gone, I'm gone, I'm gone!" The screen goes black because, as § 87(2)(b) stated in his interview, he fell to the ground and hit his head on the iron gate next to him. This cell phone video was the only footage available that showed § 87(2)(b)'s incident, and thus was the best resource to attempt to identify the subject officer. Specific details of the officer's appearance are seen in the screenshot from the video attached to IA #217 (Board Review #34). These details include the torso-sized plastic shield in his left hand, small markings or the lack of markings on his uniform, and the numbers "33" at the end of the number on his helmet. Attempts to match these details to other officers seen in other videos were unsuccessful.

NYPD Documents Reviewed

Because the incident occurred on the border of the 67th and 70th precincts, the resource recap logs for those precincts were reviewed (Board Review #23, #24). While the logs identified some officers who were called for backup or were in the vicinity of the intersection of Bedford and Church Avenues, the logs, like most other documents available from the NYPD, could not accurately indicate which officers were at specific locations at specific times. The detail roster and memo books from Disorder Control showed that every officer with "33" in their shield number was not in Brooklyn during the incident (Board Review #39). The detail roster from Patrol Borough Brooklyn South, which included the rosters from the 67th and 70th Precincts, did not list any officers who roughly matched § 87(2)(b)'s description or the screenshot of the subject officer and whose shield ended in "33," other than Police Officer Hussain, who was interviewed and determined not to be the subject (Board Review #40). MOS Photos of many officers from several different commands, including Disorder Control, Strategic Response Group, the 67th, 70th, 72nd, and 81st Precincts, were compared to the brief shot of the subject officer in the video, but none appeared to be a close enough match. Dozens of memo books from different officers were received, none of which mentioned § 87(2)(b) or his incident. No AIDED was prepared for § 87(2)(b) (Board Review #25), nor was a Threat, Resistance and Injury Report (Board Review #31).

Concurrent Investigations

This complaint was made to the CCRB, and the CCRB is not aware of any concurrent investigations by any other agencies regarding this incident.

Ranking Officers

Chief of Department Terence Monahan was interviewed on March 8, 2021 for related cases § 87(2)(g) and #202003841 (Board Review #36). Chief Monahan's general observations of the protest at Bedford and Church Avenues were consistent with those of other officers and civilians: there was a large crowd of civilians, several of whom officers attempted to

arrest. Some civilians threw cinderblocks and lit fireworks. Chief Monahan ordered officers to “pull back” away from the group of civilians at some point, and to clear the nearby blocks. Officers were able to secure the Shell Gas Station at Bedford and Church Avenues with additional personnel. Chief Monahan did not issue any instructions regarding the gas station, did not hear any supervisors on scene give instructions to the officers near the gas station, nor was he aware of which supervisors oversaw the group of officers near the gas station.

As officers began approaching the crowd of protestors to clear civilians from the block, some civilians shot fireworks at officers approximately four to five times. The officers responded to the fireworks in the same way they responded to other objects being thrown at them and arrested some civilians in the middle of the street. Officers announced to the group of civilians in the street that they would be arrested if they didn’t leave. Chief Monahan did not see any civilians rendering medical aid to other civilians, nor did he see any officers pushing any civilians with their batons.

Officers Interviewed

Police Officer Justin Adetimirin of the 81st Precinct, who was seen in § 87(2)(b) s cell phone video a few seconds before he was allegedly pushed, was interviewed on September 16, 2020 (Board Review #03). Police Officer Bledi Binaj of the 72nd Precinct (who, at the time of the incident, was temporarily assigned to the 67th Precinct) was interviewed on October 2, 2020 because he was confirmed to be at the protest and his shield number was “15833” (Board Review #05). Police Officer Dylan McCann of the 67th Precinct, who was seen in § 87(2)(b) s cell phone video seconds before the subject officer allegedly pushed § 87(2)(b) was interviewed on October 19, 2020 (Board Review #06). Police Officer Adnan Hussain of the 70th Precinct was interviewed on January 19, 2021 because he was confirmed to be at the protest and his shield number was “333” (Board Review #07). All officers interviewed could reference very few specific incidents they witnessed or could remember; most only remembered the presence of many civilians and officers, and of objects being thrown. All officers interviewed denied seeing or did not remember seeing § 87(2)(b) at the protest, and Police Officers Binaj and Hussain denied pushing § 87(2)(b) to the ground. Police Officers Binaj and Hussain were also determined not to be the subject officer because their appearances were not close enough to the subject’s, neither carried a plastic shield, and other small details of their uniforms did not match the subject’s, as seen in the screenshot of the cell phone video (Board Review #34).

Allegation Recitation and Disposition

Allegation (B) Force: An officer struck § 87(2)(b) with a police shield.

Allegation (C) Force: An officer used physical force against § 87(2)(b)

The officer who allegedly pushed § 87(2)(b) could be from any number of commands from the entire city, and § 87(2)(b) s video does not show the officer’s face, complete helmet number, or other identifying features clearly enough to positively identify the officer. Absent additional video footage of the encounter and reliable documentation of officers’ assignments at the protest (and other dynamic protests throughout the city) § 87(2)(g)

Allegation (A) Force: Police Officer Justin Adetimirin used physical force against an individual.

At 32-33 seconds into § 87(2)(b) s cell phone video IMG_0334, about 30 seconds after a firework

was seen going off near the gas station at the corner, a black male officer immediately to the left of the bus stop and wearing a helmet with the numbers “12522” is seen standing at the edge of the sidewalk (Board Review #33). A SnagIt recording showing the next few seconds in frame-by-frame analysis shows the following: the officer is facing the camera and looking toward a white male individual with a bike running toward him (Board Review #37). As the individual continues to run past him and push his bike, the officer makes contact with the backs of the individual’s upper arms and pushes him forward. As the camera pans to the right, the civilian’s arms are seen outspread and moving to the ground.

Upon viewing the original video from 13 to 24 seconds, which shows a large group of civilians running down Church Avenue, away from Bedford Avenue, Police Officer Adetimirin testified that he did not know why civilians were running or whether they ran on their own accord (Board Review #33). Police Officer Adetimirin then viewed a frame-by-frame portion of footage starting at 33 seconds. He acknowledged that he saw the black male officer pushing a civilian on a bike. Upon viewing a zoomed-in screenshot of this moment, Police Officer Adetimirin could read that the first three numbers of the officer’s helmet were “1, 2, 5.” He was not sure whether the officer was himself because the video was not clear enough. However, he confirmed that the helmet he was wearing during the protest had his shield number on it, “12522.” Thus, the investigation determined by a preponderance of the evidence that the officer shown in this footage is Police Officer Adetimirin.

Police Officer Adetimirin testified that he was instructed by a supervisor in a white shirt he did not know to disperse the crowd and to create a perimeter. Police Officer Adetimirin understood that “dispersing the crowd” entailed ordering people to move back. Whenever any fireworks went off, according to Police Officer Adetimirin, civilians and officers all ran in different directions. No civilians ran toward officers; civilians either ran away or stayed stationary. Police Officer Adetimirin could not recall whether he made physical contact with anyone.

Patrol Guide Procedure 221-01 authorizes officers to use a reasonable amount of force to gain control or custody of a subject (Board Review #26). Officers must consider several factors to determine the reasonability of the force used, including the actions taken by the subject, whether the subject is attempting to evade arrest by flight, and the presence of a hostile crowd.

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation (D) Abuse of Authority: An officer did not obtain medical treatment for § 87(2)(b)
[REDACTED]

[REDACTED] alleged that after he was shoved, he hit his head on the iron gate in front of the post office, passed out for a few seconds, and woke up on the ground. He felt terrible pain all over his body, including his head. After approximately five to 10 seconds, an approximately 6’ tall uniformed black male in his 30s with a skinny build, wearing a helmet, and holding a nightstick, came up to § 87(2)(b) and said, “You gotta go, you gotta go. Are you okay?” § 87(2)(b) said,

“No, I need help, I need an ambulance.” The officer immediately walked away toward what § 87(2)(b) believed to be Flatbush Avenue, and he never saw the officer again.

§ 87(2)(b)'s cell phone video IMG_0334 shows Police Officer Adetimirin in the street a few seconds before § 87(2)(b) is pushed (Board Review #33). At 56 seconds, after the screen goes black, an unidentified voice says, “You alright?” There is no visual component of this portion of video because § 87(2)(b) was on the ground. § 87(2)(b) testified in his interview that he was not sure whether the voice belonged to the black male officer or a white male civilian on a bike who also asked if he was okay. No audio is captured of anyone saying, “You gotta go, you gotta go.” While multiple other tall uniformed black male officers are seen in the BWC and TARU videos available from the protest, none are clearly seen in § 87(2)(b)'s video in the moments before he was pushed. § 87(2)(b) also testified that he reviewed all the videos he took throughout the protest and did not see the black male officer in question. No videos are available that show § 87(2)(b) lying on the ground.

Police Officer Adetimirin's MOS photo states that, at the time of the incident, § 87(2)(b) Police Officer Adetimirin did not recall seeing § 87(2)(b) as shown in the photographs attached to IA #112 (Board Review #38). Police Officer Adetimirin also did not recall seeing an officer push § 87(2)(b) nor did he recall approaching any civilian who was lying on the ground after being pushed by an officer. No civilian requested medical attention from PO Adetimirin, and he denied hearing any civilian request medical attention from any other officers. There were other black male officers present at the protest but PO Adetimirin did not know who they were. Police Officer McCann did not recall seeing, and Police Officer Hussain did not believe he saw, any civilians who appeared to be injured or in pain. Police Officers McCann and Hussain could not think of or did not hear any civilians request medical attention from any officers. Police Officer McCann did not see any officer go up to § 87(2)(b) after he fell, after which § 87(2)(b) stated he needed medical attention and the officer walked away. Police Officer Hussain did not hear any officers refuse to obtain medical attention for any civilian.

Though Police Officer Adetimirin roughly matches § 87(2)(b)'s description of the subject officer and was seen in § 87(2)(b)'s video shortly before he was pushed, the statements § 87(2)(b) said the officer made after he fell were not captured on video. No officer was able to testify about the alleged encounter. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review #28).
- Police Officer Justin Adetimirin has been a member-of-service for three years and has been named a subject in one CCRB complaint and two allegations, neither of which was substantiated. Police Officer Adetimirin's § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Lily Kim	Team: Squad #6	CCRB Case #: 202004550	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tue, 06/23/2020 11:00 PM	Location of Incident: [REDACTED]	Precinct:	18 Mo. SOL 12/23/2021	EO SOL 5/4/2022	
Date/Time CV Reported Wed, 06/24/2020 12:03 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Wed, 06/24/2020 12:03 AM		

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

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. DTS Won Chang	7446	928055	DB GLD

Officer(s)	Allegation	Investigator Recommendation
A . DTS Won Chang	Off. Language: On June 3, 2020, Detective Won Chang made remarks to individuals based upon ethnicity.	A . § 87(2)(g) [REDACTED]
B . DTS Won Chang	Off. Language: On June 10, 2020, Detective Won Chang made remarks to individuals based upon race.	B . § 87(2)(g) [REDACTED]
C . DTS Won Chang	Untruthful Statement: Detective Won Chang provided a misleading official statement to the CCRB.	C . § 87(2)(g) [REDACTED]

Case Summary

On June 23, 2020, an individual filed this complaint via the CCRB Complaint Form.

On June 23, 2020, an individual watched two § 87(2)(b) videos featuring Detective Won Chang of the Grand Larceny Division, which were uploaded on June 3, 2020 and June 10, 2020. Detective Won Chang and a Youtuber discussed the ongoing police protests in Korean. Detective Chang made offensive comments about race in both videos (**Allegations A and B—Offensive Language**, § 87(2)(g) Detective Won Chang provided a misleading official statement to the CCRB (**Allegation C—Untruthful Statement**, § 87(2)(g)

§ 87(2)(b) videos have been obtained of this incident. Body-worn camera footage was not obtained because the officer was off-duty and not equipped with a camera.

Findings and Recommendations

Allegation A—Offensive Language: On June 3, 2021, Detective Won Chang made remarks to individuals based upon race.

Allegation B—Offensive Language: On June 10, 2021, Detective Won Chang made remarks to individuals based upon race.

On June 23, 2020, an individual filed this complaint and stated that it contained hate speech, false narratives on race, and spread stereotypes which focused mainly on Black communities. While this individual is known to CCRB, the individual asked that their identity be kept private to the extent possible and they remain anonymous. As such, this individual was referred to as “An individual”. As this is a complaint regarding a video which was posted publicly, it was determined that members of the public should be considered victims of the alleged offensive statements.

On June 3, 2020 (**BR 01**) and on June 10, 2020 (**BR 02**), a Korean § 87(2)(b) § 87(2)(b) with channel name “§ 87(2)(b)” uploaded videos in which he and Det. Chang discuss the protests in Korean. The videos were respectively entitled “Active NY detective speaks about the demonstrations/protests against racism, the current limitations, etc. Now, it is impossible to distinguish whether these are protests or riots. Protests by day, riots by night” and “Working out the behind-the-scenes of race-related protests in NY with an NYPD Detective Chang. Racism against Asians. The glorification of 9-time criminal offender George Floyd.” The videos have been taken down as of October 22, 2020 (**BR 03**).

In the video uploaded on June 3, 2020, Det. Chang states that he is in the thick of the protests as an officer, unlike journalists. At the 8:07 mark, Det. Chang states that many protesters are white and Black, but the white protesters are “hippies/hipsters.” Det. Chang defines them as anarchists with the mentality of hippies in the 60’s and 70’s who use drugs (marijuana, hard drugs). At the 28:08 minute mark, Det. Chang states that he and § 87(2)(b) cannot speak English as well as Black people can, but they are still able to make an honest living here in the United States. Det. Chang states that when Korean people immigrate to the States, the women kneel at nail salons and wash the feet of Black people, who do not even tip well. Det. Chang additionally states that Black people do not do backbreaking or difficult work, in contrast with Korean immigrants who do hard labor. He continues, stating that Korean people work hard in Black neighborhoods. Immediately after that statement, Det. Chang says that “those people” do not work hard, and when they are unable to achieve the American Dream, they blame the government and Asian people for earning money in their neighborhoods and spending it elsewhere. At the 31:01 mark, Det. Chang states, “But Black people who live here—please don’t misunderstand, the Blacks I’m talking about here are the ones to

just play, eat, and sleep (*muk-go, nol-go, jah-go*). These Black people who just play, eat, and sleep, pass on this lifestyle to their future generations.”

In the video uploaded on June 10, 2020, at the 35:14 mark, Det. Chang states his opinion as an officer regarding Mayor De Blasio’s decision to publicize officers’ personal information and at the 36:39 mark, he states that officers consider marijuana to be a gateway drug. At the 33:20 mark, he states that there are many times when officers are wrongfully accused because of false testimonies, including himself. At the 16:09 mark, Det. Chang states that a Black person with mixed race children commented on the previous video that Det. Chang and § 87(2)(b) discriminated against Black people. At the 17:01 mark, Det. Chang states, “But we are not discriminating against all Blacks. There are Blacks who are educated, there are Blacks who are uneducated but act correctly and have good natures and hearts. And because Koreans have a lot of *jung* (affection/love), we treat them especially well. But I am talking about young Black people with criminal natures, not all Black people.”

During his CCRB interview (**BR 04**), Det. Chang testified that he did not remember the date or time of the filming of either video. He did not know that the videos were going to be uploaded publicly on § 87(2)(b) because he has previously filmed videos with § 87(2)(b) that were previously not uploaded. His intended audience were his family and friends. However, Det. Chang confirmed that § 87(2)(b) filmed and was in possession of the videos. Det. Chang agreed with the translation of his statement describing white people as “hippies” or “hipsters,” but refused to explain why he described white people in this manner. Det. Chang explained that in the video uploaded on June 3, 2020, when he stated that “those people” blame the government and Asian people, he meant people in general, rather than Black people. Det. Chang agreed with the translations of the statements he made in the videos, except for the interpretation of his use of “those people” and the pronoun “they.” In almost every instance, Det. Chang argued that his use of the pronoun “they” did not refer to Black people specifically, but that the pronoun referred to people in general of all races.

Officers are prohibited from using discourteous or disrespectful remarks regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability, **Patrol Guide 203-10 (BR 05)**.

Members of the service are to be cognizant of their personal use of social media sites. Any activities or statements made on social media sites are done so in an online domain where users have no reasonable expectation of privacy. Even if a member of the service has created “private” or “limited access” accounts or has customized “privacy settings,” any statements, photographs, video clips or information which are sent over the internet may still be viewed and disseminated by third parties, even after the content has been edited or deleted by the user. When assessing actions that may violate this Order, be guided by common sense standards of reasonableness. Violations of this Order may subject members of the service to disciplinary action. All provisions of P.G. 203-10, “Public Contact - Prohibited Conduct” continue to apply to the use of social media, **Patrol Guide Procedure 203-28 (BR 06)**.

§ 87(2)(b), § 87(2)(g)
[Redacted text block]

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation C—Untruthful Statement: Detective Won Chang provided a misleading official statement to the CCRB.

During his interview, Det. Chang was asked if he was shown in the videos that were recorded, and Det. Chang stated that he did not remember. When the videos were presented to him, Det. Chang identified himself in both videos and confirmed that he introduced himself as a detective in both videos.

During his interview, Det. Chang was asked if he made offensive remarks that Black people do not work hard, and he responded that he did not. After the video was played, the statements Det. Chang made in the video were interpreted for the record. Det. Chang agreed with the Investigation’s interpretation.

Officers are prohibited from intentionally making misleading official statements. A misleading statement is intended to misdirect the fact finder, and materially alter the narrative by: a. Intentionally omitting a material fact or facts, b. Making repeated claims of “*I do not remember*” or “*I do not know*” when a reasonable person under similar circumstances would recall, or have been aware of, such material facts, or c. Altering and/or changing a member’s prior statement or account when a member of the service is confronted with independent evidence indicating that an event did not occur as initially described, will generally be considered a misleading statement. A material fact

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Mac Muir	Team: Squad #6	CCRB Case #: 202004586	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/03/2020 9:00 PM	Location of Incident: Cadman Plaza West and Court Street	Precinct: 84	18 Mo. SOL 12/3/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/22/2020 4:43 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/22/2020 4:43 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			
3. POM Glen Alava	18809	949977	TB VTF
4. POM Matthew Ansbro	13974	954490	TB VTF
5. POM Kevin Seward	07213	959233	044 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kyle Clavin	08777	954645	113 PCT
2. POF Jessica Insauto	29081	937168	123 PCT
3. POM Keenen Adamsedwards	10378	953617	077 PCT
4. SGT Eduardo Pena	01397	928944	D C M B
5. POM John Martinez	17841	960888	072 PCT
6. POM Andrew Scampoli	29786	955454	WARRSEC
7. POM Ryesham Paulino	19211	962667	041 PCT
8. POM Richard Thybulle	17331	937628	TB VTF
9. DT2 Kaz Daughtry	03581	940052	C A B
10. DI Joseph Hayward	00000	923936	060 PCT
11. DTS Kamal Dahib	04318	936424	040 PCT
12. POM Cory Bebnowski	16985	961640	TB ATU
13. POF Brittney Hickmon	12471	960669	TB ATU
14. POM James Mills	01069	966225	067 PCT
15. POM Galo Lopez	05604	933945	SRG 5
16. POM Paul Insauto	14771	930399	SRG 5
17. POM Nikolaos Kontarinis	04510	940341	SRG 5
18. POM Kenneth Scarola	18017	937503	SRG 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
19. POM Joseph Galletta	22907	957612	PSA 2
20. POM Anthony Benne	22167	946775	WTC CMD
21. CCA Jeffrey Maddrey	00000	899501	C A B

Officer(s)	Allegation	Investigator Recommendation
A.POM Matthew Ansbro	Abuse: Police Officer Matthew Ansbro refused to provide his shield number to § 87(2)(b)	[REDACTED]
B.POM Matthew Ansbro	Abuse: Police Officer Matthew Ansbro refused to provide his shield number to § 87(2)(b)	[REDACTED]
C.POM Glen Alava	Abuse: Police Officer Glen Alava refused to provide his shield number to § 87(2)(b)	[REDACTED]
D.POM Glen Alava	Abuse: Police Officer Glen Alava refused to provide his shield number to § 87(2)(b)	[REDACTED]
E. Officers	Force: Officers struck § 87(2)(b) with asps.	[REDACTED]
F. An officer	Discourtesy: An officer acted discourteously toward § 87(2)(b)	[REDACTED]
G. An officer	Abuse: An officer refused to provide his name to § 87(2)(b)	[REDACTED]
H. An officer	Abuse: An officer refused to provide his shield number to § 87(2)(b)	[REDACTED]
I. An officer	Force: An officer used physical force against § 87(2)(b)	[REDACTED]
J. An officer	Force: An officer struck § 87(2)(b) with an asp.	[REDACTED]
K. Officers	Force: Officers struck an individual with asps.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

This is a spin-off of CCRB Case #202004057, in which § 87(2)(b) and § 87(2)(b) were victims. On June 22, 2020, § 87(2)(b) and § 87(2)(b) submitted this complaint via telephone. On June 11, 2020, § 87(2)(b) provided a statement in CCRB Case #202003921. As her complaint occurred within the same vicinity as this incident, her allegations were combined into this case. On July 1, 2020, § 87(2)(b) provided a statement in CCRB Case #202003901. As § 87(2)(b)'s complaint occurred within the same vicinity as this incident, her allegations were also combined with this case. On August 11, 2020, § 87(2)(b) provided a witness statement. This case was deemed sensitive § 87(2)(g).

On June 2, 2020, at approximately 8:45 p.m., § 87(2)(b) and § 87(2)(b) went to a protest at Cadman Plaza West in Brooklyn. § 87(2)(b) and § 87(2)(b) went together. § 87(2)(b) and § 87(2)(b) each went separately. PA § 87(2)(b) was present. § 87(2)(b) and § 87(2)(b) stood in a line of protesters across from a line of officers, including Police Officers Matthew Ansbro and Glen Alava of the Transit Bureau Citywide Vandals Task Force. § 87(2)(b) and § 87(2)(b) each asked PO Ansbro for his shield number and he did not reply (**Allegation A and B: Abuse of Authority: § 87(2)(g)**). § 87(2)(b) asked PO Alava for his shield number, and he did not reply (**Allegation C: Abuse of Authority: § 87(2)(g)**). § 87(2)(b) complained to PO Alava that he was covering his shield. PO Alava did not reply (**Allegation D: Abuse of Authority: § 87(2)(g)**).

Several hundred officers, including PO Ansbro and PO Alava, PO John Martinez of the 72nd Precinct, PO Andrew Scampoli of the Brooklyn South Warrant Section, and PO Kevin Seward of the 44th Precinct, moved toward the crowd of protesters to clear Cadman Plaza. Three or four unknown officers allegedly struck § 87(2)(b) with asps (**Allegation E: Force: § 87(2)(g)**).

§ 87(2)(b) sat next to an elevator at the Borough Hall Subway Station, receiving treatment for a panic attack. An unknown officer allegedly spat on her and said, "Your life is not important. I do not care if you live or die" (**Allegation F: Discourtesy: § 87(2)(g)**). § 87(2)(b) allegedly requested the unknown officer's name and shield number two times and he only replied, "No" (**Allegations G and H: Abuse of Authority: § 87(2)(g)**).

As § 87(2)(b) walked past § 87(2)(b) an unknown officer pushed § 87(2)(b) in the back three or four times (**Allegation I: Force: § 87(2)(g)**). The same unknown officer used an asp to strike § 87(2)(b) in the ribs (**Allegation J: Force: § 87(2)(g)**). § 87(2)(b) allegedly observed an unknown officer strike the unknown man in front of her with an asp three or four times (**Allegation K: Force: § 87(2)(g)**).

§ 87(4-b), § 87(2)(g)

Cell phone footage of this incident was obtained from § 87(2)(b) (BR 01, 03), and additional footage was obtained from § 87(2)(b) (BR 04, 05), § 87(2)(b) (BR 06), and § 87(2)(b) (BR 07). The NYPD Legal Bureau provided BWC footage that did not depict the allegations in this case.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Matthew Ansbro refused to provide his shield number to § 87(2)(b)

Allegation B – Abuse of Authority: Police Officer Matthew Ansbro refused to provide his shield number to § 87(2)(b)

Allegation C – Abuse of Authority: Police Officer Glenn Alava refused to provide his shield number to § 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Glenn Alava refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) provided a cell phone video (BR 04), beginning at 0:00, that showed PO Ansbro and PO Alava wearing mourning bands around their shield numbers. § 87(2)(b) stood approximately four feet from the officers and repeatedly told them that their badge numbers were covered, complaining that this was illegal. PO Ansbro and PO Alava ignored § 87(2)(b) and did not verbally respond or attempt to display it. The video ended without further incident. In a second video (BR 05), beginning at 0:00, PO Ansbro looked directly into the camera as § 87(2)(b) said, “Your badge number is covered, officer.” PO Ansbro and PO Alava were the only officers pointed his camera at directly.

§ 87(2)(b) testified that he complained that PO Ansbro and PO Alava’s shield numbers were covered. When he informed them that their shield numbers were covered, they did not say anything in response. § 87(2)(b) never obtained their shield numbers.

§ 87(2)(b) testified that she was approximately two feet in front of PO Ansbro when she said, “Officer, you’re not showing your badge number, it’s covered. Can you tell us your badge number?” PO Ansbro made eye contact with § 87(2)(b) but did not reply. Other protesters asked officers to uncover their shield numbers. § 87(2)(b) observed a tall white male, who the investigation identified as § 87(2)(b) asking PO Ansbro for his shield number. PO Ansbro looked at § 87(2)(b) but did not respond. § 87(2)(b) pointed at PO Alava and asked him for his shield number one time. Although she believed that he heard her, PO Alava did not look at § 87(2)(b) and did not respond. § 87(2)(b) took two photographs of PO Ansbro (BR 08, 09), the first depicting the name on his shield, and the second depicting his helmet number.

PO Ansbro testified that during this protest, he heard § 87(2)(b) complain that mourning bands were covering officers’ shield numbers. However, he did not know who this individual was speaking to, and no one requested his shield number specifically. Because he was in front of a hostile crowd, he felt that it would have been unsafe to look down and see if his shield number was covered. Even if it had been, it would have been unsafe to try to move it out of the way.

PO Alava testified that during this protest, several protesters yelled at the officers asking for their names and shield numbers. These requests were directed toward multiple officers, including PO Alava. He did not respond to any of these requests because it was a loud and chaotic situation, and because the protesters spoke generally. PO Alava believed that an officer asked why officers’ shield were covered. PO Alava’s mourning band was on his shield. At the time, he could not tell whether his mourning band covered his shield number because he could not look down. He felt that it was not tactically safe for him to lower his head and look at this shield to determine whether it was covered, because objects were being thrown around and he wanted to keep his eyes on the environment around him. In this case, the mourning band dropped down over his shield number, but he did not intentionally cover it.

Members of service may wear black elastic mourning band, ½ inch wide, on the shield, covering the seal of the city, but leaving the shield number or rank designation visible, upon the death of a member. NYPD Patrol Guide 204-17 (BR 10). Members of service must courteously and clearly state their rank, name, shield number and command, or otherwise provide them, to anyone who requests they do so. NYPD Patrol Guide 203-09 (BR 11).

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

Allegation E – Force: Officers struck § 87(2)(b) with asps.

Known facts and general descriptions

§ 87(2)(b) testified that as officers dispersed the protest, three or four officers struck him with asps on his lower body, causing bruises to form. § 87(2)(b) could not provide any physical descriptions of the officers as the situation was so chaotic.

Neither § 87(2)(b) nor § 87(2)(b) observed the force used against § 87(2)(b).

BWC

There is no BWC footage that captures this allegation.

NYPD Documents Reviewed

The investigation obtained detail rosters for the protest which contain the names of several hundred officers, some of whose names were not legible (BR 12-15). There was no TARU footage of this incident (BR 16, 17).

Concurrent Investigations

There is no known concurrent investigation into this allegation.

Ranking Officers

Chief Maddrey was the highest-ranking officer interviewed. He believed that he was the highest-ranking officer present. He ordered officers to form a line to block the street. He denied issuing additional instructions about how to respond to protesters. He was not aware of any instructions by supervisors regarding the use of asp strikes. He testified that a skirmish broke loose between civilians and officers when someone threw something, it hit an officer, and the officers advanced on the crowd to make an arrest. He did not see any officer strike any civilian with a baton. He denied instructing any officers to use their batons against civilians (BR 18).

Officers Interviewed

PO Ansbro, PO Alava, PO Martinez, and PO Seward denied striking any protester with their

batons. PO Scampoli did not recall striking anyone with his baton. PO Kyrollos Ebraheem of the 78th Precinct did not recall whether he was present during this incident. PO Daniel Grzan of the 19th Precinct and Det. Thomas Scalise of the 107th Precinct Detective Squad were not involved in this incident.

Allegation Recitation and Disposition

§ 87(2)(b) did not see the officers who struck him with asps and thus could not provide a description of them. The officers interviewed in this case all testified that they did not strike anyone with a baton or that they were not present. § 87(2)(g)

§ 87(2)(g)

Allegation F – Discourtesy: An officer acted discourteously to § 87(2)(b)

Allegation G – Abuse of Authority: An officer refused to provide his name to § 87(2)(b)

Allegation H – Abuse of Authority: An officer refused to provide his shield number to § 87(2)(b)

On June 11, 2020, § 87(2)(b) provided a telephone statement regarding CCRB Case #202003921. § 87(2)(b) testified that she had an asthma attack next to an elevator to the Borough Hall subway station.

§ 87(2)(b)'s allegations were spun off to this case for two reasons: First, because § 87(2)(b) video, § 87(2)(b), captured a group of civilians standing around a person next to the elevator to the Borough Hall subway station, and second, because § 87(2)(b) testified that she observed a person fitting a description of § 87(2)(b) laying on the ground next to the elevator to the Borough hall subway station. Neither § 87(2)(b) nor § 87(2)(b) witnessed allegations therein.

§ 87(2)(b) was uncooperative with the investigation (See IAs).

§ 87(2)(b) scheduled and missed two interview appointments without calling in advance to cancel or reschedule. § 87(2)(g)

Allegation I – Force: An officer used physical force against § 87(2)(b)

Allegation J – Force: An officer struck § 87(2)(b) with an asp.

Known facts and general descriptions

§ 87(2)(b) recorded a cell phone video on § 87(2)(b) (BR 01), that captured an officer strike § 87(2)(b) in the ribs and then push her two times. The video depicted the officers' face. However, it did not capture any identifying information such as a shield number, helmet number, or collar brass. The footage depicted some officers with identifiable helmet numbers, and those officers were interviewed.

§ 87(2)(b) testified that this officer pushed her, struck her in the ribs with his asp, then pushed her two more times. This officer was an approximately 6'3" tall uniformed white male in his 30's or old, with a heavysset build, light brown or dark blond hair, a light skin complexion, freckles, and no facial hair, glasses, or tattoos.

Neither § 87(2)(b) nor § 87(2)(b) obtained identifying information for the officer who pushed § 87(2)(b) and struck her in the ribs. They did not obtain the officer's shield number, or any other information that could distinguish him.

A search of the Complaint Tracking System (CTS) revealed that in Case #202003966, § 87(2)(b) made a video recording during this incident that captured an image of the subject officer's face (BR 19). The investigation contacted § 87(2)(b) and obtained an original copy of this video (BR 07). However, this video also failed to capture any identifying information such as a shield number, helmet number, or collar brass.

Searches of CTS revealed 11 additional complaints regarding the events at Cadman Plaza. The investigation reviewed documents and videos from these cases and was unable to uncover identifying information about the officer who pushed and struck § 87(2)(b).

BWC

No BWC or TARU footage was found regarding this complaint. The first request for BWC footage yielded negative results (BR 20). The second request for BWC footage yielded results for four officers. None of that footage captured this incident (BR 21-24). The allegations captured in DTS Reynaldo Palladino's BWC footage were addressed in Case #202004003.

In Case #202003921, on June 17, 2020, a request for surveillance footage at Cadman Plaza was submitted to the Technical Assistance Response Unit (TARU). On July 15, 2020, the CCRB received a response that said "No Taru Footage" (BR 16). In Case #202004003, two requests for TARU footage for the Cadman Plaza Protests yielded negative results (BR 17).

NYPD Documents Reviewed

The investigation obtained detail rosters for the protest which contain the names of several hundred officers, some of whose names were not legible (BR 12-15). The investigation identified officers from at least 20 different commands who were present during this incident. Officer interviews were conducted based on officers who were identified on video near the subject officer.

Concurrent Investigation

There are no known concurrent investigations regarding this incident.

Ranking Officers

Chief Maddrey was interviewed regarding this incident. He believed that he was the highest-ranking officer on scene. He ordered officers to form a line to block the street. He denied issuing additional instructions about how to respond to protesters. He was not aware of any instructions by supervisors regarding the use of asp strikes. He testified that a skirmish broke loose between civilians and officers when someone threw something, it hit an officer, and the officers advanced on the crowd to make an arrest. He did not see any officer strike any civilian with a baton. He denied instructing any officers to use their batons against civilians.

He was presented with each video of this incident and did not recognize any of the officers depicted. He did not witness an officer push or strike § 87(2)(b). He was presented with still images of the subject officer's face (BR 34) and did not recognize him (BR 18).

Officers Interviewed

PO Ansbro, PO Alava, PO Martinez, and PO Seward denied striking any protester with his baton. PO Scampoli did not recall striking anyone with his baton. PO Ebraheem did not recall whether he

was present during this incident. PO Grzan and Det. Scalise were not involved in this incident. When presented with videos and images of the officer who pushed and struck § 87(2)(b) none of them recognized him.

Allegation Recitation and Disposition

§ 87(2)(g)

Allegation K – Force: Officers struck § 87(2)(b) with asps.

Known facts and general descriptions

§ 87(2)(b) testified that as she walked out of Cadman Plaza, she observed officers, who she could not describe, strike the man directly in front of her with asps at least three or four times. He was struck in midsection. The man was a white male with an average build between 5’8” and 6’0” tall wearing dark clothes. § 87(2)(b) did not see his face or register anything else about him.

BWC

No BWC or TARU footage was found regarding this complaint. The first request for BWC footage yielded negative results (BR 20). The second request for BWC footage yielded results for four officers. None of that footage captured this incident (BR 21-24). The allegations captured in DTS Reynaldo Palladino’s BWC footage were addressed in Case #202004003.

In Case #202003921, on June 17, 2020, a request for surveillance footage at Cadman Plaza was submitted to the Technical Assistance Response Unit (TARU). On July 15, 2020, the CCRB received a response that said “No Taru Footage” (BR 16). In Case #202004003, two requests for TARU footage for the Cadman Plaza Protests yielded negative results (BR 17).

NYPD Documents Reviewed

The investigation obtained detail rosters for the protest which contain the names of several hundred officers, some of whose names were not legible (BR 12, 13, 14, 5, 35). The investigation identified officers from at least 20 different commands who were present during this incident. Officer interviews were conducted based on officers who were identified on video near the subject officer.

Concurrent Investigation

There are no known concurrent investigations regarding this incident.

Ranking Officers

Chief Maddrey was interviewed regarding this incident. He believed that he was the highest-ranking officer on scene. He did not see any officer strike any civilian with a baton. He denied instructing any officers to use their batons against civilians.

Officers Interviewed

PO Ansbro, PO Alava, PO Martinez, and PO Seward denied striking any protester with his baton. PO Scampoli did not recall striking anyone with his baton. PO Ebraheem did not recall whether he was present during this incident. PO Grzan and Det. Scalise were not involved in this incident. When presented with videos and images of the officer who pushed and struck § 87(2)(b) none of them recognized him.

Allegation Recitation and Disposition

§ 87(2)(g) [Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]

- § 87(2)(b) [Redacted]
- [Redacted]
- § 87(2)(b) [Redacted]
- [Redacted]
- § 87(2)(b) [Redacted]
- [Redacted]
- PO Ansbro has been a member-of-service for 7 years and has been a subject of five CCRB complaints and six allegations, none of which were substantiated.
- PO Alava has been a member-of-service for 9 years and has been a subject of one CCRB complaint and two allegations, none of which were substantiated.

Mediation, Civil and Criminal Histories

- This case was not eligible for mediation.
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] has no history of convictions in New York City (BR 30).
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] has no history of convictions in New York City (BR 31).
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] has no history of convictions in New York City (BR 32).
- As of March 8, 2021, the NYC Office of the Comptroller has no record of a Notice of Claim being filed regarding this complaint (BR 33).

Squad 6

Investigator: <u>Mac Muir</u>	Supervising Investigator <u>Muir</u>	<u>04/26/21</u>
Signature	Print Title & Name	Date

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

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emma Stydahar	Team: Squad #13	CCRB Case #: 202004643	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 06/03/2020 7:41 PM	Location of Incident: Fort Greene Place and Atlantic Avenue	Precinct: 78	18 Mo. SOL 12/3/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/05/2020 4:08 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 06/05/2020 4:08 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Michael Miller	31869	967207	120 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT Winston Willabus	00000	935969	075 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Michael Miller	Abuse: Police Officer Michael Miller refused to provide his shield number to § 87(2)(b)	

Case Summary

On June 5, 2020, § 87(2)(b) filed this complaint via the CCRB's call processing system.

On June 3, 2020, at approximately 7:41pm, § 87(2)(b) was at Fort Greene Street and Atlantic Avenue in Brooklyn during a police brutality protest, when he approached and greeted Police Officer Michael Miller of the 102nd Precinct, who had a "mourning band" placed around his shield such that the numbers were not visible. Lieutenant Winston Willabus of the 102nd Precinct was standing nearby. § 87(2)(b) questioned PO Miller about the mourning band obscuring his shield number. PO Miller turned his head away from § 87(2)(b) without verbally responding (**Allegation A: Abuse of Authority**, § 87(2)(g)). No arrest or summons resulted from this incident.

The Body Worn Camera ("BWC") footage request for this incident was returned negative. The nature of the incident did not require the use of BWC as per the Patrol Guide. § 87(2)(b) recorded this incident on his cell phone and he provided the video to the investigation. The footage is attached to IA # 21 (**Board Review 01**) and summarized in IA # 23 (**Board Review 02**).

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Michael Miller refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) Lt. Willabus, and PO Miller all testified that the extent of their encounter with each other was captured on the cell phone video recorded by § 87(2)(b) and all of their CCRB statements were consistent with the video (**Board Review 03; Board Review 04; Board Review 05**). The one-minute-and-two-seconds long video depicts § 87(2)(b) approaching PO Miller, who is leaning against a trash can near the street. PO Miller's name plate is visible but too far from the camera to read, and his shield number is obscured by a black mourning band. § 87(2)(b) says, "How you doing, officer?" PO Miller responds, "How you doing?" § 87(2)(b) asks PO Miller if he has a copy of the Patrol Guide in his possession. PO Miller looks away. PO Miller continues to avert his gaze from § 87(2)(b) for the remainder of the encounter. § 87(2)(b) says, "You don't have it on you, right? You know what's wrong right now, right?" PO Miller does not verbally respond. § 87(2)(b) says, "Huh? What's wrong with your uniform, tell me? It's in violation of the Patrol Guide, right? Do you know why? Because you're obscuring your badge number with the mourning band that they made to honor the dead, but you use it to escape consequence, because really, you're disrespecting the dead, right? And you say it's the people of New York City that are against the police, and Mayor DeBlasio is against the police, but really, it's you against the police, right?" The camera pans to the left, where Lt. Willabus is visible standing against a wall. § 87(2)(b) says "Right? And you, you're supervising, you're supposed to correct him because he's violating that Patrol Guide." Lt. Willabus says, "I didn't even hear what you were saying." § 87(2)(b) says, "I know, but you're supposed to be more aware than me. Why is a member of the public more aware than you?" Lt. Willabus responds, "You have more time on your hands than us, I guess." The camera pans back to PO Miller and the video concludes.

PO Miller testified that he put the mourning band on his shield the day of the incident, though when he affixed it prior to this incident, it was not covering the shield number. At the time of the incident, PO Miller did not know what § 87(2)(b) was referring to when he said PO Miller's shield number was covered, though following this incident, PO Miller inspected his shield and realized his mourning band was covering his shield number. PO Miller assumed the mourning band "must have slipped down." PO Miller thought § 87(2)(b) seemed agitated and recalled that § 87(2)(b)'s facial expression was "angry," and his voice was "aggressive" because he was "screaming." To deescalate the situation and get § 87(2)(b) to leave, PO Miller ignored him by looking away and not responding to him. PO Miller did not provide his shield number to § 87(2)(b) because § 87(2)(b) did not request that information from him (**Board Review 05**).

Officers must courteously and clearly state their rank, name, shield number, and command, or otherwise provide that information, to anyone who requests they do so. NYPD Patrol Guide, Procedure 203-09 (Board Review 06).

§ 87(2)(g) [Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
 - [Redacted]
 - [Redacted]
 - [Redacted]
 - [Redacted]
 - [Redacted]
- Police Officer Miller has been a member of the NYPD for one year and this is the first complaint in which he has been a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- As of September 22, 2020, § 87(2)(b) [Redacted] has not filed a Notice of Claim with the NYC Comptroller’s Office regarding this incident (**Board Review 08**).
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] has no history of criminal convictions in NYC (**Board Review 09**).

Squad No.: 13

Investigator: Inv. Emma Stydahr Inv. Emma Stydahr 10/08/2020
Signature Print Title & Name Date

Squad Leader: IM Laura Kastner IM Laura Kastner 10/08/2020
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #13	CCRB Case #: 202004729	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 8:00 PM	Location of Incident: Fort Greene Park	Precinct: 88	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 06/22/2020 5:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/22/2020 5:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Ryon Malcolm	00000	925654	088 PCT
2. CCA Jeffrey Maddrey	00000	899501	C A B
3. COD Terence Monahan	00000	876747	CD OFF

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against an individual.	
C. An officer	Force: An officer used physical force against an individual.	
D. An officer	Force: An officer used physical force against § 87(2)(b)	
E. An officer	Force: An officer used physical force against § 87(2)(b)	
F. Officers	Discourtesy: Officers spoke discourteously to § 87(2)(b)	

Case Summary

On June 22, 2020, while being interviewed about CCRB case # 202003717, § 87(2)(b) filed this complaint with the CCRB by phone on behalf of himself and an unidentified individual.

On May 29, 2020, at approximately 8:00 p.m., § 87(2)(b) and a group of four friends were amongst a crowd of several hundred Black Lives Matter protesters in the vicinity of Fort Greene Park in Brooklyn. Officers posted at the park ordered protesters to stay on the sidewalk. § 87(2)(b) momentarily stepped off the sidewalk and an officer (PO1) allegedly pushed him in the back (**Allegation A – Force**, § 87(2)(g)). § 87(2)(b) and his friends continued marching and chanting, eventually moving into the street when it appeared officers were leaving the area. § 87(2)(b) and a friend of his, whom he refused to identify, encountered a line of officers in the street. An officer (PO2) allegedly pushed and swung his fist at § 87(2)(b) friend (**Allegation B-C – Force**, § 87(2)(g)). An officer (PO3) allegedly punched § 87(2)(b) in the head (**Allegation D – Force**, § 87(2)(g)). An officer (PO4) allegedly pushed § 87(2)(b) (**Allegations E – Force**, § 87(2)(g)). Officers allegedly spoke discourteously toward § 87(2)(b) (**Allegation F – Discourtesy**, § 87(2)(g)). § 87(2)(b) and his friends continued marching and left the park. No known arrests or summonses resulted from this incident.

The only body-worn camera (BWC) footage obtained from the NYPD was determined to be unrelated to this incident (**Board Review 12-45**). A request for TARU footage returned video which was unrelated to this incident (**Board Review 46**)

- Allegation (A) Force: An officer used physical force against** § 87(2)(b)
- Allegation (B) Force: An officer used physical force against** § 87(2)(b)
- Allegation (C) Force: An officer used physical force against** § 87(2)(b)
- Allegation (D) Force: An officer used physical force against** § 87(2)(b)
- Allegation (E) Force: An officer used physical force against** § 87(2)(b)
- Allegation (F) Discourtesy: Officers spoke discourteously to** § 87(2)(b)

Known facts and general descriptions:

§ 87(2)(b) testified that after attending a protest at the Barclay’s Center earlier that night, he marched to Fort Greene Park. While marching on the sidewalk adjacent to the park, he lost his footing momentarily and one of his feet went off the sidewalk and onto the street (**Board Review 01**). An officer (PO1), who § 87(2)(b) did not see, pushed § 87(2)(b) in the back from behind. § 87(2)(b) turned around and observed a group of four officers who were all white men, approximately 6’0” tall, wearing blue uniforms and PPE masks. § 87(2)(b) and his friends continued marching on the sidewalk.

Protesters began marching in the street. An officer (PO2), described as a black man, 6’2” tall, completely bald, weighing over 200 pounds, and dressed in a uniform with a white shirt, pushed and swung a closed fist at an unidentified friend of § 87(2)(b). § 87(2)(b) did not know if the officer struck his friend. § 87(2)(b) stepped in between his friend and the officer, with his back toward the officers. An officer (PO3), described as a Hispanic woman, who stood 5’6” tall, with dark hair, and dressed in a blue uniform, punched § 87(2)(b) in the back of the head. § 87(2)(b) believed this was PO3 because when he turned, around he saw her arm extended toward him with her hand still balled into a fist. § 87(2)(b) yelled at PO3 about her having hit him. Another officer (PO4), who § 87(2)(b) could only describe as a man in a blue uniform, grabbed § 87(2)(b) by the shirt collar, without making contact with his neck or restricting his breathing, and pushed him backwards. Due to being punched and pushed, § 87(2)(b) sustained pain to his head and back for which he did not seek medical treatment. § 87(2)(b) walked back onto the

sidewalk. PO2 entered a black Impala by himself and drove away from the area. Officers, § 87(2)(b) could not remember who, directed profanities toward § 87(2)(b) § 87(2)(b) could not describe who made these statements or what specific statements were made. § 87(2)(b) and his friends left the area without ever being issued summonses or being arrested.

BWC:

Two BWC footage requests were submitted for this case and yielded 33 BWC videos. The first request included the time, date, and location of the incident. The second request listed potential subject officers who were identified based on the Detail Rosters received from the NYPD. The NYPD Legal Bureau's listed search criteria for these requests included officers from the 88th Precinct, Strategic Response Group, Critical Response Command, Emergency Service Unit, and Narcotics Units.

The first request yielded 25 videos, which captured interactions at different protests (outside the Barclays Center and the Atlantic Terminal Mall in Brooklyn). None of these videos captured any interactions at Fort Greene Park (**Board Review 12-36**). A second request for BWC footage, which listed officers identified from the Detail Roster, returned eight videos that captured interactions at the Barclays Center and at several locations that could not be definitively identified. However, none of these videos captured any incidents at Fort Greene Park or any incident similar to that which § 87(2)(b) described in this complaint (**Board Review 37-44**). BWC footage was received for Captain Ryon Malcolm, the Commanding Officer of the 88th Precinct, which only captured an incident outside of the 88th Precinct stationhouse (**Board Review 45**).

NYPD Documents Reviewed:

A request to the IAB-CCRB Liaison returned no Threat, Resistance, and Injury (TRI) Report related to § 87(2)(b) (**Board Review 48**).

The 88th Precinct Event Summary and Resource Recap Log did not reveal any events for incidents at Fort Greene Park (**Board Review 02**). Event documents were received related to numerous events within the confines of the 88th Precinct, including the 88th Precinct stationhouse (**Board Review 03**). Collectively, the event documents reflect a series of requests for assistance from officers in response to reports of various incidents, including large groups of demonstrators, objects being thrown at officers, fireworks being set off, police vehicles being vandalized and destroyed, individuals fighting, and gunshots being fired. A search of the NYPD's Booking and Arraignment Disposition System (BADS) did not reveal any arrests made at the incident location (**Board Review 47**).

A request to Patrol Borough Brooklyn North returned a 59-page Detail Roster which listed officers from commands throughout NYC being deployed to various locations within the Patrol Borough Brooklyn North including Fort Greene, Brooklyn Bridge, Manhattan Bridge, Cadman Plaza, Albee Square, and other locations (**Board Review 04**). From this Detail Roster, 16 pages listed officers who originated from various commands in Manhattan and were deployed to Fort Greene. From the Fort Greene pages, 35 white men and 10 Hispanic women were listed as having been deployed to Fort Greene. The Detail Roster did not list any black men of the rank Lieutenant or above (who would have been wearing a uniform with a white shirt). The 88th Precinct Roll Call listed nine white men, no black men who would have been wearing a uniform with a white shirt, and no Hispanic women (**Board Review 05**).

Concurrent Investigations:

No concurrent investigations were pursued related to this complaint.

Ranking Officers:

Chief Jeffrey Maddrey, the Borough Commander of Patrol Borough Brooklyn North (which encompasses the 88th Precinct) on the incident date, testified that he had responded to the Barclays Center protest after hearing a request for police assistance over the radio (**Board Review 07**). At about 8:30 p.m., Chief Maddrey left the Barclays Center and went directly to the 88th Precinct stationhouse after receiving a phone call from Chief Terrence Monahan, the Chief of Patrol, informing him that protesters were planning to attack the stationhouse and burn it down. Chief Maddrey oversaw a confrontation between protestors and officers at the stationhouse, in which a crowd of over 250 protestors engaged in violent actions such as throwing bricks and other objects at officers and lighting fires. Chief Maddrey broadcast a radio message for additional units because he and the group of 20-25 officers outside the stationhouse were greatly outnumbered. While Chief Maddrey oversaw the incident at the stationhouse, he was unaware of events at Fort Greene Park and did not issue any instructions to officers regarding any incident at Fort Greene Park.

After the stationhouse was secured, Chief Maddrey went to Fort Greene Park after hearing that police vehicles had been set on fire. Chief Maddrey arrived and observed that a police van was on fire. Officers were on scene, but Chief Maddrey did not remember which officers were there or who was overseeing police actions there. Protestors were standing around, but there was no confrontation taking place between officers and protestors by the time Chief Maddrey arrived. Chief Maddrey denied using force against any protestors at Fort Greene Park and denied seeing any officer do so. Chief Maddrey denied that he or any officer used profanity toward any protestor while he was there. Chief Maddrey did not recall issuing any orders to officers to disperse the protestors at the park. Chief Maddrey did not know which officers responded to the 88th Precinct in response to requests for assistance. No records were generated by the 88th Precinct to document which officers responded to which locations within the 88th Precinct due to the chaotic events of the evening. Chief Maddrey was working in an unmarked black Ford Explorer on the incident date.

Captain Ryon Malcolm, Commanding Officer of the 88th Precinct, testified that he was not scheduled to work on the incident date, but received information that large demonstrations were expected in Brooklyn, so he reported to his command to provide any necessary assistance (**Board Review 06**). Captain Malcolm drove to the Barclays Center to see what was happening. At about 6:30 p.m., Captain Malcolm observed a large group of 1000-2000 protestors leave the Barclays Center and march toward Fort Greene Park, which is located within his command. Captain Malcolm followed the protestors to Fort Greene Park in his unmarked grey Ford Taurus. Some protestors marched into the park while others marched in the street alongside vehicular traffic. A small number of officers (about 20) from the 88th Precinct, Captain Malcolm did not remember who, had responded to Fort Greene Park to try and direct the protestors out of the roadway. Captain Malcolm and officers gave verbal commands to protestors to stay on the sidewalk. However, because the officers were so greatly outnumbered, nothing else was done to keep the protestors out of the street. Captain Malcolm did not issue any orders to officers about using force to keep protestors out of the street. Captain Malcolm did not use any force against any protestor and did not observe any other officer do so. Captain Malcolm did not use profanity toward any protestor and did not observe any officer do so. Captain Malcolm described the demeanor of the protest as calm when he was there. Captain Malcolm left Fort Greene Park and went to the 88th Precinct stationhouse after hearing that protestors were headed there. Captain Malcolm ordered the 88th Precinct officers to return to the stationhouse. He did not know which officers if any arrived at Fort Greene Park after he left.

Officers Interviewed:

Captain Malcolm and Chief Maddrey were interviewed as subjects in this matter due to their positions as high-ranking officers and because they matched the general physical description of

PO2, the subject officer who allegedly pushed and punched § 87(2)(b) unidentified friend. Captain Malcolm is a black man, who stands 6'3" tall, weighs 225 pounds, is bald, and has brown eyes. Chief Maddrey is a black man, who stands 5'11" tall, weighs 280 pounds, has black hair, and brown eyes. Captain Malcolm and Chief Maddrey both denied using force or profanity against anyone at Fort Greene Park. Captain Malcolm and Chief Maddrey denied issuing any orders to officers to forcibly disperse protesters from the park. § 87(2)(b) described that PO2 entered a black Impala and left the area. Captain Malcolm testified that he was working in a grey Ford Taurus; Chief Maddrey testified that he was working in a black Ford Explorer. § 87(2)(g)

The Detail Roster and 88th Precinct Roll Call listed nearly 50 officers who were white men and 10 Hispanic women who were deployed to Fort Greene. § 87(2)(g)

Allegation Recitation and Disposition:

§ 87(2)(b) refused to identify the friends he was with at Fort Greene Park. § 87(2)(g)

§ 87(2)(b) could only provide a general description of some of the subject officers (white male). For the subject officers whom § 87(2)(b) was able to describe in more detail, no evidence identifying any of these officers was available. No NYPD records related to § 87(2)(b) were identified. The Detail Rosters and event documents show that there was a large police presence within the 88th Precinct in response to the large demonstration and that there were numerous reported conditions around the precinct. Chief Maddrey said that given the chaotic conditions present that night, no documentation was prepared that outlined the deployments of officers who arrived from around the City to specific locations within the 88th Precinct. Numerous BWC videos were received from the NYPD; however, none depicted the interactions involved in this incident or any interactions at Fort Green Park at all. No other videos capturing this incident were identified.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- According to the NYC Office of the Comptroller, § 87(2)(b) has not filed a Notice of Claim regarding this incident (though he filed one regarding his interactions with officers at the Barclay's Center earlier in the night (**Board Review 09-10**)).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in NYC (**Board Review 11**).

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Zachary Herman	Team: Squad #12	CCRB Case #: 202004800	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:00 PM, Tuesday, 06/02/2020 8:20 PM	Location of Incident: Bleecker Street and Broadway; 6th Precinct stationhouse	Precinct: 06	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 07/02/2020 2:14 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/02/2020 2:14 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Dones	27390	948203	006 PCT
2. An officer			
3. DI Robert Ohare	00000	916960	006 PCT
4. POM James Shouldis	16502	958068	006 PCT
5. POM Kachun Cheung	05890	963454	006 PCT
6. POF Danielle Ambrecht	17611	942948	006 PCT
7. POM Richard Accardi	18377	961592	006 PCT
8. Officers			006 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Marta Maciag	11153	966180	006 PCT
2. SSA Daniel Houlahan	00821	925472	006 PCT
3. SGT Martin Maloney	01345	944114	006 PCT
4. POF Maureen Carey	20116	958370	006 PCT
5. POM Brian Garcia	00610	950465	006 PCT
6. POF Annalee Simon	24898	953407	006 PCT
7. POM Michael Collarini	00964	953767	006 PCT
8. POM Nolan Connor	20912	963927	006 PCT
9. POM James Weik	26601	967389	006 PCT
10. POM Gregory Abramson	23030	963829	006 PCT

Officer(s)	Allegation	Investigator Recommendation
A. POM Jonathan Dones	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones spoke discourteously to § 87(2)(b)	
B. Officers	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, officers spoke discourteously to § 87(2)(b)	
C. POM Jonathan Dones	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
D.POM Jonathan Dones	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)	[REDACTED]
E.POM James Shouldis	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer James Shouldis used physical force against § 87(2)(b)	[REDACTED]
F.POM Kachun Cheung	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Kachun Cheung used physical force against § 87(2)(b)	[REDACTED]
G. An officer	Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.	[REDACTED]
H. An officer	Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.	[REDACTED]
I. An officer	Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.	[REDACTED]
J.DI Robert Ohare	Force: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare used physical force against § 87(2)(b)	[REDACTED]
K.POM Richard Accardi	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Richard Accardi spoke discourteously to § 87(2)(b)	[REDACTED]
L.DI Robert Ohare	Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare spoke discourteously to § 87(2)(b)	[REDACTED]
M.POF Danielle Ambrecht	Discourtesy: En route to the 6th Precinct stationhouse, Police Officer Danielle Ambrecht spoke discourteously to § 87(2)(b)	[REDACTED]
N.POM Jonathan Dones	Abuse: Inside the 6th Precinct stationhouse, Police Officer Jonathan Dones did not obtain medical treatment for § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On July 2, 2020, § 87(2)(b) called the CCRB and filed this complaint on behalf of herself and her cousin § 87(2)(b).

On June 2, 2020, at approximately 8:20 p.m., § 87(2)(b) and § 87(2)(b) were walking in the vicinity of the intersection of Bleecker Street and Broadway in Manhattan when they observed officers from the 6th Precinct arresting an unidentified individual. PO Jonathan Dones, PO Richard Accardi, PO James Shouldis, and PO Kachun Cheung of the 6th Precinct approached § 87(2)(b) and § 87(2)(b). PO Dones told § 87(2)(b) to get the fuck back (**Allegation A: Discourtesy, § 87(2)(g)**) (**Allegation B: Discourtesy, § 87(2)(g)**). PO Dones slapped § 87(2)(b)'s hand (**Allegation C: Force, § 87(2)(g)**). Officers informed § 87(2)(b) he was under arrest. PO Cheung, PO Dones, and PO Shouldis pulled § 87(2)(b) to the ground (**Allegations D-F: Force, § 87(2)(g)**). Multiple officers drew their nightsticks, and at least one officer struck § 87(2)(b) in the head with their nightstick (**Allegation G: Force, § 87(2)(g)**). An officer struck § 87(2)(b) once on the legs and once on the body with a nightstick (**Allegation H: Force, § 87(2)(g)**, **Allegation I: Force, § 87(2)(g)**).

PO Dones then assisted Deputy Inspector Robert Ohare of the 6th Precinct, with the arrest of § 87(2)(b). Deputy Inspector Ohare pushed § 87(2)(b) against a nearby (**Allegation J: Force, § 87(2)(g)**). After § 87(2)(b) and § 87(2)(b) had been handcuffed, PO Accardi guarded § 87(2)(b) during which time PO Accardi stated, “Cut the shit” (**Allegation K: Discourtesy, § 87(2)(b)**). While § 87(2)(b) was in a police vehicle on scene, Deputy Inspector Ohare called § 87(2)(b) “stupid” (**Allegation L: Discourtesy, § 87(2)(g)**).

During transport to the 6th Precinct stationhouse, PO Danielle Ambrecht told § 87(2)(b) “Shut the fuck up” (**Allegation M: Discourtesy, § 87(2)(g)**). Inside the 6th Precinct stationhouse, § 87(2)(b) did not receive medical attention when requested (**Allegation N: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) and § 87(2)(b) were issued summonses for violating NYC curfew rules.

§ 87(4-b), § 87(2)(g)

This case received media coverage and was deemed sensitive. § 87(2)(b)

§ 87(2)(b) This article identifies the victims as § 87(2)(b) and § 87(2)(b)

Although the victims in this case were not participating in a protest at the time they interacted with police, this case was deemed a protest case because it occurred in the immediate vicinity of protest activity.

Civilian cell phone video was received regarding this investigation, attached in BR1, 40,41, summarized in BR 33, 38, 39. Body-worn camera (BWC) footage was received regarding the investigation, attached in BR14-32, 70 and summarized in BR34-37, 42-56.

Findings and Recommendations

Allegation (A) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones spoke discourteously to § 87(2)(b)

Allegation (B) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, officers spoke discourteously to § 87(2)(b)

§ 87(2)(b) testified that on June 2, 2020, at a time he reported as 8:00 p.m. but was determined by the investigation to be approximately 8:20 p.m., he and his cousin § 87(2)(b) were walking in the vicinity of Bleecker Street and Broadway in Manhattan. § 87(2)(b) had collected § 87(2)(b) from her job § 87(2)(b), and § 87(2)(b) was dressed in her § 87(2)(b) uniform. During their walk, they stopped to purchase food. As they walked, § 87(2)(b) and § 87(2)(b) observed officers from the 6th Precinct arresting an unidentified individual. They approached where the officers were conducting the arrest. As § 87(2)(b) and § 87(2)(b) stood near a group of officers conducting an arrest on Bleecker Street, PO Dones and five or six other officers moved towards where § 87(2)(b) and § 87(2)(b) were standing. PO Dones and other officers shouted, “Back up, back up, back the fuck up!” § 87(2)(b) determined PO Dones’ identity from a summons he received from PO Dones (BR12).

In her testimony to the CCRB, § 87(2)(b) stated that on the date of incident, she ended her shift at § 87(2)(b) at approximately 6:30 p.m. She met with § 87(2)(b) at approximately 6:45 p.m., and they purchased food from a fast-food restaurant at approximately 7:30 p.m. As they walked, they observed officers making an arrest of an unidentified individual and approached to observe what was going on. As she and § 87(2)(b) walked towards the scene of an arrest, three or four police officers including PO Dones approached them. These officers told § 87(2)(b) and § 87(2)(b) to move back. As PO Dones and the other officers spoke to § 87(2)(b) and § 87(2)(b) and § 87(2)(b) moved back. § 87(2)(b) obtained PO Dones’ name from a summons he issued her (BR13).

PO Dones testified that when PO Dones arrived at the incident location, he observed multiple officers assisting with the arrest of another male. Two people, identified by the investigation as § 87(2)(b) and § 87(2)(b) approached to within ten to fifteen feet of where the officers were making the arrest. PO Dones told § 87(2)(b) and § 87(2)(b) to get back, and to leave the area, as curfew hours were in effect. § 87(2)(b) and § 87(2)(b) did not comply with the instructions to leave the area. § 87(2)(b) and § 87(2)(b) cursed at the officers. PO Dones did not recall what specifically they said. PO Dones then approached § 87(2)(b) and informed him that he was under arrest. Other than informing § 87(2)(b) he was under arrest, PO Dones did not make any other statements at that time (BR53).

PO Abramson’s BWC footage (BR16, summarized in BR37) captures the moments officers approach § 87(2)(b). Between 01m01s and 01m10s, a group of officers is yelling “Get back,” at individuals identified by the investigation as § 87(2)(b) and § 87(2)(b). PO Dones cannot be specifically identified at this portion of the video.

The BWC footage of PO Dones (BR26, summarized BR43) in does not depict PO Dones or any other officer using discourteous language while speaking with any individuals.

PO Abramson’s BWC footage appears to capture the moment § 87(2)(b) alleges PO Dones allegedly stated, “Back the fuck up.” Officers do instruct § 87(2)(b) to back up, but do not use the word “Fuck” in the video. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (C) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)

§ 87(2)(b) testified that PO Dones and the other officers reached him seconds after they began to yell at him. § 87(2)(b) held his phone in one of his hands in front of his chest; he did not provide testimony about what he was doing with the phone. § 87(2)(b) stated that PO Dones slapped his right hand, which held his phone. § 87(2)(b) dropped his phone due to the slap (BR12).

§ 87(2)(b) did not describe any officer slapping § 87(2)(b)'s hand. § 87(2)(b)'s first description of officers coming into physical contact with § 87(2)(b) was when an officer struck § 87(2)(b) with their nightstick (BR13).

Video footage provided by the investigation by from § 87(2)(b) (BR40, summarized in BR38) does not depict PO Dones slapping § 87(2)(b)'s hand. This footage starts after officers are already in physical contact with § 87(2)(b) and thus it does not capture the period when this allegation allegedly occurred.

BWC footage from PO Ambrecht captures the portion of the incident when PO Dones allegedly struck the hand holding the phone. Between 00m21s, PO Ambrecht's BWC shows an officer identified by the investigation as PO Dones advancing towards § 87(2)(b) is standing a significant distance from the site where the unidentified individual is being arrested. PO Dones is facing § 87(2)(b)'s right side and an unidentified officer is approaching § 87(2)(b)'s left side. § 87(2)(b) holds a bag in his left hand; his right hand is not clearly depicted. After 00m22s, PO Ambrecht's video stops capturing the incident for five seconds (BR18, summarized BR43).

PO Dones' BWC footage does not capture the portion of the incident where this is alleged to have occurred, as § 87(2)(b) is on the ground when PO Dones' BWC footage begins (BR26, summarized in BR43).

In his statement to the CCRB, PO Dones testified (BR53) that when he approached § 87(2)(b) and § 87(2)(b) he told them to get back and leave the site of the arrest. When they cursed at the officers and did not comply, he approached § 87(2)(b) and informed him that he was under arrest. PO Dones stated that he did not slap § 87(2)(b)'s hand with his phone in it.

§ 87(2)(g)

Allegation (D) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Jonathan Dones used physical force against § 87(2)(b)

Allegation (E) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer James Shouldis used physical force against § 87(2)(b)

Allegation (F) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Kachun Cheung used physical force against § 87(2)(b)

In his statement to the CCRB (BR12), § 87(2)(b) testified immediately after PO Dones slapped his phone out of his hand, other officers wrapped their hands around his arms. § 87(2)(b) felt a baton strike the left rear part of his head. He heard officers shouting, "Grab his legs." § 87(2)(b) was not able to determine which officer made this statement. Officers grabbed § 87(2)(b)'s legs. As the

officers began to grab § 87(2)(b) he tensed his muscles in anticipation of getting hit. The officers pushed § 87(2)(b) onto the ground by lifting his legs off the ground. As officers brought § 87(2)(b) to the ground, at least one officer fell. § 87(2)(b) stated he suffered a head contusion and bruising to his back.

Video footage provided to the investigation by § 87(2)(b) and ostensibly generated by § 87(2)(b) (BR40, summarized in BR38) captures § 87(2)(b) being brought to the ground. At 00m05s, § 87(2)(b) is depicted with three police officers making physical contact with him. The video does not capture if officers exert directional force or strike § 87(2)(b). An officer who has his back to § 87(2)(b) is depicted wearing a helmet; two other officers are depicted wearing standard uniforms. The position of each officer's hands cannot be determined from the video. At 00m06s, the officer with the helmet falls back. § 87(2)(b) moves backwards with his knees bent. An officer without a helmet or hat is behind § 87(2)(b). An officer is in front of and to the left of § 87(2)(b). This officer is depicted bent forward at the waist with his arms around § 87(2)(b)'s bent right knee. At 00m07s, § 87(2)(b) falls to the ground on his back, with his body appearing to land on top of an officer. A different officer continues to pull on § 87(2)(b)'s leg. In the next two seconds, the officer who fell extends his arms at § 87(2)(b) and § 87(2)(b) moves backwards, his body twisting from his back to his front. The helmeted officer and the officer in contact with § 87(2)(b)'s legs are in contact with § 87(2)(b)'s body; the specific physical position of their hands cannot be determined by the video. After this point, between 00m10s and 00m20s, the video moves away from where § 87(2)(b) is on the ground.

PO Shouldis' BWC footage (BR23, summarized in BR46) partially captures the apprehension of § 87(2)(b). Between 00m41s and 00m49s, PO Shouldis moves behind § 87(2)(b). His arms mostly obstruct the view of the camera. There is movement in front of the camera. At 00m50s, § 87(2)(b) is laid stomach-down on the ground, with his head turned away from the camera. An officer is holding zip-tie style restraints. § 87(2)(b)'s left arm is behind his back. PO Shouldis and other officers secure § 87(2)(b) in the zip ties.

PO Ambrecht's BWC footage partially captures the takedown. At 00m22s, an officer's hand makes contact with § 87(2)(b)'s stomach, this hand is open and this contact does not appear consistent with a hand strike. PO Ambrecht's camera focus moves away from § 87(2)(b) between 00m22s and 00m27s. At 00m27s, § 87(2)(b) can be briefly observed moving westward on Bleecker street, in physical contact with at least one police officer, whose identity cannot be determined due to the angle. One officer stands behind § 87(2)(b) with the officer's right hand wrapped partially around § 87(2)(b)'s right bicep. At 00m28s, an officer in a helmet extends both arms and may come into contact with § 87(2)(b)'s chest, § 87(2)(b) moves rightward out of frame. The camera captures limited officer movement and the periphery of the physical struggle until 00m33s. At 00:33, an officer can be seen falling to the ground in front of § 87(2)(b); this officer's identity cannot be determined from this video. § 87(2)(b) partially bends forward at the waist, at 00m34s, an officer's forearm appears to be in contact with the rear of § 87(2)(b)'s head. This does not appear to be a strike, rather, the contact is sustained. § 87(2)(b) falls to the ground with PO Shouldis and other officers in physical contact with him at 00m35s. At 00m35s, multiple officers' hands, including PO Ambrecht's right hand, are in contact with § 87(2)(b)'s shoulders and back. The camera does not capture additional movement or strikes at this time. § 87(2)(b) is held on the ground, at 00m51s, with a fairly clear frame, multiple officers' hands are in contact with § 87(2)(b)'s back, no officers' hand is contact with § 87(2)(b)'s head or neck. After 01m03s, PO Ambrecht disengages from § 87(2)(b) physically (BR18, summarized BR43).

PO Shouldis' BWC, at 00m21s, shows an officer pointing behind PO Shouldis. PO Shouldis turns, facing west on Bleecker Street. § 87(2)(b) and § 87(2)(b) can be seen walking east on

Bleecker street in the direction of where the officers have the male on the ground. PO Shouldis moves towards § 87(2)(b) and § 87(2)(b). At 00:28, PO Shouldis stands several feet away from § 87(2)(b). At 00m29s, § 87(2)(b) raises his hands above his head and takes a step back. Another officer points with their hand towards § 87(2)(b) chest as § 87(2)(b) and § 87(2)(b) walk backwards, away from the officers at 00m30s. PO Shouldis' camera turns away from where § 87(2)(b) stands between 00:32 and 00:40, although a bag with a New York Yankees logo held in § 87(2)(b)'s left hand can be seen entering and exiting the frame at several points. At 00m40s, § 87(2)(b)'s knees are bent, and two police officers are in contact with his body. Between 00m41s and 00m49s, PO Shouldis moves behind § 87(2)(b). His arms mostly obstruct the view of the camera, there is movement in front of the camera. At 00m50s, § 87(2)(b) is laid stomach-down on the ground, with his head turned away from the camera. An officer is holding zip-tie style restraints. § 87(2)(b)'s left arm is behind his back. PO Shouldis and other officers secure § 87(2)(b) in the zip ties. (BR23, summarized BR46).

PO Cheung's BWC, between 00m20s and 00m30s shows PO Cheung moving west on Bleecker towards § 87(2)(b) identified by the investigation. Multiple officers have their hands grasped on § 87(2)(b)'s upper body. At 00m32s, PO Cheung moves from § 87(2)(b)'s back to his front. An officer with his baton out is to PO Cheung's right. § 87(2)(b)'s right arm is bent at the elbow, an officer's hands are in contact with it. Between 00m32s and 00m35s, PO Cheung moves slightly forwards towards § 87(2)(b) as multiple officers continue to struggle with § 87(2)(b) as § 87(2)(b) remains upright. At 00m35s to 00m36s, § 87(2)(b) appears to push his right arm towards PO Cheung, and as § 87(2)(b) extends his arm, PO Cheung falls to the ground landing on his side facing away from the melee. As PO Cheung turns over from his side and turns back towards where the officers engaged § 87(2)(b) is on the ground. After 00m38s, PO Cheung stands near where § 87(2)(b) is standing. He does not take further action, standing in the vicinity.

PO Simon's BWC (BR24, summarized in BR49) depicts the apprehension of § 87(2)(b). After § 87(2)(b) was apprehended, other civilians are seen walking and cycling in the background at several points, including 7m05s, 7m10s, 7m51s, and 8m06s. Officers do not make any statements to these individuals or take any actions towards these civilians.

PO Dones testified he told § 87(2)(b) to get back and leave the area because curfew hours were in effect. PO Dones testified that his understanding of the curfew policy was that after 8:00 p.m., no one could be on the streets if they were not an essential worker. PO Dones later clarified that anyone who was outside during curfew and did not comply with instructions to leave was subject to arrest. PO Dones did not elaborate regarding his understanding of the curfew policy in terms of verifying who was an essential worker. PO Dones learned about the curfew policy through internal NYPD email notification; he did not recall specifically what day he received the email. When § 87(2)(b) failed to comply with his instructions, PO Dones grabbed § 87(2)(b) by his body to secure his hands. PO Dones did not recall observing any officer use a hand strike, asp strike, or baton strike against § 87(2)(b) at this point. PO Dones did not recall what § 87(2)(b) was doing at this point. PO Dones fell down while he was in contact with § 87(2)(b). PO Dones did not know why he fell down, he stated he may have tripped, but did not specifically recall why. Seconds after PO Dones fell down, he stood back up (BR53).

PO Shouldis testified to the CCRB (BR57) that he did not recall if he assisted with the physical takedown of § 87(2)(b) and did not recall what, if any, actions § 87(2)(b) was doing that would have necessitated a physical takedown. PO Shouldis was shown his own body-worn camera footage, attached to BR23, which portrays him coming into physical contact with § 87(2)(b) and assisting with the takedown of § 87(2)(b). After reviewing the video, PO Shouldis did not independently recall any additional information. PO Shouldis did not recall any additional

information after observing video provided by § 87(2)(b)

PO Ambrecht did not observe officers use any hand or foot strikes against § 87(2)(b) while he was standing up, or during the takedown process. § 87(2)(b) resisted officers' attempts to bring him to the ground, she was not able to provide a more detailed description of the physical actions § 87(2)(b) took to resist officers' attempts to bring him to the ground beyond refusing to comply with officers' commands. Other than the fact that officers took § 87(2)(b) to the ground, PO Ambrecht did not recall the specific choreography, positioning, or specific events of the takedown. After § 87(2)(b) was on the ground, PO Ambrecht may have placed her hand on his body during the handcuffing process (BR60).

PO Cheung did not believe he was engaged in the physical arrest process for § 87(2)(b) PO Cheung did not recall if he observed officers come into physical contact with § 87(2)(b) PO Cheung did not recall what § 87(2)(b) was doing at the time officers reached him. PO Cheung did not recall what if any actions officers took towards § 87(2)(b) PO Cheung did not observe officers conduct a physical takedown on § 87(2)(b) PO Cheung did not know § 87(2)(b) was taken to the ground. After observing his own BWC footage, contained in Board Review 19, from 00:00 to 1:00, PO Cheung did not recall any additional information regarding this incident (BR61).

No Threat, Resistance, and Injury report was generated regarding the officers' takedown of § 87(2)(b) (BR63).

Emergency Executive Order No. 118, which imposed a city-wide curfew between 8:00 PM and 5:00 AM June 2, 2020-June 3, 2020, was issued June 2, 2020. The order notes that it does not apply to police officers, first responders, individuals "individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies." The order stated that a violation of this order constituted a class B misdemeanor, no specific penalties for violation were articulated in the executive order itself (BR78).

Under New York State guidelines issued by the governor on March 20, 2020, the definition of essential businesses includes "grocery stores including all food and beverage stores" and "restaurants/bars" (BR89).

NYPD Patrol Guide Procedure 221-01 governing the use of force states that officers may use force under the following circumstances: when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life and when it is reasonable to place a person in custody or to prevent escape from custody (BR31).

PO Dones asserted that he approached § 87(2)(b) to place him under arrest for violating Emergency Executive Order No. 118, which banned civilians from being outside between 8:00 p.m. and 5:00 a.m. However, PO Dones conceded in his CCRB testimony that the curfew included an exception for essential workers. An exception for essential workers does indeed appear in Executive Order No. 118. PO Dones did not state in his testimony nor does the BWC footage document any attempt by PO Dones to verify whether § 87(2)(b) met the curfew exception. As noted in the discussion of Allegations A-B, the BWC footage of PO Abramson only depicts officers telling § 87(2)(b) and § 87(2)(b) to move from the area before the officers attempt to arrest them; none of the officers attempt to determine whether either § 87(2)(b) or § 87(2)(b) are essential workers. The investigation noted that while § 87(2)(b) was arrested for violating this order, numerous other civilians were depicted in BWC footage as being present at the same time and after § 87(2)(b) s

arrest, but officers said nothing to these individuals or took any action towards them. § 87(2)(g)

As discussed in Allegations A-B, PO Dones stated that § 87(2)(b) approached an area where officers were arresting an unidentified third-party. However, PO Dones stated that § 87(2)(b) was ten to fifteen feet away and he never claimed that § 87(2)(b) physically interfered in the arrest.

§ 87(2)(g)

Procedure 221-01 outlines two acceptable circumstances under which officers can permissibly use force: when force is needed to ensure the safety of an officer or another person, and when it is necessary to place someone in custody. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (G) Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.

As stated above, § 87(2)(b) stated he felt a nightstick strike him in the head in the course of struggling with officers as he stood. § 87(2)(b) did not describe where on his head he was struck. At the time someone struck him with a nightstick while standing, § 87(2)(b) was tensing his arms. § 87(2)(b) could not see the officer who struck him with the nightstick and was not able to provide a description of the officer. § 87(2)(b) stated he suffered a contusion as a result of this strike (BR12).

PO Dones, PO Ambrecht, PO Accardi, PO Cheung, and PO Shouldis consistently testified they did not recall any officer striking § 87(2)(b) with a baton at any point (BR53, 57-59, 61).

BWC from PO Dones, PO Ambrecht, PO Accardi, PO Cheung, PO Shouldis, PO Abramson, and video taken by § 87(2)(b) does not capture any officer striking § 87(2)(b) with a baton, however, for crucial portions of video from all cameras, the specific location of § 87(2)(b)'s head, position of officers behind § 87(2)(b) and what those officers are doing, cannot be seen. PO Cheung's video captures at least one officer with a night stick drawn, the identity of this officer cannot be determined from his video (BR16-19, 23, 40).

§ 87(2)(g)

Allegation (H) Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.

Allegation (I) Force: At the intersection of Broadway and Bleecker Street in Manhattan, an officer struck § 87(2)(b) with a nightstick.

In his statement to the CCRB, § 87(2)(b) stated that while he was face-down on the ground, he felt one strike that felt like a baton strike to his leg, and one strike that felt like a baton strike to his back. Due to § 87(2)(b)'s positioning, he was not able to describe any officer who may have struck him (BR12).

§ 87(2)(b) did not see what happened to § 87(2)(b) while he was on the ground other than officers working to restrain him (BR13).

As stated above, PO Dones, PO Ambrecht, PO Accardi, PO Cheung, and PO Shouldis consistently testified they did not recall any officer striking § 87(2)(b) with a baton at any point (BR53, 57-59, 61).

PO Shouldis' BWC, which appears to capture the entire time § 87(2)(b) is on the ground, does not capture any officer striking § 87(2)(b) with a baton. At 00m50s, § 87(2)(b) is laid stomach-down on the ground, with his head turned away from the camera. An officer is holding zip-tie style restraints. § 87(2)(b)'s left arm is behind his back. PO Shouldis and other officers secure § 87(2)(b) in the zip ties. At 1m00s, audio for the video begins. At 1m29s, PO Shouldis pushes his right hand into the middle of § 87(2)(b)'s back, between his shoulder blades. He moves this hand to § 87(2)(b)'s left bicep at 1m31s. § 87(2)(b) shouts repeatedly for the officers to kill him. At 1m35s, an officer pushes on § 87(2)(b)'s right bicep to turn him from his stomach to his side. At 1m41, nothing is visibly in contact with § 87(2)(b)'s head, an officer's hand can be seen pushing on § 87(2)(b)'s right thigh just above the knee. As § 87(2)(b) is turned to his front, he repeatedly yells, "Put your foot on my neck." Nothing is visibly in contact with § 87(2)(b)'s neck at this point. PO Shouldis and other officers instruct § 87(2)(b) to relax. At 1m55s, PO Shouldis and another officer assist § 87(2)(b) to stand up (BR23, summarized in BR46).

Other BWC from this portion of the incident does not clearly depict the full events of § 87(2)(b)'s time when officers hold him on the ground as clearly as PO Shouldis' video does.

PO Shouldis' video captures the portion of the incident when § 87(2)(b) lay on the ground. The video does not appear to capture any baton strike directed towards § 87(2)(b). No officer testified to observing such a strike, and § 87(2)(b) and § 87(2)(b) were not positioned to observe which officer conducted the alleged strikes. § 87(2)(g)

Allegation (J) Force: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare used physical force against § 87(2)(b)

§ 87(2)(b) testified that as other officers apprehended § 87(2)(b) another group of officers approached § 87(2)(b). Deputy Inspector Ohare yelled at § 87(2)(b) "You have to go home." § 87(2)(b) told the officers that she could not go home, since the officers were attacking § 87(2)(b). § 87(2)(b) was not moving towards where § 87(2)(b) was on the ground. Deputy Inspector Ohare may have said, "Okay, arrest her." PO Dones grabbed § 87(2)(b)'s hands. § 87(2)(b) dropped her phone. § 87(2)(b) did not do anything to physically resist PO Dones. PO Dones pushed § 87(2)(b) chest-first into the wall of a nearby building. § 87(2)(b) felt PO Dones drive his knee into the back of her knee. PO Dones handcuffed § 87(2)(b). § 87(2)(b) did not know how long this process took. § 87(2)(b) did not do anything to physically resist PO Dones. PO Dones did not issue § 87(2)(b) any commands. After PO Dones stopped pushing § 87(2)(b) against the wall, § 87(2)(b) noticed she was bleeding from one of her knees (BR13).

On § 87(2)(b), § 87(2)(b) featured an article about a civil lawsuit filed by § 87(2)(b) and § 87(2)(b) entitled § 87(2)(b) (BR86). The article did not contain any specific statements about alleged misconduct not addressed in § 87(2)(b)'s testimony to the CCRB.

The BWC footage of PO Abramson (BR16, summarized in BR37) depicts § 87(2)(b)'s position in relation to the site of § 87(2)(b)'s apprehension. At approximately 1:08 minutes in the recording, § 87(2)(b) is depicted at a distance from the officers and § 87(2)(b) filming the interaction, and she does not appear to physically interfere with the apprehension.

Deputy Inspector Ohare's BWC captures this portion of the incident (BR70, summarized in BR34). DI Ohare approaches the site of § 87(2)(b)'s arrest at 2m03s in the recording. When DI Ohare approaches, § 87(2)(b) is surrounded by officers and has not yet been placed in handcuffs. § 87(2)(b) is never seen in the immediate proximity of § 87(2)(b) nor is she seen physically interfering with § 87(2)(b)'s arrest. At approximately 2m09s, § 87(2)(b) states, "That's my cousin." Deputy Inspector Ohare states, "She's under arrest," and reaches towards § 87(2)(b)'s left arm as PO Dones turns § 87(2)(b) around. Deputy Inspector Ohare's hand makes contact with the front of § 87(2)(b)'s right shoulder and appears to pull his arm backward to cause § 87(2)(b) to continue to turn towards the wall. DI Ohare pushes § 87(2)(b) face-first into the wall, as another officer states, "Hands behind your back." PO Dones, who is standing to the left of DI Ohare, is not depicted taking any actions aside from placing § 87(2)(b) in handcuffs. § 87(2)(b) repeatedly informs the officers that she had just come from work and states, "That's my cousin. He picked me up from work." Other officers state, "You interfered with an arrest." At 02:27, DI Ohare states, "She's under arrest for OGA." DI Ohare's video also depicts officers arresting some individuals while failing to speak to or apprehend other cyclists and pedestrians.

PO Dones' BWC footage (BR26, summarized in BR43) depicts officers' initial physical contact with § 87(2)(b). At approximately 00m19s in the recording, PO Dones approaches § 87(2)(b) and stands directly behind him. DI Ohare, who is dressed in a white shirt-sleeve uniform shirt, places his left hand on § 87(2)(b)'s left shoulder and his right hand on an unknown part of the right side of § 87(2)(b)'s body, and pushes her against a nearby wall. PO Dones' hands are not seen in the footage, and it is unclear what, if any, PO Dones takes regarding § 87(2)(b).

In his testimony to the CCRB, Deputy Inspector Ohare initially stated that he did not independently recollect any interaction he had with § 87(2)(b). Deputy Inspector Ohare was shown his own BWC video from 2m11s. After watching the video, Deputy Inspector Ohare stated that he recalled approaching the corner where the incident occurred, and saw that officers had instructed § 87(2)(b) to move away and that § 87(2)(b) had refused. Officers had instructed § 87(2)(b) to move back because she was in close proximity to the arrest of another individual. § 87(2)(b) refused to move back which, to DI Ohare's understanding of obstruction of governmental administration, meant that § 87(2)(b) was interfering with the arrest. DI Ohare testified that he assisted with placing § 87(2)(b) under arrest by coming into physical contact with § 87(2)(b)'s right shoulder. Deputy Inspector Ohare noted that § 87(2)(b) did not comply with an officer's commands to turn around, but he did not recall any other actions § 87(2)(b) took to resist officers' attempts to place her in handcuffs (BR59).

After PO Dones stood up from where he had engaged § 87(2)(b) he observed Deputy Inspector Ohare further down the street. Deputy Inspector Ohare ordered that § 87(2)(b) be placed under arrest. PO Dones moved towards § 87(2)(b) and stood behind her. PO Dones did not recall any actions he took at this time other than standing directly behind § 87(2)(b). PO Dones did not recall

if he pushed § 87(2)(b) in the back. To PO Dones' knowledge, § 87(2)(b) did not do anything to resist arrest. PO Dones was shown his own BWC from Board Review 26 from 00:00 to 00:45. This portion of the video did not have audio. PO Dones did not recollect any additional information after watching this video (BR53).

As discussed above under Allegations D-F, Patrol Guide Procedure 221-01 governing the use of force outlines when force can be used (BR31).

As discussed under Allegations D-F, Emergency Executive Order No. 118 imposed a curfew between 8:00 PM and 5:00 AM June 2, 2020 to June 3, 2020 (BR78).

New York State guidelines issued by the governor includes in its definition of essential businesses "grocery stores including all food and beverage stores" and "restaurants/bars" (BR89).

New York Penal Law 195.05 defines obstruction of governmental administration thusly: "A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently lawful act."

As discussed under Allegations D-F, although there was a curfew in effect at the time of incident, the curfew contains several exceptions, including an exception for essential workers. § 87(2)(b) who was dressed in her work uniform from a fast-food restaurant, displayed the outward trappings of being someone who met the definition of an essential worker travelling to or from essential work as per Executive Order 118 and the New York State guidelines on essential services. § 87(2)(g)

§ 87(2)(b)

In his statement to the CCRB and in a contemporaneous statement depicted in his BWC footage, DI Ohare stated that § 87(2)(b) should be arrested for obstructing governmental administration. In his CCRB testimony, he stated that § 87(2)(b) committed obstruction of governmental administration because she failed to comply with officers' orders to leave the area. § 87(2)(g)

§ 87(2)(b)

Procedure 221-01 outlines two acceptable circumstances under which officers can permissibly use force: when force is needed to ensure the safety of an officer or another person, and when it is necessary to place someone in custody. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(g)

Allegation (K) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Police Officer Richard Accardi spoke discourteously to § 87(2)(b)

PO Accardi's BWC captures an interaction between PO Accardi and § 87(2)(b) Between 3m27s and 4m46s, PO Accardi stands near § 87(2)(b) on scene. They stand near a police vehicle with multiple other officers in the general vicinity. § 87(2)(b) is handcuffed. § 87(2)(b) complains about his arrest and states that he knows his rights. At 4m47s, PO Accardi states, "Stop moving, alright? Cut the shit. Stop being a tough guy, alright." (BR17, summarized in BR42).

§ 87(2)(b) did not testify to PO Accardi making this statement (BR12).

After being shown this section of BWC in the course of his interview, PO Accardi acknowledged his voice was the voice speaking in the video. PO Accardi stated that he made this statement towards § 87(2)(b) because § 87(2)(b) was yelling and being loud. PO Accardi did not provide any other reasons for making this statement (BR58).

NYPD Patrol Guide Procedure 200-02 states that officers must render services with courtesy and civility (BR68).

DCT Case 2013-10143 affirms that officers should remain courteous and professional, but makes an exception in that profane remarks may be permissible in the context of a dangerous situation or when added as an intensifier added to a lawful command in the context of a dangerous situation (BR69).

§ 87(2)(g)

Allegation (L) Discourtesy: At the intersection of Broadway and Bleecker Street in Manhattan, Deputy Inspector Robert Ohare spoke discourteously to § 87(2)(b)

In her CCRB testimony, § 87(2)(b) testified that after being placed in a marked police vehicle, officers moved her to stand outside of a van. As she stood outside the van, Deputy Inspector Ohare, drove by in a vehicle. As he drove past, he stated, "Ah ha, stupid. That's why you stupid." § 87(2)(b) started crying. § 87(2)(b) described the subject of her complaint as a white male who was dressed in a uniform with a white shirt. § 87(2)(b) did not provide a description of the vehicle Deputy Inspector Ohare was inside of or his position inside the vehicle (BR13).

A § 87(2)(b) article in § 87(2)(b) (BR86) reports that in § 87(2)(b)'s civil lawsuit, she reported that the officer who called her stupid was DI Ohare.

PO Simon's BWC (BR24, summarized in BR49) captures a moment that matches the interaction reported by § 87(2)(b) Prior to 9m09s, PO Simon is depicted walking § 87(2)(b) to a police van. Aside from civilians who cycle past, the only vehicles present on the street where § 87(2)(b) is present are marked police vehicles. PO Simon repeatedly directs § 87(2)(b) to remain calm. At 9m09s in the recording or 8:33 p.m. according to the native timestamp, a black vehicle drives by the right of where § 87(2)(b) is being held. The interior of the vehicle is dark, the windows of the

vehicle are down, and the number of occupants cannot be determined from this video. A male voice emanates from the vehicle and says, "Stupid." The individual who made this statement cannot be seen. Although the rear of the vehicle is visible, the license plate number of the vehicle is unclear. Immediately after this statement is made, § 87(2)(b) asks PO Simon, "You see that?" PO Simon affirms that she did, saying, "Yeah" and later, "That wasn't needed."

PO Maciag stated that DI Ohare was not the occupant of the vehicle that drove by in PO Simon's video, which she reviewed in the course of her interview. PO Maciag stated that she would have recognized DI Ohare because she worked with him (BR80).

DI Ohare recorded BWC footage on the date of incident (BR70, summarized in BR34). However, the footage deactivates at 8:27 p.m. in the native timestamp.

DI Ohare testified that he had no recollection of when he left the scene. He did not recall calling anyone, "Stupid," on scene, and specifically did not recall calling § 87(2)(b) stupid out of a car window. DI Ohare drove a dark-colored unmarked sedan on the date of the incident (BR59).

§ 87(2)(g)
[REDACTED]

Allegation (M) Discourtesy: En route to the 6th Precinct stationhouse, Police Officer Danielle Ambrecht spoke discourteously to § 87(2)(b)

The investigation obtained PO Ambrecht's BWC footage (BR18, summarized in BR43). At 5m04s in the footage, PO Ambrecht enters the passenger seat of a marked vehicle, and the vehicle begins driving south on Broadway, transporting § 87(2)(b) to the stationhouse. During the drive, PO Ambrecht communicates with other officers over the radio and the unidentified male officer who is the driver regarding a crowd that may obstruct traffic. § 87(2)(b) periodically interjects during these communications. At 6m06s, the driver reports that there is a crowd at West Houston Street. At 6m09s, PO Ambrecht tells the driver, "Don't go this fucking way; go that way," "Don't get fucking trapped," and "Back the fuck up." The driver makes a radio transmission that there is a crowd of approximately 1000 people and that other officers should not use that street to transport arrested individuals. At 6m36s, the driver makes another transmission to note that there are approximately 1000 people. At 6m37s, § 87(2)(b) interjects, "It's 2000" two times. At the same time, the police radio dispatcher makes an announcement. At 6m45s, PO Ambrecht yells loudly at § 87(2)(b) "Shut the fuck up." PO Ambrecht had made no prior statement asking § 87(2)(b) to be quiet. § 87(2)(b) continues to speak repeatedly, stating, "You shut the fuck up," "You're going to remember my name," and other statements.

§ 87(2)(b) did not testify to PO Ambrecht making this statement (BR12).

PO Ambrecht testified that while driving to the stationhouse, the direct route from the incident location to the 6th Precinct stationhouse was obstructed at several points by large groups of civilian

protesters. PO Ambrecht had heard reports from previous days of officers' vehicles getting stuck in large protests, and of protesters attempting to gain access to, set on fire, and damage officers' vehicles, with officers inside. PO Ambrecht and PO Dones attempted to communicate with each other about avoiding these protests to safely return to the stationhouse with their prisoners. While they were attempting to talk, § 87(2)(b) loudly shouted various profanities and told the officers people would come for their families, as well as other phrases. PO Ambrecht told § 87(2)(b) to "Shut the fuck up" at a loud volume. She did this to attempt to prevent § 87(2)(b) from continuing to interrupt her communication with PO Dones and to allow PO Dones to effectively communicate over the radio. After PO Ambrecht told § 87(2)(b) to shut the fuck up, § 87(2)(b) lowered the volume of his interruptions (BR60).

NYPD Patrol Guide Procedure 200-02 states that officers must render services with courtesy and civility (BR68).

DCT Case 2013-10143 affirms that officers should remain courteous and professional, it makes an exception in that profane remarks may be permissible in the context of a dangerous situation or when added as an intensifier added to a lawful command in the context of a dangerous situation (BR69).

§ 87(2)(g)
[REDACTED]

Allegation (N) Abuse of Authority: Inside the 6th Precinct stationhouse, Police Officer Jonathan Dones did not obtain medical treatment for § 87(2)(b)

In his statement to the CCRB, § 87(2)(b) stated that as he reached the front of the line at the stationhouse, he stated that he needed medical attention to an unidentified officer. The officer responded that § 87(2)(b) was good, and that he should not ask for medical attention or he would be kept in the stationhouse longer. The officer told § 87(2)(b) that all the officers would be doing was issuing § 87(2)(b) a summons. § 87(2)(b) did not state why he needed medical attention inside the stationhouse (BR12).

PO Dones' body-worn camera footage (BR26, summarized in BR43) captures the entirety of § 87(2)(b)'s interactions with officers inside the 6th Precinct stationhouse up until § 87(2)(b) is lodged in the cells. This is depicted from 9m27s to 29m46s. In this period of time, § 87(2)(b) does not request medical attention. All of § 87(2)(b)'s verbal interactions inside the stationhouse are with PO Dones.

Because PO Dones was the officer who primarily interacted with § 87(2)(b) at the stationhouse including the time when § 87(2)(b) alleged the alleged request occurred, the allegation was pleaded against PO Dones. In his statement to the CCRB, PO Dones stated he did not recall if § 87(2)(b) requested medical attention inside the stationhouse (BR53).

§ 87(2)(g)
[REDACTED]

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR75).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (BR76).
- Deputy Inspector Robert O’Hare has been a member-of-service for 25 years and has been the subject of eight CCRB complaints and 16 allegations, none of which have been substantiated. § 87(2)(g)
- PO Dones has been a member-of-service for 11 years and has been the subject of seven CCRB complaints and 14 allegations, none of which were substantiated. § 87(2)(g)
- PO Accardi has been a member-of-service for four years and has been the subject of three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- PO Shouldis has been a member-of-service for six years and has been the subject of two CCRB complaints and two investigations, none of which were substantiated. § 87(2)(g)

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Noa Street-Sachs	Team: Squad #8	CCRB Case #: 202004883	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 7:30 PM	Location of Incident: 136th Street and Brook Avenue	Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 06/30/2020 2:45 PM	CV Reported At: IAB	How CV Reported: E-mail	Date/Time Received at CCRB Wed, 07/08/2020 11:19 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. Terrance Monahan		876747	
2. AC Kenneth Lehr	00000	891719	PBBX

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer struck § 87(2)(b) with a nightstick/asp/baton.	
B. Officers	Force: Officers struck individuals with a nightstick/asp/baton.	
C. Officers	Force: Officers used physical force against individuals.	

Case Summary

On July 8, 2020, the CCRB received the below complaint from IAB via original log number 20-16193. IAB received a forwarded email from the Bronx District Attorney's Office § 87(2)(b)

On June 4, 2020, at approximately 7:30 p.m., at a protest organized by Take Back the Bronx and Bronxinites for NYPD Accountability in the vicinity of 136th Street and Brook Avenue in the Bronx, police officers on bicycles went in front of § 87(2)(b) and the group of protesters she was with such that their path was blocked. When they turned around and went in the opposite direction, police officers who were on Brown Place went right behind them so they had nowhere to go. At approximately 7:40 p.m., the group began to be pushed from both sides. At approximately 8:05 p.m., officers hit § 87(2)(b) and various civilians with their batons and used physical force against civilians causing them to sustain various injuries (**Allegations A-C:** § 87(2)(g)).

This case involves allegations of kettling and other concerted enforcement actions performed under the command and supervision of the then Chief of Department Terrance Monahan and Assistant Chief Kenneth Lehr. These allegations are being addressed in case 202006855.

§ 87(2)(b) was not arrested or summonsed as a result of this incident. The investigation is in possession of body-worn camera footage relevant to this protest from cases 202004055, 202004094, 202004142, and 202004402 (Board Review 01, Board Review 02). However, none of the aforementioned body-worn camera footage that were reviewed captured this incident and the investigation is not in possession of any additional video footage of this incident.

Findings and Recommendations

Allegation (A) Force: An officer struck § 87(2)(b) with a nightstick/asp/baton.

Allegation (B) Force: Officers struck individuals with a nightstick/asp/baton.

Allegation (C) Force: Officers used physical force against individuals.

Known facts and general descriptions:

§ 87(2)(b)

§ 87(2)(b) stated that on June 4, 2020, at approximately 7:30 p.m., in the vicinity of 136th Street and Brook Avenue in the Bronx, the group of protestors approached the intersection and police officers on bicycles went in front of them, blocking their way. The group turned around and went in the opposite direction, but the officers who were on Brown Place went right behind them so they had nowhere to go. They turned back on 136th Street and Brook Avenue which was when the group moved in tighter and police officers started to surround the group even more. At approximately 7:40 p.m., officers from behind started to push the members of the group to the front and officers at the front started to push them to the back. At approximately 8:05 p.m., officers hit members of the group with batons. § 87(2)(b) was hit in the lip with a baton, causing her mask to have blood all over it. § 87(2)(b) had to hold a man as an officer was hitting him on his back. § 87(2)(b) saw people get their "arms broken" and their "legs broken." § 87(2)(b) saw officers bend peoples' arms and heard bones crack. She saw officers with batons hitting people in their heads and jumping on top of people. § 87(2)(b) did not know any of the victims or witnesses

§ 87(2)(b) confirmed she was not arrested as a result of this incident. § 87(2)(b) was not able to obtain the shield numbers of the officers involved but she informed that she had a photo of the

officer who hit her in the face with a baton, § 87(2)(b) (Board Review 03). The investigation was unable to obtain the photograph.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) filed a Notice of Claim regarding this incident. The investigation obtained the Notice of Claim which was for damages in the sum of three million dollars for physical and/or psychological injuries. Her statement about the incident was consistent with her public testimonies (Board Review 11).

Despite database searches and § 87(2)(b) § 87(2)(b)'s civil attorney, providing the undersigned's contact information to § 87(2)(b) the investigation was unable to reach § 87(2)(b). When contacted about § 87(2)(b)'s 50-H hearing, § 87(2)(b) informed that the hearing had happened but he had not been able to reach § 87(2)(b) to review it with her and was having difficulty getting in contact with her (Board Review 12). § 87(2)(b) was contacted multiple times afterward during which he informed he did not have any update and was unable to reach § 87(2)(b). The investigation attempted to contact § 87(2)(b) via phone and via § 87(2)(b) and on which she wrote about the incident of being hit in the face with a baton (Board Review 18).

BWC:

Body-worn camera footage was not requested for this case because there was a series of cases from within the same protest which had already obtained body-worn camera footage. The investigation reviewed part of the pool of body-camera footage, including from cases 202004055, 202004094, 202004142, and 202004402, which yielded negative results for capturing this incident (Board Review 01 and 02). Investigators assigned to these aforementioned cases reviewing footage of this protest were provided with § 87(2)(b)'s photograph to inquire if they observed § 87(2)(b)'s allegations. To date, these investigators have not identified § 87(2)(b) or the incident.

NYPD Documents Reviewed:

Although Threat Resistant and Injury Reports and AIDED reports are required to be prepared should an officer use force against a civilian or if a non-arrested civilian or officers sustains an injury, they were not prepared for this incident. There were also negative results for summonses for § 87(2)(b) (Board Review 13 and 17).

Concurrent Investigations:

The undersigned spoke with Sgt. Ortiz at Bronx Investigations who was investigating IAB original log number 20-16193. Sgt. Ortiz informed he reviewed approximately one hundred body camera videos and did not see § 87(2)(b) or the incident nor did he hear from § 87(2)(b) upon his attempts to contact her (Board Review 14). The investigation followed up with Sgt. Ortiz who informed that his case was closed and he believe the outcome was “unsubstantiated.” Sgt. Ortiz was unable to identify any of the subject officers or locate any footage that captured the incident (Board Review 19). The investigation requested the IAB case file and it will be added upon receipt.

Ranking Officers:

The investigation determined that the then Chief of Department Terrance Monahan was the highest-ranking officer on scene; he is currently no longer a member of the NYPD.

Officers Interviewed:

There were no officers interviewed for this case.

Allegation Recitation and Disposition:

§ 87(2)(g)
[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]

Mediation, Civil and Criminal Histories

- This complaint was unsuitable for mediation.
- On September 1, 2020, the New York City Office of the Comptroller yielded that § 87(2)(b) was filing a claim for damages in the sum of three million dollars for physical and/or psychological injuries (Board Review 11).
- According to the Office of Court Administration (OCA), § 87(2)(b) does not have a criminal conviction history in New York City (Board Review 16).

Squad No.: 8

Investigator: Noa Street-Sachs Inv. Street-Sachs 6/10/2021
Signature Print Title & Name Date

Squad Leader: Patrick Yu SI Patrick Yu 06/11/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 202005197	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:00 PM	Location of Incident: DeKalb Avenue and Flatbush Avenue Extension; and 88th Precinct stationhouse	Precinct: 88	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 07/23/2020 2:05 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 07/23/2020 2:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO ZAKIE KARIMZADA	13358	960745	083 PCT
2. DI William Glynn	00000	932718	081 PCT
3. PO VINCENZO CRETA	19901	962332	075 PCT
4. PO AARON HUSBANDS	04274	965752	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
B. Officers	Force: Officers used physical force against § 87(2)(b)	
C. Officers	Force: Officers struck § 87(2)(b) with a baton.	
D. Officers	Force: Officers used physical force against § 87(2)(b)	
E. Officers	Force: Officers struck § 87(2)(b) with a baton.	
F. An officer	Force: An officer restricted § 87(2)(b)'s breathing.	
G. An officer	Force: An officer tightly handcuffed § 87(2)(b)	
H. An officer	Discourtesy: An officer spoke discourteously to Individuals.	
I. An officer	Off. Language: Officers made remarks to § 87(2)(b) based upon race.	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on July 23, 2020 via the website.

On May 30, 2021, at approximately 11:00 p.m., § 87(2)(b) and her boyfriend, § 87(2)(b) attended a protest in Downtown Brooklyn that eventually reached Flatbush Avenue Extension and DeKalb Avenue. They stopped to observe an individual who seemed to be under arrest, and an officer in a white shirt allegedly said to § 87(2)(b) “What the fuck are you doing?” (**Allegation A: Discourtesy- Word**, § 87(2)(g)). § 87(2)(b) said they were trying to watch what was happening, and the officer allegedly pushed him twice, once toward a nearby pillar and then once onto the sidewalk (**Allegation B: Physical Force- Push**, § 87(2)(g)). The officer then allegedly called § 87(2)(b) an “asshole” (subsumed, **Allegation A**). Multiple officers told § 87(2)(b) he was under arrest and hit him on his legs with their batons (**Allegation C: Force- Baton**, § 87(2)(g)). Officers then pushed both § 87(2)(b) and § 87(2)(b) toward the wall of a building near the southeast corner of the intersection (subsumed in **Allegation B**, and **Allegation D: Physical Force- Push**, § 87(2)(g)). § 87(2)(b) ducked under officers’ arms and extended her arms and legs to try to block § 87(2)(b) from being hit, and then an officer hit her in the head with their baton (**Allegation D: Force- Baton**, § 87(2)(g)). § 87(2)(b) was also hit in the head with a baton (subsumed, **Allegation C**). Officers pushed § 87(2)(b) to the ground, and one officer held his baton on the back of § 87(2)(b) s neck for about one minute, restricting her breathing (**Allegation F: Force- Restricted Breathing**, § 87(2)(g)). Officers cuffed § 87(2)(b) and § 87(2)(b). An officer in a white shirt told the officer holding § 87(2)(b) s cuffs that he needed to take them to the stationhouse, after which that officer tightened § 87(2)(b) s cuffs (**Allegation G: Force- Handcuffs Tightened**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) then went on an MTA bus to be transported to the 88th precinct stationhouse. While they walked into the stationhouse with the other arrestees from the protest, an officer said, “Look at these assholes” (**Allegation H: Discourtesy- Word**, § 87(2)(g)). Another officer said to § 87(2)(b) “Cambodia” (**Allegation I: Offensive Language- Race**, § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were released from the stationhouse with summonses for § 87(2)(b). § 87(2)(b) s summons was received, which was prepared by Police Officer Zakie Karimzada of the 83rd Precinct (Board Review #01).

In addition to this case, the CCRB was simultaneously investigating three other cases that occurred at the same general date, time and location as this incident. One request through this case for BWC was returned negative (Board Review #02). 10 BWC videos were received for case #202005933 (Board Review #03). Three BWC requests through CCRB case #202003790 (Board Review #04), and one request through #202003881 (Board Review #05), were returned negative. Stationhouse footage from the 88th Precinct stationhouse, received through case #202003790, did not show § 87(2)(b) or § 87(2)(b) (Board Review #06). Of all these videos, § 87(2)(b) and § 87(2)(b) are only seen briefly sitting on the MTA bus after being cuffed, in the footage of Police Officer Vincenzo Creta of the 75th Precinct (Board Review #07). At the time of this report, cases #202003790, #202003881, and #202005933 were closed as officers unidentified.

Findings and Recommendations

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (B) Force: Officers used physical force against § 87(2)(b)

Allegation (C) Force: Officers struck § 87(2)(b) with a baton.

Allegation (D) Force: Officers used physical force against § 87(2)(b)

Allegation (E) Force: Officers struck § 87(2)(b) with a baton.

Allegation (F) Force: An officer restricted § 87(2)(b) s breathing.

Allegation (G) Force: An officer tightly handcuffed § 87(2)(b)
Allegation (H) Discourtesy: An officer spoke discourteously to Individuals.
Allegation (I) Offensive Language: Officers made remarks to § 87(2)(b) based upon race.

Known Facts and General Description

§ 87(2)(b) was interviewed via telephone by the CCRB on August 13, 2020 (Board Review #08). She provided a follow-up telephone statement on February 5, 2021 (Board Review #09). § 87(2)(b) was interviewed via telephone by the CCRB on August 14, 2020 (Board Review #10). Police Officer Aaron Husbands of the 79th Precinct was interviewed by the CCRB on September 17, 2020 (Board Review #11). Police Officer Zakie Karimzada of the 83rd Precinct was interviewed by the CCRB on March 12, 2021 (Board Review #12). Deputy Inspector William Glynn of the 81st Precinct was interviewed on September 17, 2021 (Board Review #13).

§ 87(2)(b) s and § 87(2)(b) s accounts of the incident are largely consistent with one another, including rough descriptions of the subject officers and the sequence of major events. The couple stopped at the corner of DeKalb Avenue and Flatbush Avenue Extension to observe an individual, who § 87(2)(b) later learned was named “§ 87(2)(b) involved in a struggle with officers. An over 6’0” tall light-skinned Hispanic male in his mid to late 30s with a clean-shaven face, muscular build, and wearing a white shirt turned around and said to § 87(2)(b) “What the fuck are you doing?,” to which § 87(2)(b) replied, “We’re trying to see.” The officer pushed § 87(2)(b) twice on the chest, first into a nearby pillar and then onto the sidewalk. A group of officers ran toward § 87(2)(b) surrounded him, and hit him with their batons on his legs. § 87(2)(b) described one of the officers who hit his legs with their baton as an approximately 6’1” to 6’2” tall, 26- to 27-year-old uniformed black male in his 20s with low-cut black hair and a clean-shaven face. The first officer who cursed at § 87(2)(b) hit him on the head with his baton. Then, to try to prevent officers from hitting § 87(2)(b) § 87(2)(b) ducked under the officers’ arms and spread her arms and legs with her back to officers as she asked them to stop hitting him. An officer hit § 87(2)(b) on the head with their baton, then multiple officers tackled her by pushing her on her shoulders onto the ground. An officer placed their baton on the back of her neck for about a minute which restricted her breathing. § 87(2)(b) then voluntarily kneeled on the ground and put up his arms to allow officers to cuff him, and he and § 87(2)(b) were cuffed. § 87(2)(b) described the officer who cuffed her as a male who was slightly over 6’ tall with short dark hair and in his late 30s or early 40s who could have been Hispanic, Middle Eastern, or Southern Italian and with a heavier/average build. § 87(2)(b) believed that officer looked 27 or 28 years old and Indian or Caribbean. § 87(2)(b) stated that an officer in a white shirt told this officer to transport § 87(2)(b) and § 87(2)(b) to the stationhouse, after which the officer who cuffed § 87(2)(b) either tightened her cuffs or rattled them. § 87(2)(b) did not see an officer tighten § 87(2)(b) s cuffs.

Officers transported § 87(2)(b) and about a dozen other protesters to the 88th precinct stationhouse to be processed. As they were walking in, § 87(2)(b) heard an officer say, “Look at these assholes.” § 87(2)(b) saw two officers recording on their phones with the flash on as the prisoners walked up the steps: an approximately 6’ or taller bald black male in his late 40s and wearing a white shirt, and a slightly shorter officer who was white, wearing a blue or black uniform, and had short black or brown hair. She did not remember the officer's appearance who yelled, “Cambodia,” because she was looking down. § 87(2)(b) saw that the officer who made this statement was a Hispanic male in his late 30s wearing a dark T-shirt and pants with his badge on his belt.

§ 87(2)(b) and § 87(2)(b) were released from the stationhouse with summonses for § 87(2)(b) § 87(2)(b) s summons was prepared by Police Officer Karimzada. She was not sure whether the officer who cuffed her, and eventually allegedly tightened her handcuffs, was named

Police Officer Karimzada, but her description of this subject officer did not match Police Officer Karimzada's pedigree, as seen in his MOS photo (Board Review #14). § 87(2)(b) had a knot on his head from being hit with the baton and scrapes and cuts all along his chest and arms. He had contusions, but no visible bruises, directly above and below his knees (on the back) and on his quads. He and § 87(2)(b) went to § 87(2)(b) the next morning, where § 87(2)(b) was diagnosed with a concussion and two torn ligaments on her neck (from when she was held down). § 87(2)(b) was also receiving physical therapy at the time of her interview for the injuries sustained during the incident. § 87(2)(b) did not receive any medical treatment for his injuries.

Body-Worn Camera Footage and Other Video Evidence

The investigation submitted one request for BWC through this case which was returned negative on May 18, 2021 (Board Review #02). The investigation submitted three requests for BWC footage through case #202005933, the first of which was returned negative (Board Review #19). The second resulted in Lieutenant Vassallo's single video, and the third was returned on October 8, 2021 with 10 videos, one of which was a duplicate of Lieutenant Vassallo's video already received (Board Review #03). These videos were reviewed and determined not to show § 87(2)(b) and § 87(2)(b)'s incident. The BWC videos show dozens of officers in standard blue uniforms and helmets, along with many different male supervisors in white uniform shirts; § 87(2)(g)

The investigation submitted, through case #202003790, three separate requests to the NYPD's Legal Bureau for body-worn camera (BWC) footage pertaining to this incident, which were all returned with negative results (Board Review #04). Another request through case #202003881 was also returned negative (Board Review #05). The first request for case #202003790, which included the date, time, and location of occurrence, was returned negative after a search was conducted for commands SRG, Disorder Control, and the 70th Precinct (the initial complaint listed an incorrect location, which was in a different precinct) (Board Review #04). The second request included the name of a specific officer that was initially believed to be involved in that incident, in addition to searches from the 88th Precinct, SRG, and CRC, although the NYPD conducted the search for the incorrect date. The third request included 41 different precincts and another specific officer's name but still was returned negative.

The one request for case #202003881, which included a search for officers from the 88th precinct, nearby Brooklyn SRG commands, the time, date, and location of the incident, and the complainant's social media accounts came back negative (Board Review #05).

The investigation was unable to obtain any other relevant footage. Footage from social media and the New York Times that was allegedly taken at the same approximate time and location of the incident was reviewed, but no civilians who appeared to be § 87(2)(b) or § 87(2)(b) were seen. A request through related case #202003790 for handheld TARU footage was returned as negative on July 15, 2020 (Board Review #15). Stationhouse Footage from the lobby of the 88th Precinct stationhouse, requested through case #202003790 and received on June 30, 2020, does not show the outside of the building nor does it appear to show § 87(2)(b) and § 87(2)(b) (Board Review #06). Fieldwork conducted on July 8, 2020 found that the Long Island University building at the incident location did not have footage and the Chinese restaurant "The Wei," caddy-corner to the incident location, appeared to be shut down (Board Review #16). A phone call on June 11, 2020 found that the cameras at the Junior's Cheesecake restaurant across Flatbush Avenue Extension from the incident location pointed away from the incident (Board Review #17). A phone call on July 1, 2020 found that the 7-11 near the incident did not have exterior cameras (Board Review #18). On August 25, 2020, video footage was received through case #202003790 from the Applebee's restaurant

across DeKalb Avenue from the incident location, but the footage was from the wrong date and the correct footage had already been deleted.

NYPD Documents Reviewed

The detail rosters from Patrol Borough Brooklyn North lists officers from the following commands as being present at the protest: 75, 77, 79, 81, 83, 84, 88, 90, 94, 109, 110, 79 PDU, 81 PDU, 94 PDU, DBBX, VCS, HOT, QTS, CRD, MRS, MTS, BxTS, BTS, 207, 208, 296, HB, PSA 1-9, 541 and the Disorder Control Unit (Board Review #20). However, few of the detailed lists from each individual command include vital information such as the exact location officers were stationed and what times they were present. § 87(2)(b) provided the handwritten Criminal Court Appearance Ticket she received, which only provided the date, time, and location of the incident, along with the charge, § 87(2)(b) and the issuing officer, Police Officer Karimzada of the 83rd Precinct (Board Review #01). No information was provided on the ticket regarding Police Officer Karimzada's direct involvement in the incident. IAB was unable to provide any summons issued to § 87(2)(b) (Board Review #21). EVENT #200503027247 corresponds to a call for ambulances needed for multiple injured MOS, and some complaints by civilians, at the time and place of the incident (Board Review #22). No additional useful information is provided by the EVENT. A warrant audit for both § 87(2)(b) and § 87(2)(b) was also requested, which came back negative, even when informing Sergeant Khan of IAB that they both received summonses (Board Review #23). The prisoner pedigree card received from the 88th precinct also does not provide any additional information about the incident (Board Review #24). Police Officer Karimzada made no memo book entries on the date of the incident (Board Review #25). Police Officer Karimzada's MOS photo lists him as a 5'8" tall, 165-pound white male with black hair, brown eyes, and an average build (Board Review #14).

Concurrent Investigations

At the time of this report, IAB Group 54 had a concurrent investigation for the same time and place of occurrence that was still ongoing but did not involve § 87(2)(b) s and § 87(2)(b) s incident. The IAB investigation involved the civilian whose complaint was investigated in case #202003881. Sergeant Colavito of IAB provided during a phone call on October 1, 2021 the names of officers whose BWCs were reviewed for the IAB case, which prompted the undersigned to request those BWC videos that were received on October 8, 2021 (Board Review #26). Those videos were reviewed and found not to show any FADO allegations involving § 87(2)(b) and § 87(2)(b) they are only seen briefly in Police Officer Creta's footage, while they are sitting on the MTA bus waiting to be transported to the 88th precinct stationhouse (Board Review #07).

Ranking Officers

All officers interviewed stated that they did not know or did not remember who the highest-ranking officer on scene was. Even when detail rosters indicated the specific locations officers were assigned to, there was little guarantee that those officers would stay there. Additionally, the supervisors listed on detail rosters rarely showed a higher rank than Lieutenant. As seen at 4:32 into Lieutenant Vassallo's BWC footage, the highest-ranking officer identified at the protest was Deputy Inspector William Glynn of the 81st Precinct (Board Review #27). Deputy Inspector Glynn was interviewed by the CCRB on September 17, 2021 and did not remember any specific details about this incident nor about the rest of the protest (Board Review #13).

Officers Interviewed

Though Police Officer Karimzada wrote the summonses issued at least to § 87(2)(b) he stated in his interview that he was unfamiliar with any of the details of § 87(2)(b)'s and § 87(2)(b)'s incident (Board Review #12). He was familiar with the intersection but did not specifically remember being there on the date of the incident. He did not remember seeing or being involved in an interaction with § 87(2)(b) and/or § 87(2)(b) in which they were hit with batons and tackled to the ground before being handcuffed. He could not recall escorting anyone to the stationhouse or using his baton on either § 87(2)(b) or § 87(2)(b). He did not think he used his baton at any time and did not remember whether he had it out at any time. He did not recall placing a baton on the back of § 87(2)(b)'s neck to subdue her nor recall seeing any other officer do so. He did not recall using any force against any individuals, issuing any summonses, and being involved in any arrests. He did not recall seeing officers lined up outside of the stationhouse chanting, including one calling § 87(2)(b) "Cambodia." He did not recall whether he made this statement himself. He did not recall ever calling § 87(2)(b) an "asshole" or using any other profanities. He did not recall witnessing any other officer do so. Police Officer Aaron Husbands of the 79th Precinct was also interviewed on September 17, 2020, who did not see any civilians get arrested or in custody (Board Review #11). He did not see any officers issuing summons and he did not arrest or summons anyone himself. PO Husbands did not use force against any civilians at the location and did not see any other officer use force against any civilians at the location.

As noted, Deputy Inspector Glynn did not recognize § 87(2)(b) or § 87(2)(b) and was unfamiliar with the details of their incident (Board Review #13). While it was possible he used force on individuals on this night, including his baton, he did not specifically recall. It was possible that officers tackled some civilians but he couldn't recall; likewise, it was possible he instructed officers to escort civilians to a stationhouse but he could not specifically recall. He did not recall seeing officers hit § 87(2)(b) on the knees and legs nor did he recall seeing any officers pressing their baton on the back of § 87(2)(b)'s neck. He did not recall calling § 87(2)(b) an "asshole," nor did he recall hearing any other officer say so. He did not remember going to the 88th Precinct, though he did go to the 88th Precinct at some point during the protests.

Allegation Recitation and Disposition

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

Allegation (B) Force: Officers used physical force against § 87(2)(b)

Allegation (C) Force: Officers struck § 87(2)(b) with a baton.

Allegation (D) Force: Officers used physical force against § 87(2)(b)

Allegation (E) Force: Officers struck § 87(2)(b) with a baton.

Allegation (F) Force: An officer restricted § 87(2)(b)'s breathing.

Allegation (G) Force: An officer tightly handcuffed § 87(2)(b)

Allegation (H) Discourtesy: An officer spoke discourteously to Individuals.

Allegation (I) Offensive Language: Officers made remarks to § 87(2)(b) based upon race.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

The request to STD for stationhouse footage from the 88th Precinct was returned only with footage from the front lobby and does not show the outer steps clearly (Board Review #06). Dozens of officers are seen in the distance standing outside the front steps, most of whom are too far away to see clearly. Throughout the hour and a half-long video that has no sound, dozens of officers go into and out of the stationhouse, none of whom are wearing a dark T-shirt and pants, which § 87(2)(b) described as the officer who said, “Cambodia,” to § 87(2)(b) § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) (Board Review #28) and § 87(2)(b) (Board Review #29) have been subjects.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- A Notice of Claim search request was filed with the NYC Office of the Comptroller on November 26, 2021 (Board Review #30). The results of the search will be included in the case file upon receipt.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (Board Review #31). § 87(2)(b) has no history of convictions in New York City (Board Review #32). OCA does not list any other convictions.

Squad: _____ 7 _____

Investigator:	_____	_____	_____
	Esme Trontz	Inv. Esme Trontz	11/26/2021
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Manager Vanessa Rosen	November 29, 2021
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Casey McCann	Team: Squad #14	CCRB Case #: 202005229	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 8:00 PM	Location of Incident: Barclays Center; Keegan Drive and Atlantic Avenue; Keegan Drive and Flatbush Avenue	Precinct: 78	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 07/16/2020 9:30 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 07/16/2020 9:30 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. DTS Jonadel Dorrejo	02595	943413	C A B
3. COD Terence Monahan	00000	876747	CD OFF

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CCA Jeffrey Maddrey	00000	899501	C A B

Officer(s)	Allegation	Investigator Recommendation
A.DTS Jonadel Dorrejo	Force: On Keegan Avenue in Brooklyn, Police Officer Jonadel Dorrejo used physical force against individuals.	
B.COD Terence Monahan	Force: On Keegan Avenue in Brooklyn, Chief of Department Terence Monahan authorized the use of pepper spray against individuals.	
C.COD Terence Monahan	Force: On Keegan Drive and Atlantic Avenue in Brooklyn, Chief of Department Terence Monahan authorized the use of force against individuals.	
D.COD Terence Monahan	Force: On Keegan Drive and Flatbush Avenue in Brooklyn, Chief of Department Terence Monahan authorized the use of force against individuals.	
E. Officers	Force: On Keegan Drive in Brooklyn, officers used physical force against individuals.	
F. Officers	Force: At Keegan Drive and Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b)	
G. Officers	Force: At Keegan Drive and Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b)	
H. Officers	Force: At Keegan Drive and Flatbush Avenue in Brooklyn, officers used pepper spray against individuals.	
I. Officers	Force: At Keegan Drive and Flatbush Avenue in Brooklyn, officers struck individuals with batons.	

Case Summary

On July 16, 2020, § 87(2)(b) filed this complaint with the CCRB via telephone.

On May 29, 2020, at approximately 8:00 p.m., § 87(2)(b) and his girlfriend, § 87(2)(b)

§ 87(2)(b) attended a Black Lives Matter protest at the Barclays Center in Brooklyn. § 87(2)(b) and § 87(2)(b) stood near the intersection of Keegan Drive and Atlantic Avenue near the Barclays Center. Directly in front of the Barclays Center, on Keegan Drive, Police Officer Jonadel Dorrejo of the Community Affairs Bureau allegedly pushed metal barricades surrounding the Barclays Center into protestors (**Allegation A: Force**, § 87(2)(g)). Directly in front of the Barclays Center on Keegan Drive, at the intersection of Keegan Drive and Atlantic Avenue, and at the intersection of Keegan Drive and Flatbush Avenue, Chief of Department Terence Monahan authorized the use of pepper spray and physical force (**Allegations B - D: Force**, § 87(2)(g)). Directly in front of the Barclays Center on Keegan Drive, unidentified officers also allegedly pushed medical barricades into protestors (**Allegation E: Force**, § 87(2)(g)). Near the intersection of Keegan Drive and Atlantic Avenue, officers, who § 87(2)(b) could not describe, deployed pepper spray into the crowd, which affected § 87(2)(b) and § 87(2)(b) (**Allegations F and G: Force**, § 87(2)(g)). As § 87(2)(b) and § 87(2)(b) moved toward the intersection of Keegan Drive and Flatbush Avenue, officers allegedly deployed pepper spray into the crowd and pushed protestors with their batons (**Allegations H and I: Force**, § 87(2)(g)).

Cell phone video footage of this incident was obtained, which will be discussed in further detail below. The investigation received negative results for body-worn camera footage related to this incident.

Neither § 87(2)(b) nor § 87(2)(b) were arrested or summonsed during this incident.

Findings and Recommendations

Allegation (A) Force: On Keegan Drive in Brooklyn, Police Officer Jonadel Dorrejo used physical force against individuals.

§ 87(2)(b) (BR 01) testified that on May 29, 2020, at approximately 8 p.m., he and his girlfriend, § 87(2)(b) attended a Black Lives Matter protest at the Barclays Center in Brooklyn. § 87(2)(b) and § 87(2)(b) stood near the Barclays Center on Keegan Drive and Atlantic Avenue, approximately 20 to 25 feet away from metal barricades, which surrounded the Barclays Center and separated officers from protestors. After approximately one-hour, uniformed male police officers in riot gear, who § 87(2)(b) could not further describe, lifted up the barricades and pushed them into protestors, causing several people to fall over. Approximately one and half to two minutes later, § 87(2)(b) saw a substance in the air, which he recognized to be pepper spray. The pepper spray landed on § 87(2)(b)'s face and left arm, causing a burning sensation. § 87(2)(b) was also affected by the pepper spray and could not see for a short period of time. § 87(2)(b) did not see which officer(s) deployed pepper spray, or how many officers deployed it. § 87(2)(b) and § 87(2)(b) then moved toward the intersection of Keegan Drive and Flatbush Avenue still in the vicinity of the Barclays Center. While moving, officers indiscriminately deployed approximately seven to eight more "waves" of pepper spray. At the intersection of Keegan Drive and Flatbush Avenue, protestors moved into the street to block traffic. Police officers, who § 87(2)(b) could not describe, held their batons with two hands and used them to push protestors back. After approximately 45 minutes, § 87(2)(b) and § 87(2)(b) left the location to protest elsewhere.

§ 87(2)(b) said he had videos of the incident, but wanted to speak with his attorney before providing the investigation with the videos. § 87(2)(b) ultimately did not provide the videos to the investigation.

§ 87(2)(b) was uncooperative with the investigation (see IAs for contact attempts).

The investigation did, however, receive video from CCRB case 202003715, in relation to

an incident that occurred at the Barclays Center on May 29, 2020 at approximately 7:34 p.m. The video depicts a struggle over a barricade in front of the Barclays Center, near Keegan Drive, and because the time of the incident in 202003715 was within an hour of that involving § 87(2)(b) it was determined that the video was relevant to this case. The video (BR 02) begins with protestors on the left side of a barricade and officers on the right side of the barricade. Both protestors and officers grab the barricade, resulting in it being lifted off the ground. Officers attempt to lower the barricade back to the ground and keep their hands on the barricade. At the 00:10 time stamp on the player, PO Dorrejo's name is visible on his uniform. No other officers could be identified in the video (<<00:00 – 00:10>>).

PO Dorrejo (BR 03) testified that after approximately one hour to an hour and a half after his arrival at the Barclays Center, protestors lit a kiosk in front of the Barclays Center on fire and threw various objects and liquids at officers. Protestors picked up the metal barricades in front of the Barclays Center and moved them forward, advancing at least five feet closer to the entrance of the arena. PO Dorrejo and other officers had their hands on the top of the metal barriers to prevent protestors from hopping over the barrier and continuing to advance it forward. PO Dorrejo could not estimate how long the struggle over the barrier lasted.

§ 87(2)(g)

Allegation (B) Force: On Keegan Drive in Brooklyn, Chief of Department Terence Monahan authorized the use of pepper spray against individuals.

Allegation (C) Force: At Keegan Drive and Atlantic Avenue in Brooklyn, Chief of Department Terence Monahan authorized the use of force against individuals.

Allegation (D) Force: At Keegan Drive and Flatbush Avenue in Brooklyn, Chief of Department Terence Monahan authorized the use of force against individuals.

As discussed above, § 87(2)(b) testified that near Keegan Drive and Atlantic Avenue, officers, who § 87(2)(b) could not describe or number, deployed pepper spray into the crowd. As § 87(2)(b) and § 87(2)(b) walked toward the intersection of Keegan Drive and Flatbush Avenue, unidentified officers deployed approximately seven to eight more "waves" of pepper spray. Protestors moved into the street to block traffic near Keegan Drive and Flatbush Avenue. Police officers, who § 87(2)(b) could not describe, held their batons with two hands and used them to push protestors back. After approximately 45 minutes, § 87(2)(b) and § 87(2)(b) left the location to protest elsewhere.

Chief Monahan (BR 12), the highest-ranking officer on scene, testified that he authorized the use of MK9 pepper spray near the front of the Barclays Center (on Keegan Drive) to an unidentified sergeant from the Disorder Control Unit (DCU) if protestors broke barriers, though Chief Monahan was not aware if pepper spray was in fact deployed. Chief Monahan later determined the assembly at the Barclays Center was unlawful due to the violence of the crowd, namely throwing objects at officers, and the reporting of injuries. Chief Monahan told Deputy Chief John Dadamo of the Strategic Response Group (SRG) to "clear the streets," including Atlantic and Flatbush Avenues, making arrests of anyone that refused to disperse from the area if necessary.

A dates of service request from the Department Advocate's Office documented that Chief Monahan retired from the NYPD on March 29, 2021 (BR 17).

§ 87(2)(g)

§ 87(2)(g)

Allegation (E) Force: On Keegan Drive in Brooklyn, officers used physical force against individuals.

Allegation (F) Force: At Keegan Drive and Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (G) Force: At Keegan Drive and Atlantic Avenue in Brooklyn, officers used pepper spray against § 87(2)(b)

Allegation (H) Force: At Keegan Drive and Flatbush Avenue in Brooklyn, officers used pepper spray against individuals.

Allegation (I) Force: At Atlantic Avenue and Flatbush Avenue in Brooklyn, officers struck individuals with batons.

Known facts and general descriptions:

As mentioned above, § 87(2)(b) testified that after approximately one hour of participating in the protest on Keegan Drive in front of the Barclays Center, uniformed male police officers in riot gear, who § 87(2)(b) could not further describe, lifted up the barricades and pushed them into protestors, causing several people to fall over. Approximately one and half to two minutes later, § 87(2)(b) saw a substance in the air, which he recognized to be pepper spray. The pepper spray landed on § 87(2)(b)'s face and left arm, causing a burning sensation. § 87(2)(b) was also affected by the pepper spray and could not see for a short period of time. § 87(2)(b) did not see which officer(s) deployed pepper spray, or how many officers deployed it. § 87(2)(b) and § 87(2)(b) then moved from Keegan and Atlantic Avenue toward the intersection of Keegan Drive and Flatbush Avenue. While § 87(2)(b) and § 87(2)(b) were moving, officers indiscriminately deployed approximately seven to eight more “waves” of pepper spray. Near the intersection of Keegan Drive and Flatbush Avenue, protestors moved into the street to block traffic. Police officers, who § 87(2)(b) could not describe, held their batons with two hands and used them to push protestors back. After approximately 45 minutes, § 87(2)(b) and § 87(2)(b) left the location to protest elsewhere.

BWC:

The investigation received negative results for body-worn camera footage (BR 05). The search parameters listed a time frame of 6 p.m. to 10 p.m., and further indicated that a search of OMNI-form and NYPD forms were conducted using § 87(2)(b)'s name, but the results were still negative.

Body-worn camera video from CCRB case 202003695, which involved an incident in front of the Barclays Center on May 29, 2020, at approximately 8 p.m., depicted Lieutenant Jason Cortes and Police Officer Carl Becker, both of SRG 3 deploying pepper spray. This use of pepper spray was investigated under CCRB case 202003695, but because Lieutenant Cortes and PO Becker were nearby the area where § 87(2)(b) alleged pepper spray was used, they were interviewed as witnesses to possible deployment of additional pepper spray by other officers. Their statements will be discussed in further detail below.

NYPD Documents Reviewed:

The investigation received several Detail Rosters (BR 04) for this incident, but several of the rosters did not include the times of the officers' assignments. Further, without any description of officers from § 87(2)(b) the investigation could not identify any potential subject officers from

the Detail Rosters. Further, requests for both TRI and AIDED reports for § 87(2)(b) and § 87(2)(b) returned negative results (BR 06-07).

Concurrent Investigations:

No concurrent investigations were pursued related to this complaint.

Officers Interviewed:

Both Lieutenant Cortes (BR 08) and PO Becker (BR 09) testified that they did not see officers push barricades into protestors, see other officers deploy pepper spray, or see officers push people with batons during this incident.

As Lieutenant Cortes testified that his captain, Captain Ronald Ramos of SRG 3, was also present, the investigation interviewed him. Captain Ramos (BR 10) testified that he and the rest of the SRG Bicycle Unit were positioned behind the barricades in front of the Barclays Center. Similarly to PO Dorrejo, Captain Ramos testified that protestors picked up the barricades and advanced them toward officers. In response, officers pushed barricades back to maintain the original distance at which the barricades were set up. At an unknown time, officers, whom Captain Ramos could not identify, deployed pepper spray as protestors tried to push barricades or stand on top of them in front of the Barclays Center (this allegation is under investigation in CCRB case number 202003695). Captain Ramos did not instruct officers to deploy pepper spray and did not see any officers use their batons to push protestors back. Captain Ramos did not see any officers deploy pepper spray near the intersection of Keegan Drive and Atlantic Avenue, where § 87(2)(b) was initially standing and alleged to have been affected by pepper spray.

Ranking Officers:

Chief Jeffrey Maddrey of the Community Affairs Bureau and Chief Terence Monahan, the Chief of Department, were the highest-ranking officers known to be on scene at the time of the incident and were therefore interviewed.

Chief Maddrey (BR 11) testified that he did not assume command of any officers while he was at the Barclays Center, save his two partners, and that he did not remember seeing officers deploy pepper spray near the intersection of Keegan Drive and Atlantic Avenue. Chief Maddrey did not see officers push barricades into protestors or specifically push protestors using batons. Chief Maddrey saw officers push protestors back and say, “Get back,” but could not say if officers used their batons to do so.

Chief Monahan, as mentioned above, did not see any officers deploy pepper spray near the intersection of Keegan Drive and Atlantic Avenue side or see officers push barricades into protestors. Chief Monahan did not recall seeing officers push protestors with batons.

Allegation Recitation and Disposition:

§ 87(2)(g)
[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Owen Godshall	Team: Squad #15	CCRB Case #: 202005295	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> 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) [REDACTED]	[REDACTED]

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)	[REDACTED]
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.	[REDACTED]
D. An officer	Force: At East 84th Street and 5th Avenue in Manhattan, an officer struck § 87(2)(b) with a baton.	[REDACTED]
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)	[REDACTED]
F. An officer	Force: At East 84th Street and 5th Avenue in Manhattan, an officer used physical force against an individual.	[REDACTED]
G.SGT Luis Martinez	Discourtesy: At East 84th Street and 5th Avenue in Manhattan, Sergeant Luis Martinez spoke discourteously to § 87(2)(b)	[REDACTED]
H. An officer	Discourtesy: At East 84th Street and 5th Avenue in Manhattan, an officer spoke discourteously to § 87(2)(b)	[REDACTED]
I. An officer	Abuse: At East 84th Street and 5th Avenue in Manhattan, an officer threatened § 87(2)(b) with the use of force.	[REDACTED]
J. An officer	Discourtesy: At the 19th Precinct stationhouse in Manhattan, an officer spoke discourteously to § 87(2)(b)	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

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)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

§ 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)
[REDACTED]

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).

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

§ 87(2)(g)

§ 87(2)(g)

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)
[REDACTED]

- 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) 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.

§ 87(2)(g)

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)
[Redacted text block]

§ 87(2)(b), § 87(4-b), § 87(2)(g)
[Redacted text block]

[Redacted text block]

[Redacted text block]

[Redacted text block]

§ 87(2)(b), § 87(2)(g), § 87(4-b)

[REDACTED]

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

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Griffin Sherbert	Team: Squad #10	CCRB Case #: 202005478	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 07/24/2020 10:45 PM	Location of Incident: Northeast corner of Centre Street and Duane Street	Precinct: 05	18 Mo. SOL 1/24/2022	EO SOL 5/4/2022	
Date/Time CV Reported Sat, 07/25/2020 1:02 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 08/05/2020 11:55 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. PO Sandra Gonzalez	14838	961793	SRG 2

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Vincent Pisano	18213	960113	SRG 1
2. POM Dennis Ustelimov	13541	957238	SRG 3
3. SGT Catherine Kunst	01788	943284	SRG 4
4. SGT Christine Hirtzel	01486	928810	SRG 1
5. POF Giselle Rodriguez	25639	947838	DIS CTL
6. POF Jacklyn Castillo	10531	960340	SRG 2
7. POF Debora Matias	08448	960901	SRG 1
8. PO OMARI PAUL	09716	962001	SRG 2
9. PO DUPREE JAMES	30997	954970	SRG 3
10. PO STEVEN OQUENDO	01649	950985	SRG 1
11. CPT JULIO DELGADO	00000	918927	SRG 2
12. CPT JOSEPH TAYLOR	00000	924542	SRG 1

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against an individual.	
B. PO Sandra Gonzalez	Force: Police Officer Sandra Gonzalez struck § 87(2)(b) with a baton.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On July 25, 2020, a 911 operator called the IAB Command Center, and relayed the following complaint on behalf of § 87(2)(b) under IAB #2020-18034 (BR01). On August 5, 2020, the CCRB received this case from IAB, under IAB Log #2020-18451.

On July 24, 2020, at approximately 10:45p.m., § 87(2)(b) and a large group of individuals were participating in a Black Lives Matter protest within the vicinity of the intersection of Centre Street and Duane Street in Manhattan. While § 87(2)(b) and the group of civilians were standing behind NYPD barricades on the sidewalk and arguing with a large group of uniformed officers, he observed another group of uniformed officers attempting to move a group of civilians out the street, wherein an unidentified officer allegedly pushed an unidentified female to the ground and continue walking (**Allegation A: Force—Physical Force**, § 87(2)(g)). § 87(2)(b) approached the unidentified female to help her up off the ground, wherein Police Officer Sandra Gonzalez of Strategic Response Group 2 (“SRG 2”), allegedly struck § 87(2)(b) in the head with her baton, causing him to sustain a 5”-6” laceration across the top-center of his forehead (**Allegation B: Force—Physical Force**, § 87(2)(g)). § 87(2)(b) backed up into the crowd of protesting civilians, and shortly thereafter, took himself to § 87(2)(b) in Manhattan for medical treatment. § 87(2)(b) was neither arrested nor issued any summons as a result.

§ 87(4-b), § 87(2)(g)

The investigation obtained (92) BWC videos (BR12-BR20) from the involved officers assigned Strategic Response Groups 1, 2, and 3, and the Disorder Control Unit (BR02), which captured relevant portions of this incident, although was not dispositive to the allegations as described below.

Findings and Recommendations

Allegation A—Force: An officer used physical force against § 87(2)(b)

Known Facts and General Descriptions

On July 25, 2020, at 1:02 a.m., a 911 operator called the IAB Command Center and relayed the following Level 2 use of force complaint, under IAB #2020-18034 (BR01). The 911 operator relayed, that at 12:52 a.m., they received a 911 call from a § 87(2)(b) medical technician, known only to the investigation as § 87(2)(b) who reported that § 87(2)(b) had appeared and stated that a few hours prior, in the vicinity of City Hall, an officer struck him in the head causing him to sustain injury. § 87(2)(b)'s 911 call is documented in EVENT #§ 87(2)(b) (BR03). § 87(2)(b) did not know or provide the subject officer's name, badge number, assigned precinct or command, or any physical description of the subject officer. The IAB Log further notes that Sergeant Jerusalem Fernandez and Captain Tommy Keung of the 13th Precinct, responded to § 87(2)(b) and interviewed § 87(2)(b) as documented in TRI § 87(2)(b) (BR04) wherein § 87(2)(b) stated that, “while protesting in Foley Square, an unknown female police officer did strike him in the head with a baton.” The TRI further reported that, § 87(2)(b) then proceeded to § 87(2)(b) to receive treatment for a laceration to the middle of his forehead and decided to call the police for proper documentation. While being interviewed by [Captain Keung], § 87(2)(b) was unable to give an exact time of the incident as well as a proper description of the female officer, only as white female. [Captain Keung] did look through Argus cameras for Foley Square and was unable to find proper video of the time period described by the subject.”

On October 9, 2020, the investigation established contact with § 87(2)(b) wherein he provided the following telephone statement to the CCRB on behalf of himself and an unidentified female individual.

§ 87(2)(b) stated (BR05) that, on July 24, 2020, at approximately 11:00 p.m., he was on his way home when he saw large crowd of individuals participating in a Black Lives Matter protest within the vicinity of Centre Street and Duane Street in Manhattan. § 87(2)(b) was unable to provide

any further details regarding his specific location and movements throughout the incident besides the aforementioned cross streets. § 87(2)(b) approached and joined the group of civilians protesting behind NYPD barricades, wherein he and the other civilians began arguing with a group of uniformed officers over the barricades, but did not recall any specific words exchanged nor the general substance of their dialogue. While arguing with the group officers over the barricades, § 87(2)(b) observed another group of uniformed officers nearby attempting to move a group of civilians out the street and back behind the barricades on the sidewalk.

While the officers moved the group of civilians back onto the sidewalk, § 87(2)(b) observed an officer “violently” push an unidentified woman to the ground, and continue walking. § 87(2)(b) thought the woman was just outside of the barricades, but could not actually remember, nor could provide any physical description of the officer that pushed the female. § 87(2)(b) approached the woman to help her up off the ground since it did not appear to § 87(2)(b) that she under arrest, being arrested, or saw her “commit [any] crime.”

Body-Worn Camera

In response to its second request, investigation received (92) BWC videos from the involved officers assigned Strategic Response Groups 1, 2, and 3, and the Disorder Control Unit (BR02). The footage, generally, shows numerous civilians congregating on Centre Street, just northeast of the intersection of Duane Street, as numerous officers approach from the south. While the obtained footage captured various aspects of this incident, due to large number of video files, the unknown identity of the female and limited physical description provided by § 87(2)(b) and the lack of specificity with regard to the exact time and location of the alleged force, the footage neither captured the identity of the female civilian, the alleged subject officer, nor the alleged force the female civilian was subject to.

NYPD Documents Reviewed

The investigation obtained and reviewed IAB Log #2020-18034 (BR01), EVENT #§ 87(2)(b) (BR03), TRI #§ 87(2)(b) (BR04), Roll Calls from the 5th Precinct (BR06), SRG 1 (BR07), SRG 2 (BR08), and SRG 3 (BR09). However, none of the obtained documentation contains any identifying information for the unidentified female civilian, and notably, none of § 87(2)(b)'s statements to the NYPD, captured in the associated EVENT (BR03), IAB Log (BR01), or TRI (BR04), make any reference to the unidentified female individual, or any force used against her, as he alleged in his statement to the CCRB (BR05).

Concurrent Investigations

IAB Log #2020-18034 (BR01), generated pursuant to § 87(2)(b)'s 911 call on behalf of § 87(2)(b) does not make any reference to the unidentified female individual, or any force used against her, as he alleged in his statement to the CCRB (BR05). Thus, without a pertaining allegation, no concurrent investigations were initiated.

Ranking Officers

Although not listed within their respective commands' Roll Calls (BR07, BR08), Captain Joseph Taylor of SRG 1, and Captain Julio Delgado of SRG 2, were present for this incident. Captain Taylor's presence was attested via his BWC footage of the incident (BR10), wherein Captain Delgado is captured as also being present, therein. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Officers Interviewed

PO Gonzalez was interviewed (**BR11**) with regard to this incident (See below under **Allegation B**). § 87(2)(g)

§ 87(2)(g)

Allegation Recitation and Disposition

In his statement to the CCRB, § 87(2)(b) (**BR05**) stated that, while participating in a Black Lives Matter protest within the vicinity of Centre Street and Duane Street in Manhattan, he observed an officer “violently” push an unidentified woman to the ground. § 87(2)(b) was unable to provide physical descriptions for either the unidentified female individual, or the officer alleged to have use force against her. Additionally, § 87(2)(b) did not raise this allegation on behalf of the unidentified female when he filed this complaint with IAB (**BR01**), nor when interviewed by Captain Keung as per his statement in the subsequent TRI (**BR04**). § 87(2)(g)

§ 87(2)(g)

Allegation B—Force: Police Officer Sandra Gonzalez struck § 87(2)(b) with a baton.

§ 87(2)(b) stated (**BR05**) that after the unidentified female was pushed to the ground, he approached her and began to lift her off the ground. As he lifted the unidentified female to her feet, a female officer—whom § 87(2)(b) described as appearing to be a white female, who stood approximately 5’5” tall, had an average build, who wore a blue face mask, and was dressed in uniform—reached over top of another officer in front of her, and struck § 87(2)(b) in the head with her baton. § 87(2)(b) said that after the female officer’s first baton strike “busted [his] head wide open,” causing him to sustain a 5”-6” laceration across the top-center of his forehead, and that she attempted to strike him a second time with her baton but missed. § 87(2)(b) backed up into the crowd of protesting civilians, immediately felt blood trickling down his neck, and shortly thereafter, took himself to § 87(2)(b) in Manhattan for medical treatment. At § 87(2)(b) the laceration to § 87(2)(b)’s forehead was treated with sutures and staples, and he asked a medical staffer to call 911 for him in order to document the occurrence, as filed under IAB Log #2020-18034 (**BR01**). § 87(2)(b) was interviewed by Sergeant Fernandez and Captain Keung of the 13th Precinct at § 87(2)(b) as documented in TRI § 87(2)(b) (**BR04**) wherein § 87(2)(b) stated that, “a female police officer [struck] him in the head with a baton.” Additionally, Captain Keung noted that § 87(2)(b) was unable to give an exact time of the incident as well as a proper description of the female officer,” and could only describe her as being white female. Captain Keung further noted that he reviewed “Argus cameras for Foley Square and was unable to find proper video of the time period described by the subject.” After receiving medical treatment, § 87(2)(b) was discharged from § 87(2)(b) and returned home.

§ 87(2)(b) informed the undersigned that he recorded the female officer’s use of force with his cell phone, was willing to provide it via email, and agreed to further cooperate with investigation. However, despite exhaustive follow-up attempts to obtain the aforementioned video, additional details, and signed HIPAA forms, § 87(2)(b) did not respond to any of the investigation’s follow-up contact attempts nor provide the alleged cell phone video.

As discussed above (within **Allegation A**), the investigation received (92) BWC videos from the involved officers assigned Strategic Response Groups 1, 2, and 3, and the Disorder Control Unit (**BR02**). While the investigation determined that multiple BWC videos capture § 87(2)(b) amongst the group of protesters, based upon his repeatedly voiced complaints about the alleged use of force against him by a female officer (**BR12, BR13, BR14, BR15, BR16**), none of

the BWC videos directly captured any female officer strike § 87(2)(b) in the head with a baton. However, the BWC footage of Police Officer Anibel Vasquez (BR21), between 00:55 and 1:05, shows a female officer in a group of officers, swinging her baton toward a group of individuals, although it does not clearly show where the officer's baton strike landed, if anywhere. At 1:01, of the above referenced clip (BR21), the female officer's name patch and shield are partially visible, which appears to read "Gonzalez," and whose shield number appears to begin with the digits "14__." A search of CTS, in combination with officers listed within the BWC receipt, identified PO Gonzalez, shield #14838, of SRG 2 as the potential subject officer. While PO Gonzalez's BWC does not capture the alleged force against § 87(2)(b) or any other civilian, notably, her BWC footage (BR22) begins after the point of PO Vasquez's, and the other officers involved who recorded this incident.

On August 17, 2021, PO Gonzalez was interviewed and provided the following statement to the CCRB.

On July 24, 2020, at approximately 10:45 p.m., PO Gonzalez stated (BR11) that she and numerous other officers assigned to SRG 1, 2, and 3, were standing in formation lines in the vicinity of Centre Street and Duane Street in Manhattan, in response to protesters standing in the street. PO Gonzalez and the other officers assigned to the detail were tasked with keeping the group of protesters out of the street.

While standing in the line, PO Gonzalez stated that a female individual in the group of protesters threw an unidentified liquid at her and another officer standing next to her. PO Gonzalez did not recall there being any other female officers near her when she was hit with the unidentified liquid. After being hit with the unidentified liquid, PO Gonzalez was ordered to effect the arrest of the female individual by a supervisor, though she was unable to recall which supervisor gave her that order.

As PO Gonzalez pursued the female individual who threw the liquid, they ran into a crowd of about 30 individuals. After two other officers stopped the female who threw the liquid and began to handcuff her, PO Gonzalez stated that the crowd of protesters attempted to "de-arrest the female individual," by swinging at and striking the officers with "anything they had," including skateboards, backpacks, and bicycles. PO Gonzalez and the other officers ordered the civilians to move back and to step away from the female individual.

PO Gonzalez acknowledged that she and the other officers used some force, though she said it was limited to pushing the civilians back, in order to move the hostile crowd away from the female being placed under arrest. PO Gonzalez also acknowledged that she had taken out her baton at the time when she was pushing civilians back, but denied that she struck any civilian with her baton, or witnessed any other officer strike any civilian with their baton during the incident.

PO Gonzalez was provided with narrative details; however, she did not have any independent recollection of using force against a male individual, did not recognize § 87(2)(b) by name, nor recalled any male civilian loudly complaining of being struck in the head by an officer's baton during the incident.

During her interview, at 18:50 (BR11), PO Gonzalez was presented with PO Vasquez's BWC clip (BR21), wherein officers are seen approaching a marked RMP where numerous civilians are congregating. At the 55-second mark of the video, which shows a female officer holding a baton over her head, PO Gonzalez acknowledged that she recognized that female officer as herself. However, PO Gonzalez did not have any further recollections of the incident after viewing the BWC clip, nor could recall what caused the officers pace to suddenly shift from a walk to a run as seen generally in the BWC videos.

After reviewing the BWC clip, from 00:55 to the 01:05, wherein PO Gonzalez seen raising her baton while in the midst of pushing the civilians back, PO Gonzalez stated (BR11) that she did not recall using her baton to strike or push civilians away from the female individual, however, she added that it is a common tactic for officers to use their batons to keep civilians back during arrests or protest situations. PO Gonzalez denied that she struck § 87(2)(b) in the head with her baton

during the incident, and did not witness any other officer strike him in the head with their baton.

The investigation was able to establish that PO Gonzalez was the subject officer in § 87(2)(b)'s complaint, because she generally fit the description provided by § 87(2)(b) was located in the area where the alleged force occurred, identified herself as the officer captured within PO Vasquez's BWC clip raising her baton while in the midst of pushing the civilians back, acknowledged using some force against protesters during the protesters at the time and place of the alleged force.

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Gonzalez, a five-year-member-of-service, has had one prior CCRB complaint filed against her, with a total of one allegations, which was not substantiated (see Officer History) § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This case was not suitable for mediation.
- As of January 3, 2022, neither § 87(2)(b) nor an attorney on his behalf has filed a Notice of Claim with the NYC Comptroller's office with regard to this incident (**BR25**).

• § 87(2)(b) [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]
 [REDACTED]

Squad: 10

Investigator:	Griffin Sherbert	Griffin Sherbert	01/24/2022
	Signature	Print Title & Name	Date

Squad Leader:	Eric Rigie	IM Eric Rigie	1/24/2022
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esme Trontz	Team: Squad #7	CCRB Case #: 202005933	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:00 PM, Saturday, 05/30/2020 11:48 PM	Location of Incident: DeKalb Avenue and Flatbush Avenue Extension; 88th Precinct Stationhouse	Precinct: 84	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 08/28/2020 4:56 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 08/28/2020 4:56 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Bradley Arcos	14936	960170	088 PCT
2. Officers			
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas Gluth	07905	966079	073 PCT
2. LT Anthony Vassallo	00000	946361	088 PCT
3. DI William Glynn	00000	932718	081 PCT

Officer(s)	Allegation	Investigator Recommendation
B. An officer	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer used physical force against an individual.	
C. Officers	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against an individual.	
D.POM Bradley Arcos	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, Police Officer Bradley Arcos used physical force against § 87(2)(b)	
E. Officers	Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against § 87(2)(b)	
G. An officer	Discourtesy: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)	
H. An officer	Discourtesy: At the 88th Precinct stationhouse in Brooklyn, an officer spoke discourteously to § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint with the CCRB on August 28, 2020 via the online portal.

On May 30, 2020, at approximately 11:00 p.m., § 87(2)(b) attended a protest in downtown Brooklyn with his friend, § 87(2)(b). As they approached Dekalb Avenue and Flatbush Avenue Extension, § 87(2)(b) observed an officer push a civilian off his bike, which he captured on cell phone video (**Allegation A: Physical Force**, § 87(2)(g)). He continued walking and observed a man on the ground being punched by three to four officers in front of the Junior's Cheesecake Restaurant (**Allegation B: Physical Force**, § 87(2)(g)). § 87(2)(b) watched the man for approximately 10-20 seconds as he tried to slowly approach him and record the interaction. Then, an officer in a white shirt approximately 15 feet from § 87(2)(b) whose appearance § 87(2)(b) did not recall, pointed at § 87(2)(b) and said, "Arrest him!" Police Officer Bradley Arcos from the 88th Precinct then allegedly shoved § 87(2)(b) three to four times, causing him to move back 15 feet and causing his back to hit the Junior's (**Allegation C: Physical Force**, § 87(2)(g)). Then, approximately three other officers, whose appearances § 87(2)(b) could not recall because they were all wearing helmets, came over to § 87(2)(b). One pushed his right shoulder down so that he fell to the ground, landing on his left knee and elbow, and then his stomach (**Allegation D: Physical Force**, § 87(2)(g)). Another pressed on his upper back with a part of their body § 87(2)(b) could not see. Another officer sat on § 87(2)(b)'s butt and upper legs for a few seconds, seemingly to keep him from getting up. An officer pulled § 87(2)(b)'s arms behind his back and rear-cuffed him. The officers allegedly left § 87(2)(b) on the ground face-down for several minutes, during which one officer who § 87(2)(b) couldn't see said, "Leave the loser there, we'll worry about him later" (**Allegation E: Discourtesy- Word**, § 87(2)(b)). Lieutenant Anthony Vassallo of the 88th Precinct saw § 87(2)(b) when he was cuffed and escorted § 87(2)(b) and Police Officer Arcos to an NYPD vehicle. Other officers transported § 87(2)(b) to the 88th Precinct stationhouse, and as he was being escorted inside, an officer allegedly said, "Fucking loser" (**Allegation F: Discourtesy- Word**, § 87(2)(b)). § 87(2)(b) was eventually released from the stationhouse with a summons for § 87(2)(a) 160.50, which Police Officer Arcos prepared (Board Review #01).

In addition to this case, the CCRB was simultaneously investigating three other cases that occurred at the same general date, time and location as this incident. 10 BWC videos were received for this case, including footage from Lieutenant Anthony Vassallo, which does not show any force being used against § 87(2)(b) (Board Review #02), and nine others from various officers, which likewise do not show any force being used against § 87(2)(b) (Board Review #23). One BWC request through CCRB case #202003790, and two requests through #202003881 and #202005197, were returned negative. Stationhouse footage from the 88th Precinct stationhouse, received through case #202003790, showed § 87(2)(b) briefly but has no audio (Board Review #12). At the time of this report, cases #202003790 and #202003881 were closed as officers unidentified.

§ 87(2)(b) provided a cell phone video capturing the unidentified officer pushing the civilian off the bike (Board Review #03).

Findings and Recommendations

Allegation (A) Force: An officer used physical force against an individual.

Allegation (B) Force: Officers used physical force against an individual.

Allegation (C) Force: Police Officer Bradley Arcos used physical force against § 87(2)(b)

Allegation (D) Force: Officers used physical force against § 87(2)(b)

Allegation (E) Discourtesy: Officers spoke discourteously to § 87(2)(b)

Known Facts and General Description

§ 87(2)(b) was interviewed via telephone on September 9, 2020 (Board Review #04). Contact attempts to § 87(2)(b) were unsuccessful. Police Officer Bradley Arcos was interviewed by the CCRB on January 8, 2021 (Board Review #05). Lieutenant Anthony Vassallo was interviewed by the CCRB on January 21, 2021 (Board Review #06). Police Officer Nicholas Gluth was interviewed by the CCRB on March 15, 2021 (Board Review #07). Deputy Inspector William Glynn was interviewed on September 17, 2021 (Board Review #18).

§ 87(2)(b) witnessed, and took a cell phone video of, an officer pushing a civilian off a bike in front of the Century 21 store at 445 Albee Square in Brooklyn, around the corner from Flatbush Avenue Extension and Dekalb Avenue (Board Review #03). Once he got to the Northwest corner, near the Junior's Cheesecake restaurant, he tried to take a video of three to four officers punching a man on the ground, but he accidentally stopped the recording on his phone. Police Officer Arcos began interacting with § 87(2)(b) somehow, and after a few minutes, an officer in a white shirt ordered Police Officer Arcos to arrest § 87(2)(b). Police Officer Arcos pushed § 87(2)(b) between one and four times, after which he and several other officers took him to the ground and cuffed him. As § 87(2)(b) allegedly laid on the ground for several minutes, an officer said, "Leave the loser there." When Police Officer Arcos escorted § 87(2)(b) to the 88th precinct stationhouse, an officer outside the stationhouse allegedly said, "Fucking loser."

Body-Worn Camera Footage and Other Video Evidence

The investigation submitted three requests for BWC footage through this case, the first of which was returned negative (Board Review #08) and the second of which resulted in Lieutenant Vassallo's single video (Board Review #02). The third request was returned on October 8, 2021 with 10 videos, one of which was a duplicate of Lieutenant Vassallo's video already received (Board Review #23). The investigation submitted, through case #202003790, three separate requests to the NYPD's Legal Bureau for body-worn camera (BWC) footage pertaining to this incident, which were all returned with negative results (Board Review #09). Another request through case #202003881 was also returned negative (Board Review #10).

The first request for this case, which included Police Officer Arcos' name, the number of the summons he issued to § 87(2)(b) the 84th and 88th precincts and a wide time range also came back negative (Board Review #08). Police Officer Arcos stated during his interview, and noted in his memo book, that his BWC ran out of power at 10:50 p.m. on the night of the incident. Lieutenant Vassallo's BWC, which was re-requested after his interview and then received on February 23, 2021, did not show § 87(2)(b)'s incident (Board Review #02). The 10 BWC videos received on October 8, 2021, one of which was a duplicate of Lieutenant Vassallo's video already received, were reviewed and did not pertain to § 87(2)(b)'s incident (Board Review #23).

The first request for case #202003790, which included the date, time, and location of occurrence, was returned negative after a search was conducted for commands SRG, Disorder Control, and the 70th Precinct (the initial complaint listed an incorrect location, which was in a different precinct) (Board Review #09). The second request included the name of a specific officer that was initially believed to be involved in the incident, in addition to searches from the 88th Precinct, SRG, and CRC, although the NYPD conducted the search for the incorrect date. The third request included 41 different precincts and another specific officer's name but still was returned negative.

The one request for case #202003881, which included a search for officers from the 88th precinct,

nearby Brooklyn SRG commands, the time, date, and location of the incident, and the complainant's social media accounts came back negative (Board Review #10).

The investigation was unable to obtain any other relevant footage. Footage from social media and the New York Times that was allegedly taken at the same approximate time and location of the incident was reviewed, but no officers who matched the description of the subject officer, nor civilians who appeared to be § 87(2)(b) were seen. A request through related case #202003790 for handheld TARU footage was returned as negative on July 15, 2020 (Board Review #11). Stationhouse Footage from the lobby of the 88th Precinct stationhouse, requested through case #202003790 and received on June 30, 2020, shows § 87(2)(b) being escorted into the stationhouse at 02:10 into the footage but does not show the outside of the building (Board Review #12). Fieldwork conducted on July 8, 2020 found that the Long Island University building at the incident location did not have footage and the Chinese restaurant "The Wei," caddy-corner to the incident location, appeared to be shut down (Board Review #13). A phone call on June 11, 2020 found that the cameras at the Junior's Cheesecake restaurant across Flatbush Avenue Extension from the incident location pointed away from the incident (Board Review #14). A phone call on July 1, 2020 found that the 7-11 near the incident did not have exterior cameras (Board Review #15). On August 25, 2020, video footage was received through case #202003790 from the Applebee's restaurant across DeKalb Avenue from the incident location, but the footage was from the wrong date and the correct footage had already been deleted.

NYPD Documents Reviewed

The detail rosters from Patrol Borough Brooklyn North lists officers from the following commands as being present at the protest: 75, 77, 79, 81, 83, 84, 88, 90, 94, 109, 110, 79 PDU, 81 PDU, 94 PDU, DBBX, VCS, HOT, QTS, CRD, MRS, MTS, BxTS, BTS, 207, 208, 296, HB, PSA 1-9, 541 and the Disorder Control Unit (Board Review #16). However, few of the detailed lists from each individual command include vital information such as the exact location officers were stationed and what times they were present. Additionally, the summons § 87(2)(b) received, as prepared by Police Officer Arcos, indicates: "§ 87(2)(a) 160.50

§ 87(2)(b)" (Board Review #01). The investigation determined that Police Officer Arcos likely miswrote the listed ICAD, as the EVENT #200503027247 corresponds to a call for ambulances needed for multiple injured MOS, and some complaints by civilians, at the time and place of the incident (Board Review #17). No additional useful information is provided by the EVENT.

Concurrent Investigations

At the time of this report, IAB Group 54 had a concurrent investigation for the same time and place of occurrence that was still ongoing but did not involve § 87(2)(b)'s incident. The IAB investigation involved the civilian whose complaint was investigated in case #202003881. Sergeant Colavito of IAB provided during a phone call on October 1, 2021 the names of officers whose BWCs were reviewed for the IAB case, which prompted the undersigned to request those BWC videos that were received on October 8, 2021 (Board Review #23). Those videos were reviewed and found not to show § 87(2)(b) or his incident.

Ranking Officers

All officers interviewed stated that they did not know or did not remember who the highest-ranking officer on scene was. Even when detail rosters indicated the specific locations officers were

assigned to, there was little guarantee that those officers would stay there. Additionally, the supervisors listed on detail rosters rarely showed a higher rank than Lieutenant. As seen in a screenshot from 4:32 into Lieutenant Vassallo's BWC footage, the highest-ranking officer identified at the protest was Deputy Inspector William Glynn of the 81st Precinct (Board Review #24). Deputy Inspector Glynn was interviewed by the CCRB on September 17, 2021 and did not remember any specific details about this incident nor about the rest of the protest (Board Review #18).

Officers Interviewed

Police Officer Arcos of the 88th Precinct, who was § 87(2)(b) s arresting officer, was interviewed on January 8, 2021 (Board Review #05). Lieutenant Vassallo of the 88th Precinct, who was interviewed on January 21, 2021, did not witness § 87(2)(b) s incident, but saw him after he was already in cuffs (Board Review #06). Police Officer Gluth, who was interviewed on March 15, 2021, did not recognize § 87(2)(b) nor witness any part of his incident (Board Review #07). Deputy Inspector Glynn, who was interviewed on September 17, 2021, did not recognize § 87(2)(b) nor witness any part of his incident (Board Review #18).

Allegation Recitation and Disposition

Allegation (C) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, Police Officer Bradley Arcos used physical force against § 87(2)(b)

Police Officer Arcos and § 87(2)(b) both testified that there were at least hundreds of civilians and officers at the intersection, and that an officer in a white shirt ordered Police Officer Arcos to arrest § 87(2)(b). Neither § 87(2)(b) nor Police Officer Arcos remembered what the officer in the white shirt looked like.

§ 87(2)(b) testified that, a few seconds after he took out his phone to record the man on the ground being punched by officers, Police Officer Arcos turned toward him and slowly walked toward him while waving his baton from side to side. § 87(2)(b) could not think of any other reason that Police Officer Arcos' attention would have been specifically drawn to him other than that he was trying to record. § 87(2)(b) did not move at all as Police Officer Arcos moved toward him, and no officer issued him any commands. When Police Officer Arcos was approximately three to four feet from § 87(2)(b) § 87(2)(b) yelled, "You're not wearing a mask, please get out of my face." This was the only statement § 87(2)(b) made to Police Officer Arcos at that moment. Immediately, an officer in a white shirt approximately 15 feet from § 87(2)(b) whose appearance § 87(2)(b) did not recall, pointed at § 87(2)(b) and said, "Arrest him!" Without saying anything, Police Officer Arcos then ran toward § 87(2)(b) from three to four feet away and used both hands to push § 87(2)(b) three to four times on the chest, causing him to move back approximately 15 feet so that his back hit the outside wall of Junior's Cheesecake restaurant on the Northwest corner of the intersection. One of the shoves caused § 87(2)(b) s glasses to fall off his face and land approximately seven to eight feet away. His face mask fell off at the same time. Either Police Officer Arcos or another officer he did not see pushed his right shoulder down so that he fell to the ground, landing on his left knee and elbow, and then he laid flat on his stomach. He believed the first contact with the ground caused his bloody and bruised left elbow, bloody left knee, and bruised left hip. Police Officer Arcos was present while § 87(2)(b) was being handcuffed but he did not know if he specifically cuffed him.

Police Officer Arcos testified that § 87(2)(b) was standing on the corner, screaming profanities at all the officers for a few minutes. He could not remember any specific statements or profanities, but

no one else near § 87(2)(b) was screaming. Police Officer Arcos did not know if anyone nearby appeared bothered by § 87(2)(b)'s screaming, nor did he believe a crowd formed around him. For a few minutes, Police Officer Arcos told § 87(2)(b) several times to leave the area, but he refused. A supervisor in a white shirt whose name Police Officer Arcos did not know then told him to arrest § 87(2)(b). Police Officer Arcos and approximately two to three other officers who he did not know approached § 87(2)(b). One of them told § 87(2)(b) he was being arrested. Police Officer Arcos testified that § 87(2)(b) waved his arms, though he could not clarify the nature of the waving. He did not think § 87(2)(b) was trying to hit him or anyone else and did not think he was a threat but said he "didn't know if he had a weapon." In response to the arm waving, PO Arcos pushed § 87(2)(b)'s chest one time, causing § 87(2)(b) to move back toward the Junior's Restaurant wall approximately one to two feet. PO Arcos testified that he pushed § 87(2)(b) to create safe distance between them. He did not know how far away from the restaurant wall § 87(2)(b) had been before he pushed him back. Shortly after, officers who Police Officer Arcos could not remember tried to put § 87(2)(b)'s arms behind his back, but he resisted slightly to prevent them from doing so. In response, PO Arcos and those other officers grabbed his arms, and potentially other parts of his body that PO Arcos could not remember. They took him down to the ground in a matter of a few seconds, and § 87(2)(b) fell onto the ground on his stomach. During the takedown, § 87(2)(b)'s glasses fell off. PO Arcos did not remember § 87(2)(b) mentioning anything about a dislocated shoulder or any specific pain or discomfort he was feeling at this time, nor could he remember any officers sitting on or pressing down on § 87(2)(b). § 87(2)(b) was quickly handcuffed, though PO Arcos could not remember if he cuffed § 87(2)(b).

Lieutenant Vassallo testified that the first and only time he saw § 87(2)(b) he was already in cuffs. He never saw § 87(2)(b) on the ground nor did he notice any injuries. Police Officer Arcos told him he was arrested because he was acting disorderly by failing to disperse per orders. Lieutenant Vassallo's BWC footage is consistent with this testimony (Board Review #06). Additionally, several officers in white shirts are seen in the BWC just before Lieutenant Vassallo sees § 87(2)(b) even if it were possible to identify any of them, there would be no way to narrow down which of those officers ordered Police Officer Arcos to arrest § 87(2)(b). Additionally, PO Gluth testified during his interview that he did not recognize § 87(2)(b) nor did he remember seeing him.

§ 87(2)(g)
[Redacted text block]

§ 87(2)(g)
[Redacted text block]

Allegation (A) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer used physical force against an individual.

Allegation (B) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against an individual.

Allegation (D) Force: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, officers used physical force against § 87(2)(b)

Allegation (E) Discourtesy: At Flatbush Avenue Extension and DeKalb Avenue in Brooklyn, an officer spoke discourteously to § 87(2)(b)

Allegation (F) Discourtesy: At the 88th Precinct stationhouse in Brooklyn, an officer spoke discourteously to § 87(2)(b)

§ 87(2)(b) witnessed, and took a cell phone video of, an officer in a riot helmet pushing a civilian off a bike (Board Review #03). He did not believe the civilian provoked the officer in any way before he was pushed. The short video does not clearly show any interaction between the subject officer and the biker before the officer pushed them, but the officer can be seen facing the civilian, who was wearing a black shirt, pressing on their chest. Though it is not possible to distinguish the subject officer's helmet number, the number "7905" is seen on an officer standing a few feet behind the subject, as seen in a screenshot from the last few seconds of the video (Board Review #19). The shield number "7905" belonged to Police Officer Gluth, who confirmed during his interview that this officer was himself. However, he did not remember seeing the subject officer, whom he could not identify, pushing the civilian off the bike. He did not remember what, if anything, had occurred between the biker and the officer before the officer pushed them off the bike.

A couple of minutes later, as § 87(2)(b) approached the Junior's Cheesecake restaurant, he saw a man on the ground allegedly being punched by several officers. He could not see the man (and therefore did not know what he looked like), as the man was surrounded by officers, nor could he remember what the officers looked like. Starting at around 5:00 in Lieutenant Vassallo's BWC, a struggle between a civilian and several officers ensues near the Junior's, but because of the quality of the video and the speed at which everyone is moving, no distinguishing features of any individual can be seen (Board Review #02). Additionally, it is not guaranteed that the struggle captured was the one § 87(2)(b) described. As evidenced by the fact that the agency was investigating four separate incidents of alleged force at the same time, date, and intersection, it is highly difficult to narrow the possible pool of officers for any specific incident.

Then, as discussed in the section on **Allegation C**, neither § 87(2)(b) nor Police Officer Arcos knew who the other officers were who helped Police Officer Arcos take § 87(2)(b) to the ground and handcuff him. § 87(2)(b) did not see the officer who allegedly said, "Leave the loser there," when he was allegedly lying face-down on the ground while in handcuffs. Neither Police Officer Gluth nor Lieutenant Vassallo saw any officers make physical contact with civilians or heard an officer say, "Leave the loser there," and Police Officer Arcos denied hearing this statement.

Finally, § 87(2)(b) testified that he passed approximately 30 officers as he walked through the front door at the 88th Precinct stationhouse. He could not remember any of their appearances. Several officers teased § 87(2)(b) for his injuries; one officer said, "Oh, you got a little incident there!" § 87(2)(b) believed another officer said, "Fucking loser." Lieutenant Vassallo did not hear any officer say "Fucking loser" to § 87(2)(b) at the stationhouse and denied saying it himself. A request to STD for stationhouse footage from the 88th Precinct was returned only with footage from the front lobby and does not show the outer steps clearly (Board Review #12). A black male officer is seen at 02:10 escorting a man who appears to be § 87(2)(b) into the stationhouse, while dozens of officers are seen in the distance standing outside the front steps. Throughout the hour and a half-long video that has no sound, dozens of officers go into and out of the stationhouse. Because § 87(2)(b) could not remember what any of the officers looked like, it would be impossible to determine which officer allegedly said, "Fucking loser."

§ 87(2)(g) [Redacted]

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) [Redacted] has been a party (Board Review #20).
- Police Officer Arcos has been a member-of-service for five years and this is the first CCRB case in which he has been named a subject.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of May 13, 2021, the NYC Office of the Comptroller found no record of any Notices of Claim being filed regarding this complaint (Board Review #21).
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] has no history of convictions in New York City (Board Review #22). OCA does not list any other convictions.

Squad: ___7___

Investigator:	_____ Esme Trontz _____ Signature	_____ Inv. Esme Trontz _____ Print Title & Name	_____ 10/14/2021 _____ Date
Squad Leader:	_____ _____ Signature	_____ Manager Vanessa Rosen _____ Print Title & Name	_____ October 18, 2021 _____ Date
Reviewer:	_____ _____ Signature	_____ _____ Print Title & Name	_____ _____ Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202005994	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 7:45 PM, Thursday, 06/04/2020 8:30 PM	Location of Incident: East 136th Street and Brook Avenue; East 136th Street and Brown Place	Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 09/03/2020 9:52 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Thu, 09/03/2020 9:52 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Brian Destefano	7166	954727	040 DET
2. POM Niazul Haque	03002	943349	040 PCT
3. POM Julio Veras	18693	959343	SRG 2
4. CPT Isaac Soberal	00000	943830	040 PCT
5. POM Casean Murray	09941	955243	SRG 2
6. COD Terence Monahan	00000	876747	CD OFF
7. POM Angel Balabanov	03452	966456	040 PCT
8. POM Leonel Giron	21368	959658	SRG 1
9. POM Stephen Centore	31854	936328	DIS CTL
10. POM Manuel Bordoy	00323	948686	SRG 2
11. POM Beau Fesmire	31913	954806	DIS CTL
12. POM Kendall Austin	04447	950032	SRG 2
13. POM Eduardo Mejia	10215	960929	SRG 1
14. POM Anthony Perez	13493	952104	SRG 1
15. PO John O'Niel	10463	959001	SRG 1
16. PO Rdolph Rosado	09497	949910	DIS CTL
17. POM Thomas Pecorella	09542	947959	DIS CTL
18. POM Paul Rau	28460	944156	SRG 2
19. POM Matthew Obrien	19663	937549	DIS CTL
20. POM Thomas Mosher	02905	949371	SRG 2
21. POM Mauricio Thomas	26957	945466	SRG 2
22. SGT Sindy Sanchez	00546	939761	SRG 2
23. POM Xavier Morales	27790	941087	DIS CTL

Witness Officer(s)	Shield No	Tax No	Cmd Name
24. POM Michael Sheehan	09074	951242	040 PCT
25. POM Dennis Gannon	23133	947015	SRG 2
26. POM Jorge Santiago	22110	958054	SRG 2
27. POM Bryan Wilson	10392	942712	SRG 2
28. POM Anthony Polanco	11613	951068	SRG 2
29. SGT Christophe Zappoli	00646	940887	SRG 2
30. POM Harry Kerr	22551	962522	SRG 2
31. POM Manuel Gutierrez	15714	948589	PBBX
32. CPT Joseph Taylor	00000	924542	SRG 3
33. SGT Iran Lopezmaceda	01652	928666	SRG 2
34. LT Adam Mellusi	00000	931825	SRG 2
35. POM Omar Tejada	11809	956296	SRG 2
36. POM Joel Martinez	15116	950829	044 PCT
37. POM Erik Green	27395	936697	DIS CTL
38. LT Christophe Catalano	00000	936323	109 PCT
39. PO Kenneth Scarola	18017	937503	SRG 1
40. POM Joseph Petrino	22377	951051	SRG 2
41. POM Gregory Reisert	14672	957077	SRG 1
42. POM Jarvis Onabanjo	20933	959010	SRG 1
43. POM Granit Shaba	21077	963269	SRG 1
44. POM Hugo Batista	02386	952449	SRG 2
45. POM Michael Ashford	04887	954506	SRG 2
46. POM Jason Brown	25414	950109	DIS CTL
47. POM Derek Bruno	16445	952504	SRG 2
48. SGT Steven Counihan	04669	952620	PSA 7
49. DC John Dadamo	00000	913627	SRG
50. LSA Eric Dym	00000	933762	PSA 7
51. POM Orvin Feliciano	22257	942855	SRG 2
52. AC Kenneth Lehr	00000	891719	PBBX
53. POM Malik Mccloud	30082	954114	040 PCT
54. POM John Migliaccio	25698	964169	PSA 7
55. CPT David Miller	00000	911741	DIS CTL
56. POM Sylburn Peterkin	04259	967648	PSA 7
57. POM Nicholas Rios	06583	955377	PSA 7
58. POM Antony Stevens	25283	935789	SRG 4
59. PO Stephen Kuo	23023	933903	DBQN
60. LT Ischaler Grant	00000	897595	SRG 4
61. POM Michael Deluna	01491	956581	PSA 7
62. POM Paul Basilone	25110	948304	PSA 7
63. POM Vincent Ciccolella	20819	958409	PSA 2
64. SGT Kenneth Rice	04867	952164	LEG BUR
65. LT Joel Witriol	00000	942838	PSA 7
66. POM Edward Weisenburger	18143	952338	SRG 1

Witness Officer(s)	Shield No	Tax No	Cmd Name
67. POM Edgar Espinal	01190	963503	025 PCT
68. POM Yoeldy Espinal	02470	963505	040 PCT
69. PO ANDREW MANGOLD	17412	969932	TD 1
70. PO RAFAEL MELENDEZ	30529	965332	030 PCT
71. CPT GZIM PALAJ	00000	946091	122 PCT
72. PO CHRISTOPHER BORJA	26858	953693	SRG 04
73. PO ARMANDO RIVAS	02833	931926	SRG 2
74. PO FRANZ ZABALA	08624	939730	SRG 1
75. PO JASON CIOTA	01410	951615	SRG 3
76. PO JOSEPH DECK	08350	947736	SRG 1
77. PO DENNIS USTELIMOV	13541	957238	SRG 3
78. PO DEBORA MATIAS	08448	960901	SRG 1
79. PO JUNIOR RODRIGUEZ	08909	939345	SRG 1
80. PO DEREK BURGOS	21798	959520	SRG 1
81. PO SANDRA GONZALEZ	14838	961793	SRG 2
82. SGT WILLIE BRIGGS	00362	933555	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)	[REDACTED]
B. An officer	Force: At East 136th Street and Brook Avenue in the Bronx, an officer struck an individual with a baton.	[REDACTED]
C. An officer	Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against an individual	[REDACTED]
D. An officer	Force: At East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.	[REDACTED]
E. An officer	Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)	[REDACTED]
F. An officer	Abuse: At East 136th Street and Brook Avenue in the Bronx, an officer threatened to arrest § 87(2)(b)	[REDACTED]
G. An officer	Abuse: At East 136th Street and Brook Avenue in the Bronx, an officer threatened to arrest individuals.	[REDACTED]
H. Officers	Force: At East 136th Street and Brown Place in the Bronx, officers used physical force against an individual.	[REDACTED]

Case Summary

On September 3, 2020, § 87(2)(b) filed this complaint via the CCRB website on behalf of herself, an unidentified woman, and unidentified individuals. On October 18, 2020, § 87(2)(b) filed this complaint on behalf of an unidentified man. On March 15, 2021, § 87(2)(b) filed this complaint on behalf of herself.

On June 4, 2020, at approximately 7:45 p.m., § 87(2)(b) her friend, § 87(2)(b) and approximately 200+ individuals participated in a Black Lives Matter protest march in the Bronx. At some point, in the vicinity of East 136th Street and Brook Avenue, several NYPD officers surrounded the protestors and began making arrests. An officer used physical force against § 87(2)(b) an unidentified woman, and § 87(2)(b) (**Allegations A through E: Force, § 87(2)(g)**). An officer threatened to arrest § 87(2)(b) and a group of unidentified individuals (**Allegations F and G: Abuse of Authority, § 87(2)(g)**). At East 136th Street and Brown Place in the Bronx, officers used physical force against an unidentified male (**Allegation H: Force, § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) received summonses as a result of this incident, but all the summonses were dismissed (Board Review 01).

Forty-four (44) cellphone videos, twenty-four (24) commercial surveillance camera videos, twenty-four (24) TARU videos, and over one hundred (100+) police body worn camera (BWC) videos, were received for this incident (Board Review 50 – Board Review 83).

This case involves allegations of kettling and other concerted enforcement actions performed under the command and supervision of the then NYPD Chief of Department (COD) Terrance Monahan and Assistant Chief (AC) Kenneth Lehr. These investigations are being addressed in CCRB case 202006855.

Pleading Language for all allegations to be closed as officer unidentified

Allegation (A) Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (B) Force: At East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.

Allegation (C) Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (D) Force: At East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.

Allegation (E) Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (F) Abuse of Authority: At East 136th Street and Brook Avenue in the Bronx, an officer threatened to arrest § 87(2)(b)

Allegation (G) Abuse of Authority: At East 136th Street and Brook Avenue in the Bronx, an officer threatened to arrest individuals.

Allegation (H) Force: At East 136th Street and Brown Place in the Bronx, officers used physical force against § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) (Board Review 02) and her friend, § 87(2)(b) participated in a Black Lives Matter protest in the Bronx. § 87(2)(b) and § 87(2)(b) who are both healthcare workers and were dressed in medical scrubs, joined the protest at the meeting point, known as the Hub, at approximately 6:30 p.m., and marched with over 200 protestors, none of whom § 87(2)(b) or § 87(2)(b) knew. There was also a large group of police officers who appeared to follow the protestors. At approximately 7:30 p.m., as the protestors marched towards the intersection of East 136th Street and Brook Avenue, § 87(2)(b) and § 87(2)(b) who were somewhere towards the

back of the protest, observed officers blocking the streets and forming lines behind the protestors. At some point, the protesters all stopped marching, and appeared to have been surrounded by the police. An automated curfew message then began to play on a loudspeaker, at which point officers approached and arrested protestors. An officer, who § 87(2)(b) described as a black male in his 40s, 5'9" tall, muscular build, with a buzzed haircut, grabbed and brought § 87(2)(b)'s hand behind her back. The officer pushed § 87(2)(b) against the hood of a sedan that was in the street, and asked if she was an essential worker. § 87(2)(b) replied that she was a nurse, at which point the officer released his grip from § 87(2)(b) and ordered her to leave the location. § 87(2)(b) moved to the sidewalk. § 87(2)(b) did not sustain any injuries as a result of the actions of the black male officer, nor could she provide any additional description for him. § 87(2)(b) while on the sidewalk, saw § 87(2)(b) handcuffed and being escorted away. There was also some commotion between officers and protestors during the arrests, but § 87(2)(b) could not describe exactly what happened, except that officers appeared to be swinging their batons indiscriminately towards protestors. § 87(2)(b) saw one officer, who she only described as a 5'5" tall white man, dressed in riot gear, use his baton to strike the back of a dark-skinned woman with red-dyed hair. The officer then pushed the woman against a vehicle, brought her hands behind her back, handcuffed, and escorted her away. § 87(2)(b) did not know the unidentified woman, could not provide any additional description for the woman or the officer, nor did she know why the officer struck the woman with his baton. § 87(2)(b) remained on the sidewalk together with some other healthcare workers, none of whom § 87(2)(b) knew, and assisted protestors who needed help. At some point, an officer approached § 87(2)(b) and the other healthcare workers, and threatened to arrest them if they did not leave the location. § 87(2)(b) and the healthcare workers thus left the scene. § 87(2)(b) went to the 40th Precinct stationhouse to provide "jail support," but was arrested and summonsed for violating the Mayor's curfew (Board Review 03).

§ 87(2)(b) (Board Review 04– Board Review 05) corroborated § 87(2)(b)'s account in that officers surrounded and blocked the protestors at the intersection of East 136th Street and Brook Avenue, and made multiple arrests. § 87(2)(b) acknowledged being arrested, and said the officer who handcuffed him said § 87(2)(b) was being arrested as a protestor and was therefore not considered an essential worker. § 87(2)(b) did not observe the alleged force used against the dark-skinned woman with red-dyed hair, but said he, at some point after his arrest, observed a group of approximately five officers approach a black male in his 20s or 30s with a buzzed haircut, and riding a bicycle and who did not appear to be part of the protest. § 87(2)(b) did not know how he determined that the male was not part of the protest, except that he heard the man telling the officers that he was leaving. The officers, none of whom § 87(2)(b) could describe, grabbed the black male, lifted him off his bicycle and brought him to the ground. The officers then placed their knees on the man's back, handcuffed him, and escorted him away. § 87(2)(b) did not know the man, could not provide any additional description for him, nor did he know what ultimately happened to the man.

§ 87(2)(b) (Board Review 06), identified via investigation (Board Review 07), said she and some protestors, none of whom she knew or could describe, linked arms together after the officers surrounded and blocked the protestors. At some point, officers approached and began pulling protestors from the human chain, and handcuffing them. Some of the officers also swung their batons indiscriminately towards the protestors. One of the officers, who § 87(2)(b) described as a white man in his 50s or 60s, 5'9" tall, slim build, with dark colored eyes, bald, and dressed in uniform, struck § 87(2)(b)'s left forearm with his baton. § 87(2)(b) attempted to move away from the officer to prevent any additional strikes, but she tripped as a result of the constant movement and commotion, and fell on the ground. § 87(2)(b) felt another baton strike to her shoulder while falling to the ground, but did not see who struck her because she had closed her eyes. An officer, who § 87(2)(b) could not describe, grabbed § 87(2)(b)'s hair, and tried to pull her up from the ground. She then felt what appeared to be multiple hands around her body, at which point she was handcuffed, picked up from the ground, and escorted to a section of the

street, where officers were holding a large group of arrested protestors. § 87(2)(b) could not describe any of the officer(s) who either handcuffed or escorted away from the scene of the arrest. She, however, acknowledged that the officer who ultimately issued her the summons at Queens Central Booking, identified via investigation as PO Kenneth Scarola of Strategic Response Group (SRG) 1, was not one of the officers who used force against her. § 87(2)(b)'s pedigree information did not match the description of the dark-skinned woman with red-dyed hair on whose behalf § 87(2)(b) filed the complaint (Board Review 08).

The investigation, in an attempt to identify the two alleged victims, reviewed the arrest, stop, and summons logs from the 40th Precinct and Police Service Area (PSA) 7 (Board Review 09 – Board Review 43), and the Mass Arrest Processing Log generated for the protest (Board Review 44 – Board Review 45). The documents yielded 300+ results for arrests and summonses from the incident location. A pool of approximately 144 potential victims, whose pedigree information generally matched the descriptions of the two potential alleged victims, was created (Board Review 46 – Board Review 48), and contact attempts were made to approximately 39 of the most likely victims, none of whom responded or otherwise did not identify themselves as the alleged victims in this case (Board Review 08; Board Review 49). The investigation, absent full names or additional evidence, could not further narrow down the extensive pool of potential victims, and thus exhausted all conceivable options to identify and contact the alleged victims.

BWC and other video

None of the cellphone, surveillance, or TARU videos depict any of the allegations in this case (Board Review 50 – Board Review 68), nor does the majority of the BWC footage (Board Review 72 – Board Review 83). The BWCs of police officers Julio Veras of SRG 2, John O'Neil of SRG 1, and Leonel Giron of SRG 2, however, captured portions of the incident involving § 87(2)(b) and the alleged unidentified male victim. PO Veras' BWC (Board Review 71), shows PO Veras standing at the intersection of what appears to be East 136th Street and Brook Avenue. PO Veras is on the sidewalk with a group of approximately six women, including § 87(2)(b) who is wearing blue medical scrubs, and a helmet. There are a lot of officers in the street, some of whom are dressed in riot gear, and uniformed white shirts, but none are close enough to be identified. At 01:16, an unidentified woman, dressed in what appears to be medical scrubs, is kneeling next to another woman, who is lying on her side on the sidewalk. § 87(2)(b) is standing next to the two women. At 01:32, the camera captures multiple protestors handcuffed and sitting in the middle of the street. There are multiple officers standing around the handcuffed protestors. At 01:50, § 87(2)(b) takes out her cellphone, and appears to record the protestors sitting in the streets. § 87(2)(b) complains that she is not being allowed to help the protestors in the street, who appear hurt. At 02:38, § 87(2)(b) repeatedly yells, "I am a medic. Let me in." It is unclear from the footage who, if anyone, § 87(2)(b) is speaking to. At 02:50, a group of approximately seven uniformed officers walk towards the sidewalk. None of the officers are close enough to be identified. At 02:56, one of the officers, whose face is not depicted in the footage, appears to say to § 87(2)(b) and the other civilians on the sidewalk, "You guys need to move out, or we are going to arrest you." The officer then walks away towards the street. § 87(2)(b) and the women remain on the sidewalk until PO Veras shuts off his camera at 09:44.

PO O'Neil's BWC (Board Review 70) shows PO O'Neil and multiple uniformed officers walking towards a large crowd of protestors and making arrests. At 02:27, § 87(2)(b) identified via investigation, appears in the camera frame wearing light green scrubs. § 87(2)(b) is handcuffed and is standing in the street with an officer. At 03:24, PO O'Neil and a group of officers, who all appear to be holding handcuffed protestors, walk towards the intersection of East 136th Street and Brown Place. At 21:53, a black male, wearing what appears to be a light brown shirt, dark short pants, a green backpack, and riding a bicycle appears to approach from the northbound section of Brown Place, and is riding his bicycle on the western sidewalk at the intersection of East 136th Street and Brown Place. The man then rides his bicycle into the street,

moves between officers and protestors, and appears to head east on East 136th Street. At 22:22, officers appear to stop the male at what appears to be the southeastern sidewalk of the street intersection, and someone yells, “Yo, get off the bike.” At 22:29, the officers and the male appear to be struggling, but whatever is happening is not clearly depicted given that PO O’Neill is approximately eight to 10 feet away from the officers and the black male, and there are also multiple officers and civilians in the street. At 22:32, some of the protestors in handcuffs, begin to yell, “Let him go” and “Let go of him.” PO O’Neill’s footage does not capture anything else that happens between officers and the black male on the bicycle.

PO Giron’s BWC (Board Review 69) at 18:20, shows the black male riding his bicycle towards the southeastern sidewalk of the street intersection. At 18:41, approximately five uniformed officers, none of whom are close enough to be identified, appear to be attempting to pull the black male off the bicycle. At 18:45, one of the officers appear to kick the leg of the black male. At 18:50, the protestors in the street begin to yell, “Leave him alone,” while additional officers, including two officers wearing helmets with shield numbers “3452” and “2470,” approach and stand in the street. The officer wearing the helmet with the shield number “3452,” is also wearing what appears to be a detective’s badge (Board Review 84). At 18:53, the officers struggling with the black male pull him off the bicycle, and pin him against a marked police van. The officers continue to struggle with the black male, and appear to reach for his hands. One of the officers struggling with the black male appears to be wearing a helmet with the shield number “13496” (Board Review 85). At 19:00, additional officers, none of whom are close enough to be identified, approach, and appear to assist the other officers, who continue to struggle with the black male. At 19:06, the officers appear to bring the black male to the ground. At 19:09, there appears to be multiple officers either on top of or crouched over the black male. At 19:12, the struggling stops, and officers appear to pin and hold the black male on the ground. At 19:32, PO Giron pans his camera away from the officers and the black male, and his footage does not depict anything additional between the officers and the black male.

NYPD documents reviewed

The above videos together with the 40th Precinct summons log (Board Review 09 – Board Review 43), and the Mass Arrest Processing Log (Board Review 44 – Board Review 45) establishes that there were hundreds of officers from multiple commands, including but not limited to SRG, Disorder Control Unit (DCU), Patrol Borough Bronx (PBBX), 40th Precinct, and PSA 7, on scene, but none of the Roll Calls and Detailed Rosters from these commands list any specific assignments relating to the incident location or the protest in the Bronx (Board Review 86 – Board Review 92). Additionally, none of the Threat Resistance and Injury report prepared for this incident corresponded to the two alleged unidentified victims, § 87(2)(b) or § 87(2)(b) (Board Review 93 – Board Review 94). Given the large number of officers on scene, the absence of specific police documentation of force used, lack of clear video footage, and that § 87(2)(b) and § 87(2)(b) all provided general or no descriptions of the subject officers and alleged potential victims, the investigation was unable to identify the subject officers or create a reasonable pool of potential officers.

The investigation, however, identified three officers who potentially witnessed the incident involving the alleged male victim on the bicycle. As discussed above, PO Giron’s BWC captured the shield numbers of three officers who were present at the time force was used. A CTS search revealed that shield number “3452” corresponded to Detective Kevin Stewart of the Detective Bureau Grand Larceny Division (DB GLD), shield number “2470” corresponded to PO Yoeldy Espinal of the 40th Precinct, and shield number “13496” corresponded to PO Victor Hiciano of PSA 7.

Concurrent Investigations

There are no concurrent investigations into the incident involving any of the victims or

witnesses in this case, but there are approximately twenty CCRB investigations into the protest at the incident location. Additionally, multiple Non-Governmental Organizations (NGOs), along with the NYC Department of Investigations (DOI) and the New York State Office of the Attorney General (OAG) have released public reports analyzing the NYPD's response to the protest at the incident location (Board Review 96 – Board Review 98).

Ranking Officers

As discussed in detail in CCRB case #202006855, then NYPD COD Terrance Monahan and AC Kenneth Lehr were on scene for this incident, and were by their own accounts, the highest-ranking NYPD officers on scene. AC Lehr (Board Review 99) was predominantly in charge of organizing the NYPD's response to this protest, and his statement, and that of COD Monahan (Board Review 100), combined with § 87(2)(b) and § 87(2)(b)'s descriptions of the subject officers make it clear that AC Lehr and COD Monahan did not interact with any of the alleged victims in this case.

Officers Interviewed

Detective Kevin Stewart, and Police Officers Yoeldy Espinal, Kenneth Scarola, and Victor Hiciano of PSA 7, were interviewed in relation to this incident (Board Review 101 – Board Review 104). PO Espinal of the 40th Precinct (Board Review 102) and PO Scarola of SRG 1 (Board Review 103), both said that they and officers from their respective commands, were assigned to the location in regard to the protest. Neither recalled what information, if any, was relayed to them about the protest, except that there was a large group of people violating the Citywide curfew. They also did not recall receiving any instructions about surrounding the protestors and preventing them from leaving. PO Espinal arrived on scene with his supervisor, Sergeant Willie Briggs, and some other officers from the 40th Precinct, none of whose names PO Espinal recalled, were stationed at the intersection of Brown Place and East 136th Street, and mostly provided security for the officers making arrests. PO Scarola, who also provided security for the officers making arrests, was stationed at the intersection of Brook Avenue and East 136th Street. PO Espinal and PO Scarola did not participate in the arrests of any of the protestors, did not use force against any civilian, nor did they recall observing any officers doing so. PO Scarola, at some point, was assigned to escort five protestors, including § 87(2)(b) to prisoner vans, and ultimately issued them summonses at Queens Central Booking. PO Espinal had no independent recollection of the incident involving the unidentified male with the bicycle, neither did he know nor was he able to identify any of the officers captured in the footage using force against the alleged unidentified male victim.

Det. Stewart (Board Review 101) and PO Hiciano (Board Review 104) both acknowledged that shield numbers “3452” and “13496” were their current and respective shield numbers, but denied being at the incident location at any point during this incident. Det. Stewart said he and officers from his command were assigned to a protest detail at the Barclays Center in Brooklyn, and were at that location for the duration of their tour. Det. Stewart said he had his police helmet with him on the incident date, that the shield number on the helmet that he was in possession of corresponded to the shield number he was issued when he first joined the NYPD as a police officer approximately 16 years ago. Det. Stewart's shield number changed upon his promotion to the rank of Detective, but said he was never issued a new helmet with his current shield number, and he did not know or recognize the officer in the BWC footage wearing a helmet with his current shield number.

PO Hiciano, who worked as the telephone switchboard operator for PSA 7 on the incident date, said that he had ended his tour at the time of the incident, and was nowhere near the incident location on the incident date. He did not know how his helmet came to be at the scene of the incident, said he mostly kept his helmet in his locker at the stationhouse, and did not know if any officer had access to his locker, except supervisors. He, however, did not know if any supervisor opened his locker and assigned his helmet to another officer, nor did he recognize or know the

officer depicted in the BWC footage wearing the helmet with PO Hiciano’s current shield number.

The command log for DB GLD, the roll call for PSA 7, and the memo books for Det. Stewart and PO Hiciano all corroborate their testimonies that they were assigned to the Barclays Center and PSA 7 stationhouse, respectively, during the duration of their tours (Board Review 105 – Board Review 106). The MOS photos of Det. Stewart and PO Hiciano (Board Review 95) also do not match that of the officers depicted in the BWC footage (Board Review 84 – Board Review 85).

PO Julio Veras and PO John O’Neill, whose respective BWCs captured some of the allegations in this case, retired from the NYPD on February 2, 2021 and August 20, 2021, respectively, and were thus not interviewed (Board Review 107).

Allegation Recitation and Disposition

Allegation (A) Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (B) Force: At East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.

Allegation (C) Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (D) Force: At East 136th Street and Brook Avenue in the Bronx, an officer struck § 87(2)(b) with a baton.

Allegation (E) Force: At East 136th Street and Brook Avenue in the Bronx, an officer used physical force against § 87(2)(b)

Allegation (F) Abuse of Authority: At East 136th Street and Brook Avenue in the Bronx, an officer threatened to arrest § 87(2)(b).

Allegation (G) Abuse of Authority: At East 136th Street and Brook Avenue in the Bronx, an officer threatened to arrest individuals.

Allegation (H) Force: At East 136th Street and Brown Place in the Bronx, officers used physical force against § 87(2)(b)

The available evidence established that there were hundreds of officers from multiple commands at the scene of this incident. § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b) and § 87(2)(b) have been parties to one CCRB complaint, and have been named victims in two allegations (Board Review 108 – Board Review 109):
 - § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- On November 12, 2021, a Notice of Claim inquiry was sent to the NYC Office of the Comptroller, and the inquiry is still pending. The results will be added to the case file upon receipt (Board Review 110).
- According to the Office of Court Administration (OCA), § 87(2)(b) and § 87(2)(b) do not have any history of convictions in NYC (Board Review 111 – Board Review 112).

Squad: _____ 1 _____

Investigator:	_____ Signature	_____ Print Title & Name	_____ Date
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Squad Leader:	_____ Signature	_____ Print Title & Name	_____ Date
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Reviewer:	_____ Signature	_____ Print Title & Name	_____ Date
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CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Ethan Waterman	Team: Squad #10	CCRB Case #: 202006194	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 09/12/2020 12:05 AM	Location of Incident: McCarren Park	Precinct: 94	18 Mo. SOL 3/12/2022	EO SOL 5/4/2022	
Date/Time CV Reported Sun, 09/13/2020 9:00 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sun, 09/13/2020 9:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. INS Rafael Mascol	00000	901927	PBBN
2. Officers			
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Gabriela Almonte	08527	963367	094 PCT
2. POM Christophe Spizuco	04181	961321	094 PCT
3. POM Asad Ullah	07269	963785	094 PCT
4. POF Christina Soranno	10285	969374	094 PCT
5. POM Matthew Morris	25606	969239	094 PCT
6. POM Md Ahammed	04231	951482	094 PCT
7. POF Elizabeth Castro	06524	960341	094 PCT
8. POM Mateusz Pusz	07942	969305	094 PCT
9. CPT Maria Hardell	00000	942949	DBBS
10. CPT Stephen Sperrazza	00000	939516	DBBN
11. SGT Leonardo Gomez	05216	930236	102 PCT
12. LT Robert Falcone	00000	948950	113 PCT
13. PO Jole Cummings	23946	967466	102 PCT
14. PO Robert Halupa	18993	957654	105 PCT
15. PO Hector Lugo	01919	962561	102 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
16. PO Michael Worrell	01718	949811	102 PCT
17. PO Robert Carlucci	10491	956494	113 PCT
18. PO Paul Mrabet	18284	968025	105 PCT
19. PO Emmanuel Jean	28815	967123	113 PCT
20. SGT Anthony Jelcic	01674	950634	100 PCT
21. PO Megan Mccloud	10360	966200	100 PCT
22. PO Daniel Henao	15119	966616	103 PCT
23. PO Alexander Lewis	27001	967164	103 PCT
24. PO Michael Higley	21283	963071	106 PCT
25. PO Michael Sheridan	31878	955478	044 PCT
26. LT Steven Degree	00000	943141	NARCBBX
27. PO Lilani Cometta	01926	965693	044 PCT
28. PO Nurul Siddiqui	17508	946250	113 PCT
29. PO Michael Mendoza	12033	949323	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Abuse: An officer took photographs of individuals.	[REDACTED]
B. INS Rafael Mascol	Force: Inspector Rafael Mascol used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
C. INS Rafael Mascol	Force: Inspector Rafael Mascol used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
D. Officers	Abuse: Officers interfered with individuals' use of recording devices.	[REDACTED]
E. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
F. Officers	Force: Officers used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
G. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
H. An officer	Force: An officer used physical force against § 87(2)(b) [REDACTED]	[REDACTED]
I. Officers	Force: Officers used physical force against individuals.	[REDACTED]

Case Summary

On September 13, 2020, § 87(2)(b) filed this complaint on the CCRB’s website as a reporting non-witness regarding an incident involving the vigil for his deceased sister, § 87(2)(b). This case was originally assigned to Investigator Robert Bryan and was reassigned to Investigator Ethan Waterman on February 1, 2022.

On September 12, 2020, at approximately 12:05 a.m., a group of individuals were at McCarren Park in Brooklyn for § 87(2)(b) vigil. An officer allegedly took photographs of some of the vigil-goers (**Allegation A, Abuse of Authority: Photography/Videography**, § 87(2)(g) § 87(2)(b)) These vigil-goers lined up in the park and linked arms. Inspector Rafael Mascol of Patrol Borough Brooklyn North allegedly pushed § 87(2)(b) and § 87(2)(b) (**Allegations B and C, Force: Physical Force**, § 87(2)(g) § 87(2)(b)). Officers allegedly interfered with vigil-goers’ cell phone recordings by shining flashlights at them (**Allegation D, Abuse of Authority: Interference with Recording**, § 87(2)(g) § 87(2)(b)). Officers allegedly pushed § 87(2)(b), § 87(2)(b), § 87(2)(b), § 87(2)(b), and other individuals (**Allegations E, F, G, H, and I, Force: Physical Force**, § 87(2)(g) § 87(2)(b)).

No arrests or summonses resulted from this incident.

The investigation interviewed § 87(2)(b), § 87(2)(b), and § 87(2)(b) who were witnesses of this incident.

The investigation interviewed Captain Maria Hardell of the 94th Precinct and Police Officer Md Ahammed of the 94th Precinct as witnesses.

The investigation received body-worn camera (BWC) footage from the following officers: PO Ahammed, Police Officer Gabriela Almonte, Police Officer Robert Carlucci, Police Officer Elizabeth Castro, Police Officer Lilani Cometta, Police Officer Jole Cummings, Lieutenant Steven Degree, Lieutenant Robert Falcone, Sergeant Leonardo Gomez, Police Officer Robert Halupa, Police Officer Daniel Henao, Police Officer Michael Higley, Police Officer Emmanuel Jean, Sergeant Anthony Jelcic, Police Officer Alexander Lewis, Police Officer Hector Lugo, Police Officer Megan McCloud, Police Officer Michael Mendoza, Police Officer Matthew Morris, Police Officer Paul Mrabet, Police Officer Mateusz Pusz, Police Officer Michael Sheridan, Police Officer Nurul Siddiqui, Police Officer Christina Soranno, Captain Stephen Sperrazza, Police Officer Christopher Spizuco, Police Officer Asad Ullah, and Police Officer Michael Worrell (**BR 01-50**). The investigation also received footage from § 87(2)(b) and § 87(2)(b) (**BR 51-52, 113-114**). The relevant aspects of this video footage shall be discussed in further detail below.

This case was added to the sensitive case list on September 14, 2020 given the vigil’s coverage on NY1, Gothamist, Brooklyn Paper, and Greenpointers (**BR 115-118**).

Findings and Recommendations

Allegation (B) Force: Inspector Rafael Mascol used physical force against § 87(2)(b)

Allegation (C) Force: Inspector Rafael Mascol used physical force against § 87(2)(b)

It was undisputed that Inspector Mascol walked past § 87(2)(b) and § 87(2)(b) while the two stood in a line of vigil-goers inside McCarren Park.

In their CCRB statement (**BR 53**), § 87(2)(b) said that Inspector Mascol, who appeared to be the commanding officer on the scene, approached two women who were standing with their bikes as part of the line of attendees facing the officers. § 87(2)(b) said that Inspector Mascol was trying to reach someone behind the barricade, even though there was no fighting or arguing going on in that area. Inspector Mascol moved the two women apart by putting his hands on their shoulders and started climbing over their bikes as one of them put her hand up and said, “Excuse me sir, please don’t.” Inspector Mascol shoved her to the side with one hand, causing her to stumble but not fall. Inspector Mascol could have gotten past the barricade by walking around the end of the barricade, which was 10 feet to his left, instead of climbing on top of it. As Inspector Mascol tried to bring his second leg over the bike barricade, he tripped and fell.

In her CCRB statement (**BR 54**), § 87(2)(b) said that Inspector Mascol approached the line of

attendees and, when he reached a point several people to the left of where § 87(2)(b) was standing, walked through the line by pushing two people on the line apart and stepping over their bikes. § 87(2)(b) described Inspector Mascol's actions as "deliberate" but not "aggressive."

In her CCRB interview (BR 55), § 87(2)(b) identified herself as one of the two women whom Inspector Mascol stepped past. § 87(2)(b) said that Inspector Mascol stepped directly over her bike without hesitation.

In her CCRB interview (BR 56), § 87(2)(b) identified herself as the second woman whom Inspector Mascol stepped past. § 87(2)(b) said that, while she was looking in her backpack for a Sharpie, Inspector Mascol stepped over the first bike line between § 87(2)(b) and § 87(2)(b) who stood to § 87(2)(b)'s right. He stepped over and between one of § 87(2)(b)'s bicycle wheels and one of § 87(2)(b)'s, which were touching, though § 87(2)(b) could not see which foot he stepped with first because she was still looking for a Sharpie. She had not been aware of Inspector Mascol before this moment. By stepping over the wheels, Inspector Mascol was "knocking the wheels around," which was how § 87(2)(b) first became aware of what he was doing. § 87(2)(b) and § 87(2)(b) said, "Whoa, whoa!" Inspector Mascol said something to the effect of "I'm not touching anyone. Don't touch me." He held his arms and hands close to his body, with his arms crossed over his torso and his hands tucked underneath the opposite arms. Inspector Mascol did not make physical contact with § 87(2)(b) and § 87(2)(b) was not sure if he made physical contact with § 87(2)(b) though he did touch both of their bicycles.

§ 87(2)(b) prepared and uploaded a video to his Instagram account (§ 87(2)(b)) regarding this incident (BR 52). The video shows a group of vigil-goers and police officers forming parallel lines inside McCarren Park between the 02:00 and 04:15 timestamps. At the 07:20 timestamp, Inspector Mascol approaches the line of vigil-goers and walks past them. It is unclear what physical contact he makes with the vigil-goers, if any, as only his upper torso is visible in the frame.

§ 87(2)(b) also prepared a cell phone video of this incident (BR 51), but the video does not capture Inspector Mascol walking through the line of vigil-goers.

§ 87(2)(b) was not present for this incident and based his statement on the aforementioned videos (BR 57).

The investigation located photographs of the vigil from the Twitter account § 87(2)(b) and determined that the owner of the account was an individual named § 87(2)(b) (BR 58-59). Ultimately, the investigation was unable to contact § 87(2)(b).

Seven BWC videos captured Inspector Mascol approaching and walking past the line of vigil-goers (BR 26, 28-30, 32, 33, 35). PO McCloud's BWC (BR 30) best shows him do so: at the 05:36 timestamp, Inspector Mascol steps between § 87(2)(b)'s and § 87(2)(b)'s bicycles without touching either of them. Inspector Mascol walks forth without falling.

In his CCRB interview (BR 60), Inspector Mascol said he was present at the vigil because the Operations Unit of Patrol Borough Brooklyn North had informed him of § 87(2)(b) vigil. Inspector Mascol said that he stepped over the bicycles and vigil-goers so he could speak to the organizer of the vigil. Inspector Mascol did not recall touching the vigil-goers he stepped between with his hands.

§ 87(2)(g)
[REDACTED]

Allegation (A) Abuse of Authority: An officer took photographs of individuals.

Allegation (D) Abuse of Authority: Officers interfered with individuals' use of recording devices.

Allegation (E) Force: An officer used physical force against § 87(2)(b)

Allegation (F) Force: Officers used physical force against § 87(2)(b)

Allegation (G) Force: An officer used physical force against § 87(2)(b)
Allegation (H) Force: An officer used physical force against § 87(2)(b)
Allegation (I) Force: Officers used physical force against individuals.

Known Facts and Descriptions

In her CCRB interview (**BR 61**), § 87(2)(b) said that before Inspector Mascol crossed the line of vigil-goers, as she stood with her boyfriend and two other protesters near the entrance to the park on Driggs Street, an approximately 5'10" tall uniformed white male officer in his 40s or 50s laughed at the vigil-goers and took photographs of them from across the street. She believed he was taking photographs because he held his phone horizontally towards the vigil-goers. This officer was talking to other officers, but she was not close enough to hear what was said.

In his CCRB interview (**BR 62**), § 87(2)(b) said that a few people, whose names § 87(2)(b) did not know, recorded part of the incident on their phones. Five or six officers were shining flashlights towards the vigil attendees and § 87(2)(b) believed they were trying to obscure these recordings. He could not describe the officers doing this other than being uniformed officers.

In her CCRB interview (**BR 54**), § 87(2)(b) said that when Inspector Mascol crossed the line of vigil-goers, other officers followed him and started pushing the attendees. § 87(2)(b) saw officers pushing civilians, though she could not describe these officers and civilians in any detail. She did not see any civilians pushing officers or putting their hands on officers in any way. Someone pushed § 87(2)(b) and she fell to the ground with her bike, but she could not say whether it was an officer or protester. When she got up, someone hit her in her right eye. She did not know what hit her in the eye, but in the opinion of her friend (a medical professional), it was probably a fist. She could not see who hit her. She fell to the ground again and, a minute or two later, got back up.

In her CCRB interview (**BR 55**), § 87(2)(b) said that once Inspector Mascol crossed the bike line, the other officers started swarming around and pushing and grabbing people. One the civilians who was grabbed on his arms was a black man with a red sweatshirt, but § 87(2)(b) could not recall what the officer who grabbed him look like. The man ended up breaking free of the officer's grasp and walking away. § 87(2)(b), the woman standing next to § 87(2)(b) was pushed by an officer § 87(2)(b) could not see who) and her bike fell on top of her. Officers grabbed people and stepped over vigil-goers who had fell, though she could not describe any of these officers other than to say they were male and in uniform. § 87(2)(b)'s bike was pulled from her, though she did not know if the person who pulled it from her was an officer, and "tossed" to the side. § 87(2)(b) was hit in the face, possibly with an elbow (though she did not know whose), her helmet went flying, and she fell to the ground. She did not recall if it was an officer who pushed her or what the person looked like.

In her CCRB interview (**BR 63**), § 87(2)(b) said that she had a blue bike and wore a t-shirt, black jeans, and a purple mask. She said that officers picked up bikes and pushed them into the vigil attendees. The only officers she could describe who did this were an approximately 5'7" tall uniformed South Asian male officer with short black hair and an approximately 5'10"-6'0" tall uniformed white male officer with light brown hair and a square jaw. These officers grabbed § 87(2)(b)'s bike and pushed it into her hard enough to make her fall over backwards with her bike on top of her. Later in the interview, she said she was not sure that it was these two officers who pushed her because she was looking elsewhere, but they were standing close to her, so she assumed it was them. The officers kept pushing other vigil attendees and several of them fell on top of § 87(2)(b) while she was on the ground. She managed to get to her feet and hold onto her bike before falling again when someone she could not see knocked into her from behind. The second time she fell, she accidentally fell face forward on top of another vigil attendee and pinned her beneath her body and her bike. When she got up, she saw the white male uniformed officer with the square jaw standing nearby, which led her to believe he had knocked her over, though she did not see him do this.

In her CCRB interview (**BR 56**), § 87(2)(b) said that once Inspector Mascol crossed the bike

line, about 40-50 other officers approached the line in a “V shape” with one officer at the head, though she could not recall how many there were or what most of the officer looked like, and “trampled” the vigil-goers. § 87(2)(b) was holding onto the frame of her bike when an officer picked up the bike, pulled it back, and then pushed her with it, which caused her to fall backwards into the bike of the person behind her, knocking over this other person’s bike as well. § 87(2)(b) described this officer as a uniformed, pale white male officer who wore a hat and appeared to be between his late 20s and early 40s. § 87(2)(b) landed with her back on the bike of the person behind her. This white male officer in the hat pushed hard on § 87(2)(b) s bike to keep her down and § 87(2)(b) pushed back with the help of the woman who was pinned down underneath her and was pushing § 87(2)(b) from behind. At the same time, other officers stepped over and onto the wheel of § 87(2)(b) Bike’s to her left, pinning her down even more § 87(2)(b) said, “Please stop. You’re hurting me. Why are you doing this?” § 87(2)(b) did not provide a description of her attire.

Per § 87(2)(b) s video (**BR 52**), after Inspector Mascol steps past the bike line, officers advance towards the line of vigil-goers at 07:28. Several unidentified officers push bicycles and vigil-goers until 7:40.

Per § 87(2)(b) s video (**BR 51**), Inspector Mascol approaches the line of vigil-goers 01:41. At the same time, an officer shines his flashlight at § 87(2)(b) The line of officers approaches the line of vigil-goers thereafter. By the 01:55 timestamp, it is apparent that several officers push the vigil-goers and their bicycles – § 87(2)(g)

§ 87(2)(g). At the 02:44 timestamp, a short South Asian officer in uniform pushes a vigil-goer – who wears a white shirt and a black backpack while holding a skateboard in front of them – back with both hands. It is unclear if the vigil-goer falls to the ground.

BWC

The investigation received 39 BWC videos from 28 officers that depicted this incident. The investigation received these videos in two tranches.

On September 29, 2020, the investigation received 10 videos from the following eight officers: PO Almonte (2), PO Spizuco (2), PO Ullah, PO Soranno, PO Morris, PO Ahammed, PO Castro, and PO Pusz. On the same date, the Legal Bureau confirmed that Inspector Mascol was not equipped with a BWC.

The investigation determined that PO Almonte’s and PO Spizuco’s BWC activations (**BR 01-04**) captured the incident prior to Inspector Mascol stepping across the bike line set by the vigil-goers and officers following thereafter. In PO Almonte’s and PO Spizuco’s second activations, it is apparent that officers shine lights in the direction of a line of vigil-goers. § 87(2)(g)

§ 87(2)(g). At no point in any of PO Almonte’s or PO Spizuco’s BWC activations do officers take photographs or video of the vigil-goers.

The investigation determined that PO Soranno’s and PO Ullah’s BWC activations (**BR 05-06**) captured the incident after Inspector Mascol and officers stepped across the bike line and pushed vigil-goers. § 87(2)(g). At no point in their BWC activations do officers take photographs or video of the vigil-goers.

The investigation determined, per their BWCs (**BR 07-10**), that PO Morris, PO Ahammed, PO Castro, and PO Pusz arrived at the scene after Inspector Mascol and officers stepped across the bike line and vigil-goers. § 87(2)(g)

At no point in these BWC activations do officers take photographs or video of the vigil-goers.

On January 25, 2022, the investigation sent a second request for BWC. On February 1, 2022, the investigation received 29 videos from the following 20 officers: Captain Sperrazza, Sgt. Gomez (2), Lieutenant Falcone (2), PO Cummings, PO Halupa, PO Lugo, PO Worrell, PO Carlucci (2), PO Mrabet, PO Jean, Sgt. Jelcic (2), PO McCloud (2), PO Henao, PO Lewis, PO Higley (2), PO Sheridan (2), Lieutenant Degree (3), PO Cometta, PO Siddiqui, and PO Mendoza. On the same

date, the Legal Bureau confirmed that Captain Hardell did not have any responsive footage regarding this incident.

The investigation determined that 14 of these BWC videos captured officers responding to an altercation at the corner of Driggs Avenue and North 12th Street in the minutes prior to the formation of the lines of vigil-goers and officers inside McCarren Park (**BR 21-25, BR 40-48**). At no point in these activations do officers take photographs or video of the vigil-goers.

The investigation determined that two of these BWC videos only captured officers and vigil-goers forming parallel lines prior to Inspector Mascol and officers stepping across the bike line (**BR 27, 31**). At no point in these activations do officers take photographs or video of the vigil-goers.

The investigation determined that five of these BWC videos only captured the incident after Inspector Mascol and officers stepped across the bike line and pushed vigil-goers (**BR 36-39, 49**). At no point in these activations do officers take photographs or video of the vigil-goers.

Ultimately, the investigation determined that eight BWC videos captured the moment when Inspector Mascol stepped over the bike line and officers' response thereafter (**BR 26, 28-30, 32-35**). Of these eight, only three captured any use of force. PO Carlucci pushes a bicycle and the person holding the bicycle at 06:43 of his second BWC (**BR 28**). Given the lighting conditions and the vantage point of PO Carlucci's BWC, the victim of this push is not depicted. Sgt. Jelcic pushes a bicycle and the light-skinned male holding the bicycle at the 7:23 timestamp of his second BWC (**BR 29**). PO McCloud pushes bicycles aside at the 05:48 timestamp of her second BWC (**BR 30**).

§ 87(2)(g)

NYPD Documents Reviewed

The investigation requested and received resource recap logs for the third tour of September 11, 2020 and the first tour of September 12, 2020 in the 94th Precinct (**BR 64-65**). Only one EVENT corresponded with the time and incident location.

The investigation requested and received the communications disk for the corresponding EVENT (**BR 66-68**). The EVENT was a call for assistance from the 94th Precinct commanding officer at McCarren Park. The only units listed as arriving on-scene are 94th Precinct Sector A and 94th Precinct Violence Reduction.

In total, the investigation requested and received memo book entries from 32 officers (**BR 69-80**), five of which – those from PO Bueno, PO Dalto, PO Marchello PO Ferdous, and PO Wikira (all of the 94th Precinct) – were deemed irrelevant. The remaining 27 memo book entries came from the officers who prepared BWC footage regarding this incident, excepting Captain Sperrazza. The investigation determined that the following 19 officers were assigned to a detail, a detail which Lieutenant Falcone of the 113th Precinct labeled as “Mobile field force detail” in his memo book (**BR 80**): PO Lewis of the 103rd Precinct, Sgt. Jelcic of the 100th Precinct, PO Henao of the 103rd Precinct, PO Jean of the 113th Precinct, PO Lugo of the 102nd Precinct, PO Cummings of the 102nd Precinct, Sgt. Gomez of the 102nd Precinct, PO Cometta of the 44th Precinct, PO McCloud of the 100th Precinct, PO Higley of the 106th Precinct, PO Mendoza of the 44th Precinct, PO Sheridan of the 44th Precinct, PO Worrell of the 102nd Precinct, PO Siddiqui of the 113th Precinct, PO Mrabet of the 105th Precinct, PO Carlucci of the 113th Precinct, the aforementioned Lieutenant Falcone, PO Halupa of the 105th Precinct, and Lieutenant Degree (command unknown). The remaining eight officers – PO Ahammed, PO Morris, PO Castro, PO Pusz, PO Soranno, PO Ullah, PO Almonte, and PO Spizuco – had assignments at the 94th Precinct (**BR 69-76**).

The investigation twice requested detail rosters from Patrol Borough Brooklyn North, and

twice the Patrol Borough denied the existence of any detail rosters being created regarding this incident on August 3, 2021 and February 25, 2022 (**BR 81-82**).

The investigation requested unusual occurrence reports from Patrol Borough Brooklyn North and the 94th Precinct, both times receiving negative results on August 3, 2021 and August 25, 2021, respectively (**BR 81, 83**).

On July 23, 2021, the investigation requested all archived TARU footage regarding this incident and received negative results on August 10, 2021 (**BR 84**).

On October 6, 2020, the investigation requested all TRIs prepared by Inspector Mascol regarding this incident. On October 28, 2020, the investigation received negative results for all TRIs prepared regarding § 87(2)(b) and § 87(2)(b) (**BR 85-86**).

On January 25, 2022, the investigation requested all TRIs prepared by PO Ahammed, PO Almonte, PO Bueno, PO Castro, PO Dalto, PO Ferdous, Captain Hardell, PO Marchello, Inspector Mascol, PO Morris, PO Pusz, PO Soranno, PO Spizuco, PO Ullah, and PO Wikira. On February 2, 2022, the investigation received negative results for TRIs prepared by these officers (**BR 87**).

The investigation requested and received summons logs from the 94th Precinct, Police Service Area 1, and the 88th Precinct (**BR 88-90**). No summonses corresponded with this incident.

The investigation queried the NYPD's Booking Arraignment Disposition System for all arrests conducted in the confines of the 94th Precinct on September 11, 2020 and September 12, 2020 and received negative results for any arrests effected regarding this incident (**BR 91**).

The investigation reviewed the officer photographs of all 28 officers who activated their BWCs during this incident § 87(2)(g)

Concurrent Investigations

There are no known concurrent investigations into any complaints regarding this incident. On March 7, 2022, Sergeant Ahmed Khan of the Legal Bureau confirmed that the NYPD conducted no investigation regarding this incident.

Ranking Officers

The investigation determined that Inspector Mascol was the highest-ranking officer during this incident.

The investigation also identified Captain Hardell as a ranking officer present on-scene during this incident, and the details of her interview are discussed in further detail below.

Per BWC results, the investigation identified Captain Sperrazza, Lieutenant Degree, and Lieutenant Falcone to be ranking officers present on-scene § 87(2)(g)

Officers Interviewed

As Inspector Mascol was the highest-ranking officer and a subject in **Allegations B** and **C**, the investigation interviewed him (**BR 60**). Inspector Mascol said that he believed most of the officers were from Patrol Brooklyn Borough North, but he did not know what precinct all of them were from. He did not recall the names of any other officers who were present. Inspector Mascol estimated that approximately 30 officers were present. Inspector Mascol's instructions to his officers were to stay away from the vigil-goers and vigil participants as long as they remained peaceful and orderly. Inspector Mascol recalled vigil-goers forming a line with their bikes, but before showing video of the incident, he did not recall any other details. Inspector Mascol ordered officers to create their own line about 40-50 feet away, facing the vigil-goers. Inspector Mascol did not give any orders or make any statements about using force to make the vigil-goers disperse but had previously requested that the vigil-goers disperse. Inspector Mascol did not see any officers use a hand strike or strike anyone with an elbow and did not recall any uses of force by officers against

civilians apart from what he was shown in the videos. Inspector Mascol did not recall seeing any officers taking photographs or taking videos with anything other than their BWCs. Initially, he did not recall officers shining flashlights at vigil-goers, but the cell phone and BWC videos he was shown refreshed his memory. Inspector Mascol did not recall seeing any officers interfering with the recording devices of civilians.

As Captain Hardell was identified as one of the high-ranking officers present during this incident, the investigation interviewed her (**BR 92**). Captain Hardell was unsure if she was the commanding officer of the 94th Precinct or assigned to a Mobile Field Force. Captain Hardell did not recall seeing any officers push the vigil-goers or their bikes and did not ever direct officers to do so. Captain Hardell did not recall if any officers shined their flashlights into the line and did not direct officers to do so. Captain Hardell did not see any officers taking any film or photographs of the vigil-goers. Upon review of § 87(2)(b)'s video, Captain Hardell said that she did not recognize the south Asian officer who had pushed the vigil-goer at the 02:44 timestamp.

As PO Ahammed was present during this incident, the investigation interviewed him (**BR 93**). PO Ahammed said that he did not see any physical altercation between officers and vigil-goers. PO Ahammed did not have any physical interaction with any vigil-goers. PO Ahammed did not recall seeing anyone on the ground. PO Ahammed saw bicycles but never saw any people underneath bicycles. PO Ahammed did not see anyone using flashlights. PO Ahammed did not use a flashlight. PO Ahammed did not record anyone. PO Ahammed did not see anyone record the vigil-goers. PO Ahammed did not recall seeing anyone take photographs of the vigil-goers. The investigation presented PO Ahammed with the § 87(2)(b) Instagram footage and his own BWC – PO Ahammed said that he was not present at the incident prior to his activating his BWC, and said he believed that the Instagram video depicted what happened before his arrival.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (**BR 94**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 95**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 96**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 97**).
- § 87(2)(b) has been a party to two CCRB complaints and has been named as a victim in one allegation (**BR 98**).
 - § 87(2)(b)

- § 87(2)(g), § 87(2)(b)
- This is the first complaint to which § 87(2)(b) has been a party (**BR 99**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 100**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 101**).
- This is the first complaint to which § 87(2)(b) has been a party (**BR 102**).
- Inspector Mascol has been a member of service for 28 years and has been the subject of eight allegations in seven previous cases, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was unsuitable for mediation.
- As of March 9, 2022, the New York City Office of the Comptroller has no record of a Notice of Claim being filed regarding this incident (**BR 103**).
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal convictions in New York City (**BR 104**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 105**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 106**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 107**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 108**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 109**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 110**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 111**).
- According to the OCA, § 87(2)(b) has no history of criminal convictions in New York City (**BR 112**).

Squad: 10

Investigator: <u> Ethan C. Waterman </u>	<u> Inv. Ethan Waterman </u>	<u> 03/14/2022 </u>
Signature	Print Title & Name	Date

Squad Leader: <u> Eric Rigie </u>	<u> IM Eric Rigie </u>	<u> 03/14/2022 </u>
Signature	Print Title & Name	Date

Reviewer: _____	_____	_____
Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: William Rasenberger	Team: Squad #7	CCRB Case #: 202006547	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 10:00 PM	Location of Incident: Intersection of Bedford Avenue and Church Avenue	Precinct: 67	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 09/10/2020 9:30 PM	CV Reported At: IAB	How CV Reported: Mail	Date/Time Received at CCRB Mon, 09/28/2020 12:27 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Johnny Marquez	13959	960876	SRG 3
2. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Tarik Haywood	14154	960648	070 PCT
2. POM Jay Huang	31783	965199	070 PCT
3. POM Mateusz Wybraniec	07999	966402	BKLN CT
4. SGT John Velez	03819	940832	070 PCT
5. POM Miguel Vanbrakle	28743	955616	067 PCT
6. POM Adnan Hussain	00333	961531	070 PCT
7. LT Dane Varriano	00000	945076	PBSI
8. POM Alan Litvin	12724	966170	070 PCT
9. POM Thomas Gallina	17250	966584	070 PCT
10. COD Terence Monahan	00000	876747	CD OFF

Officer(s)	Allegation	Investigator Recommendation
A. POM Johnny Marquez	Force: Police Officer Johnny Marquez used pepper spray against individuals.	
B. POM Johnny Marquez	Force: Police Officer Johnny Marquez used pepper spray against Individuals.	
C. An officer	Force: An officer used pepper spray against § 87(2)(b)	
D. An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b)	
E. An officer	Force: An officer used pepper spray against § 87(2)(b)	
F. An officer	Force: An officer used pepper spray against § 87(2)(b)	
G. An officer	Force: An officer used physical force against § 87(2)(b)	
H. An officer	Force: An officer used pepper spray against § 87(2)(b)	
I. An officer	Force: An officer used physical force against § 87(2)(b)	

Case Summary

On September 28th, 2020, the CCRB received log 2020-21679 from the Internal Affairs Bureau Command Center, which contained the following complaint on behalf of § 87(2)(b) [BR 1].

On the night of May 30th, 2020, § 87(2)(b) and his friend § 87(2)(b) were participating in a George Floyd/Black Lives Matter demonstration at the intersection of Bedford and Church Avenues in Brooklyn. At about 10 p.m., § 87(2)(b) and over one hundred other protesters had a stand off with about fifty police officers that were arranged in a line across the east side of the intersection. One of the officers in this line, Police Officer Johnny Marquez of the 70th Precinct, pepper sprayed approximately two subjects that were encroaching on the police line [Allegation A: Force – Pepper Spray, § 87(2)(g)]. PO Marquez then indiscriminately sprayed multiple other subjects [Allegation B: Force – Pepper Spray, § 87(2)(g)]. Another unidentified officer pepper sprayed § 87(2)(b) [Allegation C: Force – Pepper Spray, § 87(2)(g)] and stated “get the fuck out of here” [Allegation D: Discourtesy – Word, § 87(2)(g)]. Protesters, including § 87(2)(b) subsequently moved east along Church Avenue, away from the intersection. Multiple officers followed the protesters. Two of these officers pepper sprayed § 87(2)(b) [Allegation E: Force – Pepper Spray, § 87(2)(g)], [Allegation F: Force – Pepper Spray, § 87(2)(g)]. Shortly afterwards, an officer shoved § 87(2)(b) to the sidewalk [Allegation G: Force – Physical Force, § 87(2)(g)]. § 87(2)(b) was pepper sprayed again as he lay on the ground [Allegation H: Force – Pepper Spray, § 87(2)(g)]. Shortly afterward, an officer handcuffed § 87(2)(b). Another officer then allegedly punched or kned § 87(2)(b) in the side of his rib cage, causing him to fall back to the sidewalk [Allegation I: Force – Physical Force, § 87(2)(g)]. § 87(2)(b) was ultimately taken to One Police Plaza and issued a summons in lieu of arrest; there is no record of this summons.

The investigation received 17 body-worn camera videos for this case [BR 2]. Additionally, two body-worn camera videos received for case 202003782 are relevant to this investigation and are cited as evidence below [BR 3-4].

Findings and Recommendations

Allegation A: Force: Police Officer Johnny Marquez used pepper spray against individuals

Allegation B: Force: Police Officer Johnny Marquez used pepper spray against individuals

Allegation C: Force: An officer pepper sprayed § 87(2)(b)

Allegation D: Discourtesy: An officer spoke discourteously to § 87(2)(b)

In his CCRB interview [BR 5], § 87(2)(b) stated that he and his friend § 87(2)(b) walked to the intersection of Bedford and Church Avenues in Brooklyn minutes before 10 p.m. on May 30th, 2020. There were hundreds of protesters surrounding the intersection, as seen between 00:00 and 03:00 in a cell phone video that § 87(2)(b) recorded [BR 6]. Police lines, each comprised of between 25 – 50 officers, were formed across each crosswalk within the intersection, while other members of service remained within the center of the intersection. Some protesters continually threw bottles, bricks and other objects at the officers. This is seen, for example, between 03:30 and 04:30 in one of PO Marquez’s body-worn camera videos [BR 7] and between 02:05 and 03:05 in another of PO Marquez’s body-worn camera videos [BR 3]. At about 02:08 in the latter video, PO Marquez appears to be rendering aid to an officer who has been struck in the head. Beginning at about 04:32 in § 87(2)(b)’s video, officers are seen apprehending at least one protester who may have breached police lines. At 05:02, a Lieutenant or Captain is seen ordering a line of officers formed on the east side of the intersection to push protesters back, away from the intersection. Officers then begin to order protesters away from the intersection.

Approximately two protesters became involved in an altercation with about three of these officers. This is seen in PO Marquez's body-worn camera footage [BR 4] beginning at 01:05 (and at 05:29 in § 87(2)(b)'s footage). At 01:20, PO Marquez is seen pepper spraying these protesters. This is also captured between 00:55 and 1:05 in a video posted to the § 87(2)(b) channel on § 87(2)(b) [BR 8]. PO Marquez continues to deploy his pepper spray for about two seconds, firing indiscriminately at multiple protesters. When the protesters begin to disperse, he stops firing his pepper spray, and states "that's it," apparently to fellow officers.

PO Marquez stated during his CCRB interview [BR 9] that the protesters standing off with the eastern police line, of which he was a part, were persistently violent. Some threw bottles and bricks at officers in the line. Many protesters shoved officers or tried to breach the police line. This caused PO Marquez to fear for his safety and life, and the safety of other MOS. § 87(2)(g)

PO Marquez stated that he and other officers in the line attempted repeatedly to make protesters move back from the intersection and onto the sidewalks, but they refused. He explained that pepper spray was the only means he had to disperse the crowd, because they did not comply with verbal commands. PO Marquez used his pepper spray against a group of protesters that were encroaching closely on officers in the police line. He believed these protesters posed an immediate threat to his safety and that of his fellow officers.

Multiple officers in the police line across Church Street besides PO Marquez used pepper spray against protesters, at roughly the same time that PO Marquez deployed his pepper spray. Between 5:40 and 5:50 in § 87(2)(b)'s cell phone video, an officer suddenly comes into view and pepper sprays § 87(2)(b). At the same time, he is apparently heard stating "get the fuck out of here." The CCRB made multiple, unsuccessful attempts to contact § 87(2)(b) regarding the incident. On October 30th, 2020, § 87(2)(b) sent an e-mail to the undersigned stating that § 87(2)(b) informed me recently that he explicitly does not want to be contacted about this matter as he does not want to discuss or recall the event, so please do not contact him" [BR 12].

NYS VTL § 1156 provides that where sidewalks are provided and they may be used with safety it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway. New York State CLS Vehicle and Traffic Law § 1156 [BR 13].

NYS Penal § 240.10 provides that a person is guilty of unlawful assembly when he assembles with four or more other persons for the purpose of engaging or preparing to engage with them in tumultuous and violent conduct likely to cause public alarm, or when, being present at an assembly which either has or develops such purpose, he remains there with intent to advance that purpose. New York State CLS Penal § 240.10 [BR 14].

NYPD PG 221.01 states that members of service may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In all circumstances, any application or use of force must be reasonable under the circumstances. When appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance to reduce or eliminate the necessity to use force. In situations in which this is not safe and/or appropriate, MOS will use only the reasonable force necessary to gain control or custody of subject(s). NYPD Patrol Guide § 221.01 [BR 15].

NYPD PG 221.07 states that O.C. pepper spray may be used to gain or maintain control of persons who are actively resisting arrest or lawful custody or exhibiting active aggression, or to prevent individuals from physically injuring themselves, members of the service, or other person. O.C. pepper sprays may be used in arrest or custodial restraint situations where physical presence and/or verbal commands have not been, or would not be, effective in overcoming physical resistance. O.C. pepper spray shall not be used in situations that do not require the use of physical force. Officers must avoid discharging O.C. pepper spray indiscriminately over a large area for disorder control. (The only exception is for members that have been trained in the use of pepper spray for disorder control, and who have been directed by a supervisor to deploy their pepper

spray.) NYPD Patrol Guide § 221.07 [BR 16].

§ 87(2)(b), § 87(2)(g)

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

- Allegation E: Force: An officer used pepper spray against** § 87(2)(b)
- Allegation F: Force: An officer used pepper spray against** § 87(2)(b)
- Allegation G: Force: An officer used physical force against** § 87(2)(b)
- Allegation H: Force: An officer used pepper spray against** § 87(2)(b)
- Allegation I: Force: An officer used physical force against** § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) stated that after officers had used pepper spray to disperse protesters at the intersection of Bedford and Church avenues, he continued to walk east along Church Avenue. Many officers ran after him and other protesters, and deployed pepper spray at random. At least two officers pepper sprayed § 87(2)(b) in his face. § 87(2)(b) was not able to specify where exactly along Church Avenue this occurred. § 87(2)(b) described one of the two officers as an apparently Hispanic sergeant, and provided the name “Sgt. Valdez.” He described the other officer as a white male with dark hair, high cheekbones, and a trim build. However, § 87(2)(b) explained that he might have had these two officers in mind only because they are seen in § 87(2)(b) s cell phone video, which § 87(2)(b) had recently watched at the time of his interview. § 87(2)(b) s video captures Sergeant John Velez of the 70th Precinct giving orders to “move back” and identifying himself between 05:10 and 05:20. A white male officer with dark hair and high cheekbones is captured at 04:45 in § 87(2)(b) s cellphone video. Because the quality of § 87(2)(b) s video is poor, it is not possible to discern the officer’s shield number or precinct lapel plate from the video, and there are no other indications of his identity.

After § 87(2)(b) was pepper sprayed, he walked to the sidewalk. Shortly afterward, he was pushed to the ground by an officer. He was not able to provide any description of the officer that pushed him. § 87(2)(b) was pepper sprayed again while he lay on the ground, but he was not able to provide a description of the officer(s) that pepper sprayed him. After some time, an officer

handcuffed § 87(2)(b) could not describe this officer. While he stood near the sidewalk, handcuffed, an officer – whom § 87(2)(b) was not able to describe -- punched or kned § 87(2)(b) in his ribcage, causing him to fall to the ground for a second time.

Body-worn camera and other footage received

The CCRB received 17 body-worn camera videos for this case [BR 2]. According to the associated receipt, a search was conducted for BWC footage recorded near the intersection of Bedford and Church avenues between 6 p.m. and 11:59 p.m. on May 30th, 2020. None of the videos capture § 87(2)(b) or the incident, as he described it. One of PO Marquez's body-worn camera videos [BR 4] captures protesters retreating from the east side of the intersection of Bedford and Church avenues, as § 87(2)(b) described, and officers running in the direction of the protesters shortly afterward. According to the clock internal to PO Marquez's body-worn camera video, these events occurred between 10:04 p.m. and 10:05 p.m. However, PO Marquez's video does not capture any officers pepper spraying or using force against any civilians. PO Marquez did not travel more than fifty feet away from the intersection of Bedford and Church in the course of recording this video. The § 87(2)(b) video cited above [BR 8] captures the same events seen in PO Marquez's video, from a different angle. The recorder of this video also remained within close proximity of the intersection while capturing the footage.

The undersigned reviewed all other footage possessed by the CCRB recorded near the time and place of occurrence. This footage included all relevant BWC and TARU footage received by the CCRB, including ten BWC videos received for case 202003841, eight BWC videos received for case 202004474, TARU fixed-camera footage received for case 202004474, and TARU handheld footage received for case 202003799. None of the videos received for these cases capture § 87(2)(b) or the incident.

NYPD documents reviewed

The CCRB is in possession of five criminal complaints (UF-61s) [BR 17] related to arrests at or near the intersection of Bedford and Church avenues on the night of May 30th. One of these UF-61s regards § 87(2)(b)'s arrest, and provides the name of a deponent (an officer that testified to the allegations in the complaint), Police Officer Jay Huang of the 70th Precinct. The CCRB interviewed PO Jay Huang (see below for more information). No other UF-61s were relevant to the investigation. The CCRB requested the summons issued to § 87(2)(b) which yielded negative results [BR 18]. § 87(2)(b) no longer had a copy of the summons he was issued at the time of his CCRB interview. The undersigned e-mailed § 87(2)(b), a clerk for the Criminal Court of New York City, requesting the status of § 87(2)(b)'s summons or related criminal action; § 87(2)(b) never responded. As well, no officer audited § 87(2)(b)'s name for warrants on the date of the incident, according to Sgt. Salvatore Desiano from IAB [BR 26].

The Patrol Borough Brooklyn South Detail roster [BR 19] shows that 24 officers from the 67th and 70th Precincts were assigned to protest details. However, the detail rosters do not provide the location of the details or the officers' final ends-of-tour. Furthermore, footage reviewed for this case shows that at least one hundred members of service were on-scene, and that these members were assigned to multiple commands besides the 67th and 70th Precincts.

Concurrent Investigations

On January 14th, 2021, Sgt. Desiano confirmed that there are no concurrent investigations of this incident [BR 20].

Ranking Officer

Chief of Department Terrence Monahan was the ranking officer on-scene. He was interviewed for cases 202005916, 202004408, 202003841 on March 8th, 2021 [BR 21]. Chief Monahan stated that at various times he ordered subordinate officers to enter crowds of protesters to arrest those throwing objects at police. He would then order the officers to “pull back out” of the crowd. He observed lines of police officers in the vicinity of the Shell gas station, on the east side of the intersection of Bedford and Tilden. Chief Monahan denied that he issued any instructions to these officers. He did not know which supervisors were overseeing these officers, and was not aware of any instructions issued to these officers. Chief Monahan denied that he saw any officers use batons to shove protesters or deploy their pepper spray over the course of the incident.

Chief Monahan was involved in only one arrest over the course of the demonstration at Bedford and Church Avenues. He could not describe the civilian that was arrested or identify any other members of service involved in the arrest. Chief Monahan described this arrest as occurring around 11:30 p.m., about one and a half hours after the time of the incident in this case.

Officers Interviewed

The CCRB interviewed Sgt. John Velez, PO Jay Huang, and PO Johnny Marquez for this case. In his CCRB interview, Sgt. Velez denied that he had used his pepper spray over the course of the night, and stated that he did not see any officers using pepper spray against protesters. He stated that he had no knowledge of the incident as described by § 87(2)(b) PO Huang and PO Marquez denied any awareness of events that occurred to the east of the intersection of Bedford and Church avenues, including any arrests made or force used. Without any additional NYPD documentation or video, no other officers were identified who could be interviewed.

Allegation Recitation and Disposition

§ 87(2)(b) alleged that on the night of May 30th, 2020, at around 10 p.m., he was pepper sprayed by two officers [Allegations D and E] and, shortly afterward, was pushed to the ground [Allegation F]. He was pepper sprayed for a second time [Allegation G], as he lay on the ground, and was then arrested. An officer then punched or kned § 87(2)(b) while he was handcuffed [Allegation H]. § 87(2)(b), § 87(2)(g)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rolando Vasquez	Team: Squad #13	CCRB Case #: 202006846	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 9:50 PM	Location of Incident: Flatbush Avenue and Pacific Street	Precinct: 78	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 10/13/2020 2:26 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Tue, 10/13/2020 2:26 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Andrew Brendel	22957	968289	030 PCT
2. An officer			
3. CPT Joseph Taylor	00000	924542	SRG 3
4. COD Terence Monahan	00000	876747	CD OFF
5. Officers			

Officer(s)	Allegation	Investigator Recommendation
A. COD Terence Monahan	Force: Chief Terence Monahan authorized the use of force against individuals.	
B. Officers	Force: Officers struck individuals with batons.	
C. An officer	Force: An officer struck § 87(2)(b) with a baton.	
D. POM Andrew Brendel	Force: Police Officer Andrew Brendel used physical force against an individual.	
E. POM Andrew Brendel	Untruthful Stmt.: Police Officer Andrew Brendel provided a false official statement to the CCRB.	
§ 87(4-b), § 87(2)(g)		
§ 87(4-b), § 87(2)(g)		

Case Summary

On October 13, 2020, § 87(2)(b) filed this complaint via the CCRB's website on behalf of himself and unidentified individuals.

On May 29, 2020, at approximately 9:50 p.m., § 87(2)(b) was at Flatbush Avenue and Pacific Street in Brooklyn, near the Barclays Center, attending a Black Lives Matter protest. § 87(2)(b) stood on the sidewalk amongst a group of about 50 protesters. Unidentified protesters threw bottles, food, and other objects at officers, which resulted in their arrests. Chief Terence Monahan, of the Office of the Chief of Department, authorized the use of force against individuals, which resulted in unidentified officers pushing unidentified protesters with their batons (**Allegation A: Force:** § 87(2)(g)) (**Allegation B: Force:** § 87(2)(g)). An officer pushed § 87(2)(b) in his back with a baton (**Allegation C: Force:** § 87(2)(g)). PO Andrew Brendel, of the 30th Precinct, pushed § 87(2)(b) (**Allegation D: Force:** § 87(2)(g)). The investigation determined that PO Brendel made a false official statement to the CCRB (**Allegation E: False Official Statement,** § 87(2)(g)). § 87(4-b), § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(b) was arrested and charged with § 87(2)(b), § 87(2)(a) 160.50. As of March 24, 2021, the Office of Court Administration (OCA) has no record of the disposition of his arrest (**Board Review 14**).

Body worn camera (“BWC”) video was received from the NYPD. The footage is attached to IAs #21-22 and IA#42-46 (**Board Review 15-21**) and is summarized in IA#25 (**Board Review 22**).

Allegation (B) Force: Officers struck individuals with batons.

Allegation (C) Force: An officer struck § 87(2)(b) with a baton.

Known facts and general descriptions

§ 87(2)(b) testified that he arrived at the protest by himself and was standing on the sidewalk amongst the protesters for about half an hour. During this time, some protesters threw plastic bottles and food at officers. § 87(2)(b) denied that he threw any objects at officers or said anything to any of the officers. Suddenly, a group of 10-20 officers started to yell, “Move back” (**Board Review 01**). Some protesters argued with the officers and shouted at them that they had the right to be there and protest. § 87(2)(b) said these were uniformed officers who were wearing helmets, but he could not provide any additional descriptions for them. The officers held their batons in front of them and pushed protesters who were on the sidewalk in front of § 87(2)(b) § 87(2)(b) and other protesters started moving away from the officers. However, due to the size of the crowd, there were protesters behind § 87(2)(b) blocking § 87(2)(b) from continuing onward. An officer, only described by § 87(2)(b) as a man dressed in a dark colored uniform, pushed § 87(2)(b) in the back with a hard object which § 87(2)(b) believed was a baton. A protester who was standing on the sidewalk beside § 87(2)(b) who § 87(2)(b) could only describe as a white woman, lost her balance and fell down. § 87(2)(b) helped her up while remaining on the sidewalk. An officer, identified by the investigation as Captain Joseph Taylor of SRG, grabbed § 87(2)(b) by the arm, escorted him toward the street, and ordered Police Officer Andrew Brendel of the 30th Precinct to place him under arrest. § 87(2)(b) did not know if any of the other protesters who had been pushed were arrested.

BWC

A request to the NYPD Legal Bureau containing the date, time, and location of the incident, as well as information related to § 87(2)(b)'s arrest, returned two videos from PO Brendel, § 87(2)(b)'s arresting officer. The search criteria listed by the NYPD included the time, date, location, 78th

Precinct, 30th Precinct (PO Brendel's command), SRG, and Emergency Service Unit ("ESU"). A second request was submitted which listed Captain Taylor, as well as the officers from his command based on the SRG roll call. This request returned five videos. Three of the videos capture officers involved in an unrelate incident at a location several blocks away from Flatbush Avenue and Pacific Street. Two of the videos were duplicates of PO Brendel's BWC videos, which were received in the first request. No videos were received for Captain Taylor.

PO Brendel's BWC video shows that he was posted in the street on Flatbush Avenue near Pacific Street (**Board Review 15**), and it depicts a group of protesters standing on the sidewalk in front of PO Brendel. At the 18:00 minute mark on the media player timestamp (visible at the bottom of the screen), a crowd of protesters are visible standing near the corner at Flatbush Avenue and Pacific Street, down the street from where PO Brendel is standing. At 18:13, a water bottle hits an officer standing next to PO Brendel. Starting at 21:15, a group of protesters who had been standing in front of PO Brendel on the sidewalk, suddenly run to the right, away from Flatbush Avenue and Pacific Street. From the left side of the video, other protesters emerge and run in the same direction. At 21:43, § 87(2)(b) (wearing a bicycle helmet, white face mask, and green shirt) enters the video from the left side of the frame alongside other protesters. An officer wearing a riot helmet appears to push § 87(2)(b) in the back; the video is unclear as to whether the officer is holding a baton. The numbers on the officer's helmet cannot be read in the video. The protesters continue walking to the right, followed by officers moving in the same direction. At 22:12, Captain Taylor (wearing a uniform with a white shirt) and an unidentified officer walk with § 87(2)(b) toward PO Brendel, who has not moved from his position in the street. Captain Taylor instructs PO Brendel that § 87(2)(b) is being charged with unlawful assembly.

Captain Taylor testified that he did not activate his BWC because events unfolded quickly § 87(2)(b) (Board Review 09).

NYPD Documents Reviewed

A request to the IAB-CCRB Liaison's Unit returned no Threat, Resistance, and Injury (TRI) Report related to § 87(2)(b) (Board Review 02).

The 78th Precinct Arrest Index for May 29, 2020 was accessed via the NYPD's Booking and Arraignment Disposition System (BADS). The arrest index did not reveal any other arrests which occurred at the same time and location as § 87(2)(b)'s arrest (**Board Review 03**). A "Mass Arrest Report" was received which lists arrests and summonses made in connection with the Black Lives Matter protests which were processed at the Mass Arrest Processing Center in Manhattan (**Board Review 04**). This document did not reveal any arrests made at the same time and location as § 87(2)(b)'s arrest. Most of the entries on this document, which note arrests and summonses in the vicinity of the Barclays Center, note the arrest location as "Barclays Center" without any additional information about the specific location of the arrest.

A request to Patrol Borough Brooklyn South (which encompasses the 78th Precinct), returned a 23-page Detail Roster listing officers from commands all around the City who were assigned to the protest at the Barclays Center (**Board Review 05**). The roster notes specific locations in front of the Barclays Center and at various adjacent streets, but it does not note which officers were posted at the specific incident location involved in this complaint.

The 78th Precinct Event Summary revealed two events for incidents at the location involved in this complaint (**Board Review 06**). The event documents for these two incidents occurred at approximately 8:50 p.m., an hour before § 87(2)(b)'s arrest. The first reported an injured officer and the second reported a female civilian who was suffering from seizures (**Board Review 07**).

Concurrent Investigations

No concurrent investigations were pursued related to this complaint.

Ranking Officers

Chief Terence Monahan, the Chief of Patrol, testified that he arrived at the Barclays Center at about 4:00 p.m., where about 500-1000 protesters had gathered (**Board Review 08**). At about 6:00 p.m. or 6:30 p.m., Chief Monahan deemed the assembly to be unlawful because the protesters had become violent. Protesters had thrown bottles containing unknown liquids, bolts and screws, and other objects at officers. They also set fires and set off fireworks. A recorded dispersal message and verbal commands to disperse were repeated to protesters beginning at 6:30 p.m. Anyone who remained after these warnings were given was subject to arrest for unlawful assembly because the gathering had become a danger to the safety of the public and officers. Chief Monahan issued instructions to SRG, he did not remember specifically to whom, to clear the pavilion in front of the Barclays Center and the adjacent streets.

Chief Monahan remained in the vicinity of the Barclays Center until about 11:00 p.m. At about 9:50 p.m., Chief Monahan issued instructions to SRG, he did not remember specifically to whom, to “clear the block” at Flatbush Avenue and Pacific Street. Chief Monahan gave this instruction because protesters were persisting in throwing objects at officers. SRG is trained in disorder control and in the use of various tactics for crowd control, including the use of physical force, as appropriate, and making arrests. He expected SRG to utilize their discretion in determining which of the tactics to use to disperse the crowd. Some protesters refused to move and pushed officers after being told to leave, which resulted in several arrests. Most protesters complied and left the area. Chief Monahan did not recall if any officers pushed any protesters with batons. He denied using force against any protesters himself and denied giving any additional instructions to any officers specifically regarding the use of force, including batons, against protesters. He did not know which officers were posted at the location at the time of this incident and could not identify any of the officers visible in PO Brendel’s BWC video.

Captain Joseph Taylor of SRG testified that he was at the intersection of Flatbush Avenue and Pacific Street due to the presence of a large crowd. Captain Taylor did not remember what the crowd was doing or if protesters in the crowd were throwing objects at officers. Protesters in the crowd were standing in the street on Pacific Street and on the sidewalk. A commotion broke out amongst protesters in the crowd, though Captain Taylor did not remember specifically what transpired. Unidentified officers began ordering the crowd to disperse. Captain Taylor did not remember if he issued any instructions to officers, or if an order to disperse the crowd came from someone else. Captain Taylor denied pushing anyone with a baton and clarified that he was not equipped with one. Captain Taylor did not remember if he pushed any protesters.

Captain Taylor said Chief Monahan was on scene at the Barclays Center, but he did not remember seeing or receiving instructions from Chief Monahan during this incident. Captain Taylor did not know which officers were at the location alongside him and could not identify any of the officers captured in PO Brendel’s BWC video. Most if not all of the officers working under Captain Taylor were no longer present at the time of this incident because they had made arrests earlier in the evening. The officers at the location were a mix of unidentified SRG and patrol officers.

Officers Interviewed

PO Brendel of the 30th Precinct, § 87(2)(b) s arresting officer, testified that he was posted in the street during a protest detail (**Board Review 10**). PO Brendel did not remember what circumstances, if

any, caused officers to be posted at Flatbush Avenue and Pacific Street. PO Brendel received instructions from a supervisor, he did not remember who, to ensure that protesters remained on the sidewalk and did not go into the street. When PO Brendel and the officers posted near him encountered protesters in the street, verbal commands were given to them to move onto the sidewalk. The protesters were compliant and moved onto the sidewalk. PO Brendel did not receive any directions regarding the use of force or batons against protesters. While standing at his post, a crowd of protesters started moving from one side of the block to the other on the sidewalk in front of him. PO Brendel did not know what caused the crowd to move. When the protesters started moving, PO Brendel stepped toward the curb to ensure protesters did not enter the street. PO Brendel denied pushing any protester with his baton and denied seeing any officer do so. A supervisor who PO Brendel did not know, identified by the investigation as Captain Taylor, approached PO Brendel with § 87(2)(b) and instructed him to place § 87(2)(b) under arrest for unlawful assembly. The first time PO Brendel saw § 87(2)(b) was when Captain Taylor walked over with him. PO Brendel did not see anything § 87(2)(b) did before this point in time. PO Brendel did not know which officers were posted in the area with him because they were not from his command.

Allegation Recitation and Disposition

The available BWC video did not assist in identifying the subject officers of these allegations. The received NYPD documents did not aid in identifying any other victims of this case. Similarly, no records were identified which documented any use of force against § 87(2)(b). The Detail Roster did not reveal which officers were posted at the incident location, and the identified officers who were interviewed denied participating in or witnessing any of the allegations and they did not know which other officers were posted at the location. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

Allegation (D) Force: Police Officer Andrew Brendel used physical force against

§ 87(2)(b)

Approximately 90 seconds before § 87(2)(b) and the crowd of protesters are captured in PO Brendel's BWC footage coming from off screen on the left and walking to the right of the screen (as described above), PO Brendel was positioned in the same spot. In PO Brendel's BWC video, at the 20:00 minute mark of the media player timestamp (visible at the bottom of the screen), PO Brendel is seen standing in the street while protesters stand on the sidewalk in front of him (**Board Review 15**). At 20:20, a man wearing a tan baseball cap and a black t-shirt with a panda logo on it appears to be recording the officer next to PO Brendel with his cell phone and says something inaudible. The man takes a step forward while still recording and a protester behind him pulls him back onto the sidewalk and tells him to step back. At 20:50, the man points his arm to the left of the screen and says something inaudible to an officer to the left of PO Brendel. At 21:15, the protesters next to and behind the man start running to the right. The man turns his head to the left to see what is happening, and then takes a few steps forward into the street. At 21:17, PO Brendel, who is holding his baton in his hand, steps forward and pushes the man, who was originally facing PO Brendel, with his forearm on the man's right shoulder. The man's body turns to the left and he disappears from view for a few seconds. No verbal commands are given to the man before this occurs. At 21:28, the man appears on camera again. He puts his hand up, says he is press, and tells PO Brendel that he is going to kneel down. The man appears to record the crowd that contains § 87(2)(b) and is described above with his cell phone until an unidentified officer tells him to get up and move, which he does.

As discussed above, PO Brendel testified that he was posted at the location and received instructions from an unknown supervisor to keep protesters out of the street. PO Brendel and other officers gave verbal commands to protesters to remain on the sidewalk. When the crowd began

running across the sidewalk in front of him, PO Brendel stepped toward the sidewalk and put his hands and baton up in front of him to prevent protesters from entering the street. After reviewing his BWC video during his CCRB interview, PO Brendel did not remember making physical contact with the man wearing the panda shirt but denied pushing the man. PO Brendel did not remember the actions of the man wearing the panda t-shirt after the crowd started running on the sidewalk, but believed the man may have run into him after PO Brendel put his hands up.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide, Procedure 221-01 (**Board Review 26**).

The video evidence shows that the man wearing the panda t-shirt was speaking to other protesters and recording officers. Immediately after he heard a sudden commotion and saw a large crowd of protesters and officers nearing his location, the man took a few steps forward into the street, which the investigation deemed consistent with an attempt to get out of the way of the fast-approaching crowd. § 87(2)(g)

[REDACTED]

Allegation (E) Untruthful Statement: Police Officer Andrew Brendel provided a false official statement to the CCRB.

As noted in the previous section, after reviewing his BWC video during his CCRB interview, PO Brendel did not remember making physical contact with the man wearing the panda shirt but denied pushing the man. PO Brendel did not remember the actions of the man wearing the panda t-shirt after the crowd started running on the sidewalk, but believed the man may have run into him after PO Brendel put his hands up.

Officers are prohibited from making false official statements, and will be subject to disciplinary action, up to and including dismissal. Intentionally making a false official statement regarding a material matter will result in dismissal from the Department, absent exceptional circumstances. NYPD Patrol Guide, Procedure 203-08 (**Board Review 27**).

§ 87(2)(g)

[REDACTED]

Allegation (A) Force: Chief Terence Monahan authorized the use of force against individuals.

As discussed above, Chief Monahan testified he gave an order to officers to “clear the block” because individual protesters from the group had become violent and were throwing objects at officers. Chief Monahan expected the SRG officers to use their discretion in deciding which of the

crowd control tactics they were trained to use, to use to clear the block, and these tactics ranged from making arrests to using force against people who refused to disperse. Chief Monahan witnessed unidentified officers give verbal orders to protesters to disperse. He did not recall seeing any officer push any protester, he did not recall seeing any officer use a baton to push any protester, and he denied that he took either of these actions himself.

The available BWC footage shows an officer push § 87(2)(b) as described above, but it does not capture the events leading up to the crowd being dispersed because PO Brendel was standing down the block from where the incident started. As discussed above, PO Brendel’s BWC video also show that he pushed the man wearing the panda t-shirt. Neither Captain Taylor nor PO Brendel recalled if officers pushed protesters and both denied doing so themselves.

Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances. NYPD Patrol Guide Procedure 221-01 (Board Review 26).

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

§ 87(2)(g)
[Redacted]

§ 87(4-b), § 87(2)(g)
[Redacted]

[Redacted]

[Redacted]

§ 87(4-b), § 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 12**).
- Chief Monahan has been a member of the service for 39 years and has been a subject in four prior CCRB complaints involving five allegations, none of which were substantiated. § 87(2)(g) . As of the date of this report, Chief Monahan is listed as a subject in 11 open CCRB complaints involving incidents related to the Black Lives Matter protests.
- Captain Taylor has been a member of the service for 21 years, has been a subject in one prior CCRB complaint involving two allegations, neither of which was substantiated. § 87(2)(g)
- PO Brendel has been a member of the service for one year and this is the first CCRB complaint to which he has been named as a subject.

Mediation, Civil and Criminal Histories

- This complaint was not suitable for mediation.
- As of March 31, 2021, the NYC Office of the Comptroller had no record of a Notice of Claim being filed regarding this incident (**Board Review 24**).
- According to the OCA, as of March 24, 2021, § 87(2)(b) has no history of criminal convictions in New York City (**Board Review 13**).

Squad No.: 13

Investigator: _____ SI Rolando Vasquez _____ 06/25/21
Signature Print Title & Name Date

Squad Leader: _____ IM Laura Kastner _____ 06/25/2021
Signature Print Title & Name Date

Reviewer: _____ _____ _____
Signature Print Title & Name Date

Officer(s)	Allegation	Investigator Recommendation
L.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
M.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of § 87(2)(b)	[REDACTED]
N.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
O.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of § 87(2)(b)	[REDACTED]
P.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
Q.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of § 87(2)(b)	[REDACTED]
R.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
S.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of § 87(2)(b)	[REDACTED]
T.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
U.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of individuals.	[REDACTED]
V.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of individuals.	[REDACTED]
W.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of § 87(2)(b)	[REDACTED]
X.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
Y.COD Terence Monahan	Abuse: Chief of Department Terence Monahan participated in the detention of § 87(2)(b)	[REDACTED]
Z.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr participated in the detention of § 87(2)(b)	[REDACTED]
2A.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against individuals.	[REDACTED]
2B.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against individuals	[REDACTED]
2C.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2D.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2E.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2F.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2G.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2H.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2I.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2J.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
2K.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2L.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2M.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2N.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2O.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2P.AC Kenneth Lehr	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2Q.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2R.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2S.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2T.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2U.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2V.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2W.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
2X.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
2Y.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)	[REDACTED]
3Z.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)	[REDACTED]
3A.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use pepper spray against individuals.	[REDACTED]
3B.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against individuals.	[REDACTED]
3C.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)	[REDACTED]
3D.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)	[REDACTED]
3E.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)	[REDACTED]
3F.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)	[REDACTED]
3G.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike individuals.	[REDACTED]
3H.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike individuals.	[REDACTED]
3I.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)	[REDACTED]

Officer(s)	Allegation	Investigator Recommendation
3J.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)	[REDACTED]
3K.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)	[REDACTED]
3L.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)	[REDACTED]
3M.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)	[REDACTED]
3N.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)	[REDACTED]
3O.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b) § 87(2)(b)	[REDACTED]
3P.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b) § 87(2)(b)	[REDACTED]
3Q.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in hitting individuals with bicycles.	[REDACTED]
3R.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in hitting individuals with bicycles.	[REDACTED]
3S.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in hitting § 87(2)(b) with a bicycle.	[REDACTED]
3T.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in hitting § 87(2)(b) with a bicycle.	[REDACTED]
3U.COD Terence Monahan	Force: Chief of Department Terence Monahan participated in the striking of individuals with police shields.	[REDACTED]
3V.AC Kenneth Lehr	Force: Assistant Chief Kenneth Lehr participated in the striking of individuals with police shields.	[REDACTED]
3W.COD Terence Monahan	Abuse: Chief of Department Terence Monahan threatened to arrest individuals.	[REDACTED]
3X.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr threatened to arrest individuals.	[REDACTED]
3Y.COD Terence Monahan	Abuse: Chief of Department Terence Monahan did not obtain medical treatment for individuals.	[REDACTED]
4Z.AC Kenneth Lehr	Abuse: Assistant Chief Kenneth Lehr did not obtain medical treatment for individuals.	[REDACTED]

Case Summary

On June 4, 2020, at approximately 7:30 p.m., in the vicinity of 136th Street and Brook Avenue in the Bronx, Chief of Department Terrence Monahan and Assistant Chief of Department Kenneth Lehr of Patrol Borough Bronx, oversaw the police response to a police brutality protest organized by § 87(2)(b) (hereafter referred to as § 87(2) and § 87(2)(b))

The following individuals, along with hundreds of other people, attended this protest: § 87(2)(b)

§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

This case was sourced using complainants from 15 CCRB cases investigating specific and individual instances stemming from § 87(2) (**36 Board Review**).

As the protestors marched down 136th Street, a line of police officers was established at Brook Avenue, effectively preventing the protestors from moving forward onto Willis Avenue. Immediately before 8:00 p.m., Assistant AC Lehr ordered the arrest of protestors after consulting with Sergeant Kenneth Rice of NYPD Legal. As a result of Assistant AC Lehr's order, over 300 individuals were arrested during this protest, mostly for violating the 8:00 p.m. curfew.

This complaint resulted in the investigation of 26 allegations of detainment (**Allegations A-Z**), 26 allegations in the participation of force against the individuals listed above (**Allegations AA-AZ**), 6 allegations in the participation of the use of pepper spray (**Allegations BA-BF**), 10 allegations in the participation of using blunt instruments to strike individuals (**Allegations BG-BP**), 4 allegations in the participation of striking individuals with bicycles (**Allegations BQ-BT**), 2 allegations in the participation of striking individuals with police shields (**Allegations BU-BV**), 2 allegations of threat of arrest (**Allegations BW-BX**), and 2 allegations of refusals to obtain medical treatment (**Allegations BY-BZ**).

This case was marked as sensitive due to media coverage (**01 Board Review-07 Board Review, 09 Board Review**).

Background

During his CCRB interview, Chief Monahan (**28 Board Review**) stated that he has been a member of the NYPD since January 1982. He was promoted to Captain in 1992 and was promoted to Chief of Department in 2018. Chief Monahan has previously reported to multiple large-scale protests, including the 1991 Crown Heights Riots, 1992 Washington Heights Riots, 2004 Republican National Convention (RNC), World Economic Forum Protests, and large events including the World Series. In the five years prior to the Summer 2020 Black Lives Matter protests, Chief Monahan had not been trained by the NYPD regarding large-scale crowd control or how to respond to large-scale protests. Chief Monahan has never served in a command that specialized in crowd control, such as the Strategic Response Group (SRG) or Critical Response Command (CRC). In 2004, Chief Monahan participated in a specialized crowd-control training for NYPD supervisors. That 2004 training was the most recent training Chief Monahan received regarding crowd control.

The investigation noted that on March 11, 2020, the World Health Organization declared Covid-19

a pandemic (**19 Board Review**). On March 22, 2020, the New York State On Pause program began, which mandated all nonessential workers to stay home (**20 Board Review**).

Over the course of the spring of 2020, there were several high-profile killings of Black people that sparked outrage and resulted in protests. These incidents included the release of a video on May 5, 2020, showing the murder of Ahmaud Arbery by white vigilantes, and the killing of Breonna Taylor by Louisville, Kentucky police officers on May 13, 2020. On May 25, 2020, George Floyd was murdered by Minneapolis police officer Derek Chauvin. On May 26, 2020, Minneapolis chief, Medaria Arradondo fired the four officers involved in Mr. Floyd's death and protests began in Minneapolis (**21 Board Review**).

By May 27, 2020, protests against police brutality began around the country, including in New York City, St. Louis, Los Angeles, and Detroit. On May 29, 2020, in New York City, thousands protested outside of the Barclays Center in Brooklyn, in lower Manhattan, and on the Manhattan Bridge. More than 200 people were arrested as a result of the protests (**22 Board Review**). According to The Intercept (**18 Board Review**), shortly after midnight on May 31, 2020, New York City Emergency Management (NYCEM) began dispatching reports of looting in Lower Manhattan. The reports lasted until 5:00 AM. On June 1, 2020, former President Donald Trump threatened to deploy the United States military to cities that he described as being unable to control "violence and looting." Also on June 1, 2020, Mayor DeBlasio instituted an 8:00 PM to 5:00 AM curfew (**16 Board Review**), with the following parties exempt: "police officers, peace officers, firefighters, first responders, emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies." At approximately 10:05 PM, NYCEM again began to dispatch reports of looting across Manhattan. According to the Intercept's reporting, Bronx storeowners began to call 911 to report looting starting at 9:00 PM on June 1, 2020, but NYCEM reports do not include mention of Bronx looting until 3:20 AM. The reports in the Bronx were located in the vicinity of Burnside Avenue and Creston Avenue, Fordham Road, Crotona Avenue and East Tremont Avenue, and the Bay Plaza Mall. The reports of looting in the Bronx concluded at 4:00 AM. Between May 31, 2020, to June 3, 2020, the NYPD logged 432 burglaries in Manhattan and 186 in the Bronx.

NYPD Background/Preparation

During his CCRB interview, AC Lehr (**08 Board Review**) stated that on June 1, 2020, there was widespread looting and violence in the area of Fordham Road in the Bronx, from Webster Avenue to Jerome Avenue, which encompasses an approximately 18 block radius. The looting and violence impacted the 46th, 52nd, and 48th Precincts. Over 100 storefronts were compromised and burgled. The police department did not have advance knowledge or any intelligence that these actions were going to happen, so AC Lehr described the police department as "reacting" to the events, instead of responding proactively and more cohesively, the way they would if they had advance knowledge.

According to AC Lehr, the police departments response was further strained because the looting and violence seemed to be coordinated. AC Lehr thought that the actions were coordinated because they were happening on a large scale, and involved hundreds of people, and not a small group. The police department made approximately 138 arrests that day, and approximately 84 of the arrests were for burglary. The people arrested were mostly from the Bronx and came from 11 of the 12 precincts in the Bronx. AC Lehr did not know if any of the arrested civilians were affiliated with § 87(2) or § 87(2)(b) AC Lehr also thought that the events were coordinated because there were people on rooftops throwing "airmail" at officers trying to stop the looting and violence. "Airmail" is a police term for when people throw objects at police officers. The people throwing the

airmail seemed to have a stockpile of materials to use including trash, bricks, and other construction materials. That day, AC Lehr saw people throwing bricks and bottles. AC Lehr was hit by airmail, and his police department issued vehicle was also damaged. Lastly, AC Lehr thought that the actions were preplanned because people were taking garbage cans and using them to block traffic, which hampered the NYPD's ability to respond by car. People were lighting the litter and debris from the garbage cans on fire. That night, multiple police officers were injured by protesters. There was a highly publicized incident which involved someone purposefully hitting an NYPD sergeant with a car when the sergeant was trying to stop people from looting (**12 Board Review**). The sergeant was badly injured. The violence and looting continued throughout the night, going into the early morning hours of June 2, 2020, when the police were able to gain control of the situation. There were multiple other actions taking place across the city, including in Soho, which further hampered the NYPD's ability to respond in full. Later on in the day of June 2, 2020, Mayor Bill de Blasio enacted a citywide curfew that was to be in place from 8:00 p.m. that night until 5:00 a.m. on June 3, 2020.

On June 3, 2020, Bronx Borough President Ruben Diaz Jr., Bronx County District Attorney Darcel Clark, City Council member Vanessa Gibson, then Representative Eliot Engel, and others held a press conference to express their displeasure and decried the violence and looting of the previous night (**10 Board Review, 11 Board Review**). At some point during the day on June 3, 2020, Mayor de Blasio extended the curfew to be in place through June 7, 2020. AC Lehr thought that the curfew was at least partly in response to the actions on Fordham Road. AC Lehr did not attend the press conference, because he had been working for more than 24 hours and had to sleep, but he had been in touch with the stakeholders prior to its occurrence and was aware that it was happening.

By June 3, 2020, AC Lehr was beginning to get information from the NYPD Intelligence Bureau that § 87(2)(b) and § 87(2)(b) were planning an event for 6:30 p.m. on June 4, 2020. The event was called "§ 87(2)(b)" and was going to be held in the area of "The Hub," at 149th Street and 3rd Avenue in the Bronx. AC Lehr had previous knowledge of § 87(2)(b) and § 87(2)(b) and classified both groups as "capable of violence." In January 2020, there was an event called "§ 87(2)(b)" put on by these groups (**23 Board Review**). During § 87(2)(b) protesters vandalized train stations, trains, and subway gates and turnstiles throughout the city, and especially in Manhattan North. Several police officers were injured during § 87(2)(b). Because of this, and because of the actions that had occurred days earlier on the Fordham Road corridor, AC Lehr considered § 87(2)(b) to be a serious threat.

According to AC Lehr, the NYPD Intelligence Bureau is multilayered. There are intelligence officers, known as field intelligence officers, at the precinct level. These officers gather intelligence on the ground. There are borough-wide intelligence officers, and there are city-wide intelligence officers. This structure allows the police department to paint a picture of the entire city, so that if there are actions that impact multiple precincts or multiple boroughs, officers can make informed responses. The Intelligence Bureau released daily memos detailing protests and other actions across the city. AC Lehr also received personal emails and further documents detailing the upcoming § 87(2)(b) event. AC Lehr brought several § 87(2)(b) flyers with him to his CCRB interview, and explained that the flyers featured pictures of burning police vehicles, encouraged participants to break the citywide curfew, and encouraged white participants to learn how to "de-arrest" so that they could interfere in the NYPD's ability to arrest (**13 Board Review**).

AC Lehr's level of concern about § 87(2)(b) was raised due its location in The Hub. The Hub is the main commercial area of the South Bronx. The South Bronx is one of the poorest areas in the country, and The Hub is a vital part of the area. AC Lehr was concerned that The Hub was going to be looted the way Fordham Road was, and he was concerned about fire damage to the area. AC

Lehr wanted to protect the area because the fires in the Bronx in the 1970's were very damaging and took 40 years for the area to recover from. AC Lehr was getting phone calls from the same stakeholders such as Bronx Borough President Ruben Diaz Jr., and others who had been present at the press conference, "begging" for the police to protect the area. AC Lehr was also concerned because The Hub has streets that are dense like a "spider web" so it would be easy for protesters to clog the streets, cause damage, and prevent the police from effectively responding. § 87(2)(e)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

Between June 2, 2020, and June 3, 2020, AC Lehr spoke with § 87(2)(b), the executive director of the § 87(2)(b). The § 87(2)(b) represents the workers and businesses in The Hub. In preparation for the event, § 87(2)(b) deployed the § 87(2)(b) sanitation workers to clear garbage cans from the area, board stores up, and take in all the tables and umbrellas that are set up for patrons of stores and restaurants. During this sweep, the § 87(2)(b) sanitation workers found "stockpiles" of whole cinderblock, broken cinderblock, bricks, and bottles. § 87(2)(b) told AC Lehr that those items are not typically found in The Hub in such large quantity. § 87(2)(b) also told AC Lehr that the sanitation workers had been out before and had not found those items. AC Lehr interpreted this to mean that the organizers of § 87(2)(b) were stockpiling these items to use as "airmail," because they were items not typically found in the area, and because they were the same type of items that had previously been used as "airmail." The § 87(2)(b) sanitation workers removed all the items to a garage in the area, where they were disposed of. § 87(2)(b) also instructed storeowners not to use cardboard to protect storefronts, so that the cardboard could not be used to set fires.

On June 4, 2020, AC Lehr stated that prior to responding to The Hub, he attended a muster meeting at the 40th Precinct station house. Also present at the meeting was Chief of Department Terence Monahan, SRG Chiefs Harry Wedin and John Dadamo, Inspector Gerard Dowling from SRG, Robert Gallitelli from the 40th Pct and his Executive Officer Isaac Soberal, Transit Chief Ed Delatorre, commanding officer from PSA 7 John Potkay, SRG Bikes captain Dave Miller, Chief Jesus Pintos from PBBX, Sergeant Kenneth Rice from NYPD Legal, Inspector Robert Rios from NYPD Intelligence, and various personnel from TARU. During the meeting, there was discussion about the 8:00 p.m. curfew, and discussion about how a reminder about the curfew would be made via a Long Range Acoustic Device (LRAD), a device used in this case to loudly broadcast mass communications to crowds. There was discussion about essential workers, because of the finest message that exempted essential workers from the curfew (**16 Board Review**). AC Lehr considered essential workers to be city, state, and federal employees, medical workers, and grocery store personnel. On duty EMT's would be exempt from the curfew and would be allowed to render aid past the curfew.

During his CCRB interview, Chief Monahan (**28 Board Review**) stated that at some point on the morning of June 4, 2020, the NYPD's Intelligence (Intel) division internally distributed copies of flyers (**13 Board Review**) detailing the events planned to take place in Mott Haven that same evening. These flyers said, "Come out tonight to the Mott Haven neighborhood" with flame images and were generated by a group called "§ 87(2)(b). Chief Monahan explained that "§ 87(2)(b) meant "Fuck the Police." That same morning, Chief Monahan was supervising the NYPD response to two NYPD officers (**29 Board Review**) who had been stabbed and shot the evening on June 3, 2020—an incident that Chief Monahan described as a "terrorist attack." Chief Monahan was aware that § 87(2)(b) members had previously perpetrated numerous acts of vandalism. Chief Monahan received one of these § 87(2)(b) flyers from the Intel division the morning of June 4, 2020. The Intel division was unable

to identify the organizational heads of § 87(2)(b) Chief Monahan did not recall if the Intel division identified other groups besides § 87(2)(b) as possibly being involved in organizing the planned Mott Haven protest. The Intel division knew the planned meeting point of the protest, which Chief Monahan remembered as “somewhere on The Hub on 149th Street” in the Bronx, but did not know of any planned route, march path, or destination to which the protest would march. The Intel division did not identify any I-Cards or outstanding warrants for the known § 87(2)(b) group members before the Mott Haven protest. Chief Monahan was not aware of any threat advisory of Wanted Posters generated or distributed for the § 87(2)(b) group prior to the Mott Haven protest.

On June 4, 2020, starting at approximately 3:00 p.m., Chief Monahan said that he was in regular face-to-face contact and conversation with AC Lehr about planned protest activity in the Mott Haven area planned for later that day. Chief Monahan described this event as AC Lehr’s responsibility because it was “his borough” and these planned protests were taking place in AC Lehr’s supervisory location. Chief Monahan was also in regular contact on June 4, 2020 with Intelligence Chief Thomas Galotti, NYPD Commissioner Dermot Shea, and various officials from the Mayor’s Office about small-scale incidents happening elsewhere in the five boroughs earlier in the day of June 4, 2020 and planned protest activity later in Mott Haven. Chief Monahan did not recall with which Mayor’s Office officials he was in communication with. When Chief Monahan was asked about the NYPD chain of command, he explained regarding these calls, “At that point I’m the highest-ranking member of the New York Police Department, so they’re not giving me instructions, they’re asking for information.” Chief Monahan clarified that he reports to Commissioner Shea. Commissioner Shea did not issue any instructions on June 4, 2020 to Chief Monahan regarding Chief Monahan’s response to the Mott Haven protests.

During Chief Monahan’s conversations with AC Lehr that day, AC Lehr explained to Chief Monahan that he had received multiple calls from elected officials, including representatives from the Chamber of Commerce and the Bronx District Attorney’s Office, who expressed fear that the June 4, 2020 events would be similar to the public unrest that occurred at a Mott Haven event on June 1, 2020, during which civilians threw fire accelerants, rocks, and stones at police officers (**30 Board Review**). AC Lehr told Chief Monahan that a gun arrest had been made near Mott Haven on June 4, 2020 before the planned demonstrations that evening. According to Chief Monahan, some of the perpetrators involved in the arrests for throwing rocks, stones and accelerants on June 1, 2020 told NYPD officers that they were going to an § 87(2)(b) protest. Based on all of this, AC Lehr feared that illegal acts—such as acts of public property destruction and disobedience—would occur on the evening of June 4, 2020 at the Mott Haven § 87(2)(b) protest. AC Lehr also told Chief Monahan that he feared that “the hub” would be “attacked” by the protestors. Chief Monahan told AC Lehr to make his own determinations in coordination with the NYPD Legal Bureau, members of which were already in contact with AC Lehr, and that the NYPD response to the Mott Haven protest “was his [meaning AC Lehr’s] call.” Chief Monahan did not know with how many commands AC Lehr was in contact with regarding his preparation for the Mott Haven protest.

AC Lehr did not request any additional personnel or resources from Chief Monahan. Chief Monahan explained that any additional personnel or resources AC Lehr would request would be requested through the NYPD Operations division, and would not go through Chief Monahan or need to be approved by Chief Monahan. Chief Monahan did not coordinate with outside agencies such as Department of Correction (DOC) regarding the deployment of outside agency resources, for example DOC vehicles being used to transport arrestees or participate in the planning for administering medical attention. Chief Monahan explained that the use of DOC resources would be coordinated through Chief Mulane at NYPD Operations. Chief Monahan was aware that DOC vehicles had been used to transport arrestees at previous NYPD mass-arrest events.

At some point on the afternoon of June 4, 2020, AC Lehr supervised a planning meeting at the 40th Precinct stationhouse, which Chief Monahan did not attend. Later that afternoon, Chief Monahan met with AC Lehr at the 40th Precinct stationhouse, and AC Lehr told Chief Monahan what his plans were for that evening, how many personnel he had, and that the situation was fluid because it was unknown how large the protest group would be. Chief Monahan was not involved in any decision-making regarding any pre-planned force to be used against the Mott Haven protestors, including “compressing” or “packing” the protestors using physical force.

At approximately 6:00 p.m. that evening, AC Lehr told Chief Monahan that the planned march was about to begin in Mott Haven. Chief Monahan drove past the protest meeting location on East 149th Street, where he saw “a lot of people gathered in the area.” Chief Monahan did not observe anything illegal from the protest group. Chief Monahan described the group as about to start marching. Chief Monahan drove around in the area, observed stores boarded up and closed down, spoke with residents at the Patterson Houses, and remained in the general vicinity to observe.

June 4, 2020

AC Lehr stated that in the minutes leading up to 8:00 p.m., the LRAD played a message advising protesters of the curfew and telling them to leave the area. The sidewalks were open to the protestors and, prior to 8:00 p.m., they were not kept from leaving. At approximately 8:00 p.m., AC Lehr was standing at 136th Street between Brown and Brook Avenue and he made the decision that arrests should start. AC Lehr made this decision after considering the following: the violent history of the groups organizing the protest (§ 87(2) and § 87(2)(b) the fact that arrests were made prior to the protest of people intending to come to the protest with a gun, accelerant, and hammers, the fact that protest organizers had refused a dialogue with the police department prior to the protest, that the event organizers openly advertised against the curfew, that protestors held signs that said “F” the curfew, that protestors yelled “F” the curfew, that the LRAD warnings did not have the desired effect, and that he was a mile away from The Hub which he was charged with protecting. AC Lehr was standing with Sgt. Rice, SRG Deputy Chief John Dadamo, and SRG Inspector Jerry Downing. Sgt. Rice told AC Lehr that he had standing to start arrests.

AC Lehr told DC Dadamo and Ins. Dowling that arrests could begin, and they communicated that decision to SRG officers in the crowd with protestors. AC Lehr communicated this decision to SRG personnel because SRG is specifically trained to handle protests, crowd control, and other events of the magnitude of the protest that day. Shortly after, AC Lehr observed arrests begin. AC Lehr saw officers wrestle and grapple with protestors. He saw officers push or shove protestors causing them to contact parked cars. He did not witness officers discharge pepper-spray; however, he smelled it and was exposed to it. He saw officers use police shields against protestors, which he believed the officers used to defend themselves. AC Lehr saw officers drawn, raised, and swung at protestors, but not see a particular instance of someone being hit by a baton. AC Lehr, who was standing on the west-end of the line of officers standing at 136th Street and Brook Avenue, he did not see a line of officers compress the crowd. The officers were peeling protestors from the crowd to shrink the crowd, but AC Lehr did not see officers compress the crowd. AC Lehr acknowledged that police officers encircled protestors to pin them in, but that was only done after he made the decision to make arrests. This tactic was not used prior to the decision made to arrest the protestors.

AC Lehr did not observe civilians sustain injuries during the arrests. AC Lehr was unaware at the time of the interview whether a protestor sustained any injury during their arrests. AC Lehr stated that an arresting officer is responsible for the medical well-being of an arrestee, and that the Desk Officer at the stationhouse in the precinct of the arrest should be informed by the arresting officer

whether someone required medical attention. AC Lehr stated that sometimes civilian complain of injuries later, possibly due to adrenaline. The NYPD has procedures for providing medical attention to civilians in a mass casualty incident, but for an incident involving mass arrests, the Mass Arrest Processing Center (MAPC), which is under the Criminal Justice Bureau (CJB), has protocols for addressing the medical needs of mass numbers of arrestees. AC Lehr is not directly responsible for ensuring that medical attention be provided to a mass number of arrestees. AC Lehr saw members of CJB present on scene, but he did not speak with them during the incident or know who the highest-ranking person from CJB was there. AC Lehr did not remember seeing EMS or medical personnel on scene, though he acknowledged it was possible they were there. No one informed him that civilians required medical attention. He did speak with any EMTs or medical personnel during this incident. He did not speak with or interact with anyone who identified themselves as a “street medic.” He was unaware of people self-identified as a street medic rendering aid during the protest.

Chief Monahan stated that at some point during the morning on June 4, 2020, the NYPD’s Intelligence (Intel) division internally distributed copies of flyers detailing the events planned to take place in Mott Haven that same evening. These flyers said, “Come out tonight to the Mott Haven neighborhood” with flame images and were generated by a group called “§ 87(2)(b)” which stands for “Fuck the Police.” Chief Monahan was in touch with AC Lehr throughout the day because AC Lehr was the commanding officer in the Bronx. At some point on the afternoon of June 4, 2020, AC Lehr supervised a planning meeting at the 40th Precinct stationhouse, which Chief Monahan did not attend. Later that afternoon, Chief Monahan met with AC Lehr at the 40th Precinct stationhouse, and AC Lehr told Chief Monahan what his plans were for that evening, how many personnel he had, and that the situation was fluid because it was unknown how large the protest group would be. Chief Monahan was not involved in any decision-making regarding any pre-planned force to be used against the Mott Haven protestors, including “compressing” or “packing” the protestors using physical force.

Between 8:15 p.m. and 8:30 p.m., Chief Monahan arrived at East 135th Street and Brook Avenue in the Bronx to respond to a radio transmission that NYPD officers had “stopped” the protest group in that location. Chief Monahan did not know why the group was stopped in that area, and did not instruct any officer to stop the group in that area. Chief Monahan was not aware of any strategic or tactical reason why NYPD officers would have stopped the protest in that area. Protestors were already being placed into custody when he arrived. On scene, Chief Monahan observed a woman—whom the CCRB identified as § 87(2)(b) standing across the street in front of a housing development while chanting, “Push through the police, push through the police” into the megaphone at the crowd of protestors. Other officers were on scene near Chief Monahan from various commands, but he did not recall who they were or which commands they were from. Chief Monahan did not know who § 87(2)(b) was, did not recognize her, and did not have any intelligence on her. Chief Monahan did not know that her name was § 87(2)(b) nor that § 87(2)(b) was a protest leader. As of the date of his CCRB interview, Chief Monahan did not know § 87(2)(b) identity. Chief Monahan believed that § 87(2)(b) was inciting the crowd, and he decided to arrest her for the use of an amplified device, i.e. the megaphone. § 87(2)(b) use of the megaphone also caused a public safety issue as members of the housing development(s) nearby exited their residence and gathered near the crowd. Chief Monahan also noted that at that moment, § 87(2)(b) was in violation of the Mayor’s curfew. Before § 87(2)(b) was arrested, Chief Monahan walked towards her and said, “Please put down the megaphone.” § 87(2)(b) told Chief Monahan to “Go fuck yourself.” There was no further conversation between the two, and this interaction lasted seconds. Chief Monahan then ordered an officer standing next to him to arrest § 87(2)(b) by saying “Place her under arrest.” Chief Monahan did not recall who this officer was. Chief Monahan had no further interaction with § 87(2)(b).

Chief Monahan was then approached by a member of the Legal Aid Society who told him that multiple legal observers—who were identifiable by their green hats—were handcuffed. Chief Monahan stated that he never ordered the arrest of legal observers. Chief Monahan also had a conversation with AC Lehr. AC Lehr said that he made the determination to arrest the entire group of civilians who marched across the bridge for violating the curfew. Chief Monahan described the location of this conversation as being at the “rear” of the protest, which was now a mass arrest scene. No members of NYPD Legal were present for this conversation between AC Lehr and Chief Monahan. AC Lehr further told Chief Monahan that the group had been disorderly, that AC Lehr had given the group numerous verbal warnings via the LRAD, and that AC Lehr consulted a Lieutenant from the NYPD Legal Bureau before deciding to make the arrests. Chief Monahan did not recall any further reasoning AC Lehr provided for his decision to arrest the group of civilians.

At approximately 9:00 p.m., in the vicinity of East 136th Street and Brook Avenue in the Bronx, Chief Monahan had a conversation with a lieutenant from the NYPD Legal Bureau who was on scene. After this conversation, Chief Monahan told a different lieutenant on scene that the handcuffed legal observers were to be released. A member of the National Lawyers Guild told Chief Monahan that not all the NLG legal observers on scene were wearing green hats, as they had run out of the green hats to distribute to the legal observers. Chief Monahan told the NLG member to identify to the Lieutenant which members of the handcuffed group were legal observers without green hats, and after doing so the remaining legal observers were released. Chief Monahan explained that he made the decision to release the legal observers based on his discretion and experience at past protests.

Chief Monahan’s understanding of the curfew’s exceptions was that the NYPD Legal Bureau had determined that civilian medical workers rendering medical aid to protestors would not be considered essential workers—and would therefore not fall under any exception to the curfew—because the curfew’s exceptions for essential workers only covered essential traveling to or from work. Chief Monahan noted that the NYPD had access to EMTs who could respond “in seconds” to assist injured civilians at a protest. At no point on scene did Chief Monahan observe any civilians who were medically unwell or visibly injured. At no point on scene was Chief Monahan made aware of any civilian making complaints of injury or requesting medical attention. Chief Monahan had no role in directing the medical response during this incident. Chief Monahan did not observe any officer injury during this incident. Chief Monahan did not direct the transportation of any prisoners during this incident and did not know where prisoners were transported.

Video #1 (25 Board Review): This is cellphone footage taken on June 4, 2020, at an unknown time. The video was captured by § 87(2)(b),” and posted to their Twitter account. The video is 02:16 minutes long, is in color, and has audio beginning at 00:00.

The camera is focused on the intersection of 136th Street and Brook Avenue. On the street there is a large group of protesters stopped by officers on bicycles. There appears to be officers on both sides of the protesters. An automated message about curfew is playing on a speaker. At 00:17, § 87(2)(b) is heard saying, “Can y’all hear me on the other side?” At 00:28, the video zooms in to a group of officers standing behind the protesters. At 00:54, the protesters start chanting, “Let us leave.”

At 01:00, § 87(2)(b) says that, “They are fighting!” The video zooms in to some commotion on 136th Street. At 01:13, they say, “They fighting, they got someone on the floor!” At 01:20, they say, “Because it’s eight and nobody is supposed to be in the street, that’s what they telling them.” The video concludes.

Video 2 (24 Board Review): The video begins with a group of protesters at “The Hub” in the Bronx. There are drums heard. At 00:17, a message about a group of protesters being held at Queens Central Booking comes up. The original message is from § 87(2)(b). At 00:23, a video of § 87(2)(b) comes up. There is a time stamp written on the video as 07:13. § 87(2)(b) is speaking into a megaphone. § 87(2)(b) says to be wary of white liberals. At 01:00, § 87(2)(b) talks about how the Mayor made an 8:00 p.m. curfew. At 01:04, § 87(2)(b) says, “I’m grown. Fuck the curfew!” There are cries of “Fuck the curfew” heard in the crowd. At 01:20, § 87(2)(b) starts a, “Fuck that curfew” chant. At 01:49, § 87(2)(b) talks about colonization. At 02:03, she talks about how Minnesota, “Burned that Precinct the fuck down.” The crowd cheers.

At 02:22, there is a video of a firecracker in the middle of the street. The camera pans to a group of protesters marching down the street. They are chanting, “§ 87(2)(b) Fuck the police.” At 02:39, the camera is now in the crowd and pointed towards the front of the crowd. The crowd is still chanting, “§ 87(2)(b) Fuck the police.” At 02:54, a sign is seen that says, “All power to the people.” The video has a time stamp on it that says, “7:30.” At 03:10, the video shows a woman banging pots together outside of her window. At 03:20, there is a picture of a person on a bicycle.

At 03:23, the video has a time stamp of “7:56.” The protesters are walking down 136th Street towards Brook Avenue in the Bronx. At 03:29, a bunch of protesters begin running in the opposite direction. At 03:40, the video has a time stamp of “7:58.” The person filming is now closer to the intersection of Brook Avenue and 136th Street. There is a group of officers wearing bike gear. One officer is heard yelling, “Move the crowd!” The officers pick up their bicycles and push them forward into the group of protesters. Someone in the front tells people to move back. They continue to shout, “Move back!” At 04:22, someone tells the officers that they are corralling them and that they do not know where to go. The protesters begin yelling, “Where do we go?”

At 04:29, the video has a timestamp of, “8:01.” There is a line of police officers in bike gear. The protesters are chanting, “Let us through.” At 05:02, the video caption reads, “we will be here tomorrow and.” The protesters are chanting, “And the next day.” At 05:24, one of the protesters in the front is trying to explain to the officers that there are more officers on the other side of them. They ask an officer where they are going to go and he says, “Jail.” At 05:36, the video timestamp is 08:07, the protesters are chanting, “We are peaceful, what the fuck are you?” At 06:10 in the video, the timestamp is “8:11.” The protesters are very close to the officers on bicycles. Someone tells the officers that they are pushing them from the other side. At 06:24, a caption on the screen reads, “cops started pushing from the other side, cops start beating and macing the shit out of people.”

At 06:33, the camera pans to officers on top of a civilian vehicle hitting people with their batons. One of the officers has helmet number, “75.” The officers are yelling at the protesters to get back. There are a total of three officers, one in a white shirt, on top of the vehicle. Another officer gets onto the car and takes out their baton. The officers continue to hit people with their batons by swinging in a downwards motion over their heads. At 07:07, someone says, “We are getting maced.” There are multiple people on the ground. Multiple officers are bringing people to the ground and zip tying them. At 07:31, someone in a black morph suit is being grabbed by officers. Someone tells gabriel.himself to put his hands behind his back. The camera cuts out.

At 07:42, there is a photograph of some people and the caption on screen reads, “vans and cells seemed to be separated by race again. Whites/non-black poc vs. Blacks. No on can give me an answer as to why. Fuck the police. Fuck the curfew. Ayer hoy manana y siempre. At 07:48, a message comes up for NYC Protest Resources. The video concludes.

Video 3 (26 Board Review): The video begins with § 87(2)(b) filming from a high vantage point. The camera is focused on the intersection of 136th Street and Brook Avenue. On the street there is a large group of protesters stopped by officers on bicycles. There appears to be officers on both sides of the protesters. An automated message about curfew is playing on a speaker. At 00:17, § 87(2)(b) is heard saying, “Can y’all hear me on the other side?” At 00:28, the video zooms in to a group of officers standing behind the protesters. At 00:54, the protesters start chanting, “Let us leave.”

At 01:00, § 87(2)(b) says that, “They are fighting!” The video zooms in to some commotion on 136th Street. At 01:13, they say, “They fighting, they got someone on the floor!” At 01:20, they say, “Because it’s eight and nobody is supposed to be in the street, that’s what they telling them.” The video concludes.

Below is a screenshot (**27 Board Review**) from :01 of Video 3, depicting a large group of civilian protesters in the middle of the frame, flanked at the top and bottom of the frame by lines of police officers.



These events led to the following allegations against Chief Monahan and Assistant AC Lehr:

Allegation (A) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (B) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (C) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (D) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (E) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (F) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (G) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (H) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (I) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (J) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (K) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (L) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (M) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (N) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (O) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (P) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (Q) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (R) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (S) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (T) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (U) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of individuals.

Allegation (V) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of individuals.

Allegation (W) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (X) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (Y) Abuse of Authority: Chief of Department Terence Monahan participated in the detainment of § 87(2)(b)

Allegation (Z) Abuse of Authority: Assistant Chief Kenneth Lehr participated in the detainment of § 87(2)(b)

Allegation (AA) Force: Chief of Department Terence Monahan participated in the use of physical force against individuals.

Allegation (AB) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against individuals

Allegation (AC) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)

Allegation (AD) Force: Assistant Chief Kenneth Lehr participated in the use of physical

force against § 87(2)(b)
Allegation (AE) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AF) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AG) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AH) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AI) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AJ) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AK) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AL) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AM) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AN) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AO) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AP) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AQ) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AR) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AS) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AT) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AU) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AV) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AW) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AX) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (AY) Force: Chief of Department Terence Monahan participated in the use of physical force against § 87(2)(b)
Allegation (AZ) Force: Assistant Chief Kenneth Lehr participated in the use of physical force against § 87(2)(b)
Allegation (BA) Force: Chief of Department Terence Monahan participated in the use pepper spray against individuals.
Allegation (BB) Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against individuals.
Allegation (BC) Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)

Allegation (BD) Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)

Allegation (BE) Force: Chief of Department Terence Monahan participated in the use pepper spray against § 87(2)(b)

Allegation (BF) Force: Assistant Chief Kenneth Lehr participated in the use pepper spray against § 87(2)(b)

Allegation (BG) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike individuals.

Allegation (BH) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike individuals.

Allegation (BI) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BJ) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BK) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BL) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BM) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BN) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BO) Force: Chief of Department Terence Monahan participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BP) Force: Assistant Chief Kenneth Lehr participated in the using of blunt instruments to strike § 87(2)(b)

Allegation (BQ) Force: Chief of Department Terence Monahan participated in hitting individuals with bicycles.

Allegation (BR) Force: Assistant Chief Kenneth Lehr participated in hitting individuals with bicycles.

Allegation (BS) Force: Chief of Department Terence Monahan participated in hitting § 87(2)(b) with a bicycle.

Allegation (BT) Force: Assistant Chief Kenneth Lehr participated in hitting § 87(2)(b) with a bicycle.

Allegation (BU) Force: Chief of Department Terence Monahan participated in the striking of individuals with police shields.

Allegation (BV) Force: Assistant Chief Kenneth Lehr participated in the striking of individuals with police shields.

Allegation (BW) Abuse of Authority: Chief of Department Terence Monahan threatened to arrest individuals.

Allegation (BX) Abuse of Authority: Assistant Chief Kenneth Lehr threatened to arrest individuals.

Allegation (BY) Abuse of Authority: Chief of Department Terence Monahan did not obtain medical treatment for individuals.

Allegation (BZ) Abuse of Authority: Assistant Chief Kenneth Lehr did not obtain medical treatment for individuals.

AC Lehr issued the order to arrest all of the protestors for breaking the 8:00 p.m. citywide curfew. AC Lehr believed he was justified in issuing the mass arrest order after receiving confirmation from Sgt. Rice of the NYPD legal bureau. Sgt. Rice advised AC Lehr that protestors and legal observers could all be arrested.

AC Lehr denied “kettling” occurred and asserted that “kettling” is not a police term or tactic. AC Lehr posited that he first heard the term “kettling” from the media and Department of Investigation report and ascertained that the term was being used in place of the NYPD tactics of encircling or enveloping a group of civilians.

The investigation determined that AC Lehr gave the order for mass arrests and that this order resulted in officers assembling in a formation around the protesters such that the protesters were unable to leave. This order facilitated the detainment and arrest of legal observers and volunteer medics. AC Lehr’s order also resulted in use of widespread physical force against the crowd, including kicking, punching, pepper spray, batons, and the use of bicycles and tactical shields as blunt instruments. Multiple people in the crowd were subsequently injured and several were not provided medical care despite being visibly injured and despite the pleas of other people in the crowd to provide appropriate care.

As referenced in the above case summary, the CCRB conducted additional investigations into alleged misconduct stemming from this incident, including 15 cases with shared civilian complainants (**36 Board Review**).

In September 2020, Human Rights Watch (HRW) released a report entitled “‘Kettling’ Protesters in the Bronx: Systemic Police Brutality and Its Costs in the United States.” The HRW report (**34 Board Review**) was compiled via the interviews of 81 protesters, 19 additional interviews of community members, activists, city officials and various other stakeholders, analysis of more than 150 videos of the protest, and legal documents. The report found that, “Police conduct during the Mott Haven protest on June 4 amounts to serious violations of international human rights law which the federal, state, and local governments are obligated to observe. These include law enforcement’s excessive use of force, violations of the rights to free expression and peaceful assembly, arbitrary arrests and detentions, and cruel and degrading treatment of detainees. Legal observers and volunteers providing jail support are human rights defenders who are protected under international human rights law and should never be targeted for this work. The attacks on street medics, the obstruction of their work, and the denial of medical care to injured protesters amount to violations of the right to health.” The report further found that the NYPD corralled protesters, restricted their movement, and did not allow them to leave before the start of the 8:00 p.m. curfew. Also of importance is the reports examination of the flyers and social media posts advertising the protest: “Some of the flyers for the § 87(2)(b) protest depicted a police car burning and a cartoon of a man jumping over a police officer. But a Code of Conduct for the protest was also posted online that denounced “goofy irresponsible adventurism” and asked protesters to “follow the lead of the people from the hood [neighborhood].” A flyer about the protest directed demonstrators not to bring weapons. Human Rights Watch is not aware of any threats or acts of violence or vandalism by the protest organizers or protesters during the § 87(2)(b) protest in Mott Haven. To the contrary, the protest was peaceful until the police responded with violence.”

On January 14, 2021, Attorney General of the State of New York Letitia James filed a lawsuit regarding the use of brutal force and a pattern of false arrests stemming from peaceful protests since May 2020 against the City of New York, Mayor Bill de Blasio, Police Commissioner Dermot Shea, and Chief of Department Terence Monahan (**33 Board Review**). The lawsuit claims that the NYPD used “a crowd-control tactic called ‘kettling’ to corral and detain individuals who were peacefully protesting in order to impede constitutionally protected assemblies and to conduct mass arrests.” The lawsuit also asserts that on June 4, 2020, the NYPD arrested over 250 for violating the curfew, including non-protesters serving as legal observers, medics, and other essential workers. The lawsuit notes that not only was COD Monahan present at the protest but that he, “Personally

participated and directed NYPD Officers to make multiple unlawful arrests, and upon information and belief, witnessed officers engage in excessive force against protesters.”

As per Patrol Guide Procedure 213-11: an incident commander is defined as the highest-ranking uniformed police supervisor responsible for the command, control, and coordination of all incident operations. For planned events such as parades, demonstrations, and similar situations, the precinct commanding officer will ordinarily be designated as incident commander. If the event occurs in two or more commands within the same patrol borough, the patrol borough commander will be designated as incident commander (**14 Board Review**).

As per Patrol Guide Procedure 210-04: when a prisoner in custody requires medical or psychological treatment, request ambulance and remove prisoner to hospital directly from the place of arrest, if necessary (**31 Board Review**).

Patrol Guide Procedure 221-01 (**32 Board Review**) states that an officer may use only the reasonable force necessary to gain control or custody of a subject. The procedure also enumerates factors officers should consider when determining whether use of force is reasonable. The factors are as follows:

- a. The nature and severity of the crime/circumstances
- b. Actions taken by the subject
- c. Duration of the action
- d. Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders
- e. Whether the subject is actively resisting custody
- f. Whether the subject is attempting to evade arrest by flight
- g. Number of subjects in comparison to the number of MOS
- h. Size, age, and condition of the subject in comparison to the MOS
- i. Subject’s violent history, if known
- j. Presence of hostile crowd or agitators
- k. Subject apparently under the influence of a stimulant/narcotic

The investigation established that AC Lehr was the highest-ranking member of service to acknowledge giving orders to arrest the crowd and that he was the incident commander at the protest. His orders resulted in the use of force to encircle the crowd and indiscriminately arrest all members therein. Subsequently, medical treatment was either delayed or denied to the group en masse. § 87(2)(g)

[REDACTED]

AC Lehr and COD Monahan were the highest-ranking members of service on the scene. COD Monahan stated that he did not issue any commands while on location, that he was unaware of any orders given, and that he was only tangentially aware of the arrests taking place at the location through radio communications and brief conversation with officers on scene. § 87(2)(g)

[REDACTED]

Squad No.: 4

Investigator: Tessa Yesselman SI Tessa Yesselman January 27, 2022
Signature Print Title & Name Date

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

Reviewer: Olas Carayannis Olas Carayannis, DCSO April 4, 2022
Signature Print Title & Name Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #9	CCRB Case #: 202008019	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Friday, 05/29/2020 9:00 PM	Location of Incident: Outside of the Barclay's Center	Precinct: 78	18 Mo. SOL 11/29/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 12/08/2020 3:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/08/2020 3:59 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. COD Terence Monahan	00000	876747	CD OFF
2. Officers			
3. LT Keith Hockaday	00000	940263	081 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CCA Jeffrey Maddrey	00000	899501	C A B
2. DI Megan Omalley	00000	930859	MTN PCT
3. POM Lior Chernyhovsky	07514	957453	SRG 3
4. POM Michael Pascale	30095	956153	SRG 3
5. POF Jessica Clinton	17324	960376	SRG 3
6. POM Max Bermudez	01429	944360	F.T.S.
7. SGT Ronny Vega	5472	951381	028 PCT
8. SGT Brian Verkay	02358	935930	SRG 1

Officer(s)	Allegation	Investigator Recommendation
A.LT Keith Hockaday	Discourtesy: Lieutenant Keith Hockaday spoke discourteously to § 87(2)(b)	
B.COD Terence Monahan	Force: Chief Terence Monahan authorized use of physical force against § 87(2)(b)	
C. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	

Case Summary

On December 8, 2020, Robert Ballin filed this complaint on behalf of his client, § 87(2)(b) with the CCRB.

On May 29, 2020, at approximately 9:00 p.m., § 87(2)(b) was documenting the 2020 George Floyd Protests outside of the Barclay’s Center in Brooklyn as a photojournalist for § 87(2)(b). As he was taking photos Sergeant Keith Hockaday of SRG2 approached him, he presented a press pass and Sgt. Hockaday allegedly said, “I don’t give a fuck about your press pass” (**Allegation A: Discourtesy – Word**, § 87(2)(g)). At the instruction of Chief Terence Monahan, the officer then began to push § 87(2)(b) with his baton against his chest and continued to do so until § 87(2)(b) tripped over the sidewalk curb (**Allegation B: Force – Physical Force**, § 87(2)(g)).

§ 87(2)(b) was then helped up by two protestors and the officer walked away.

§ 87(2)(b) added that at various points in the evening whenever he got close to “whatever was happening,” officers threatened to arrest him if he did not move away (**Allegation C: Abuse of Authority – Threat of arrest**, § 87(2)(g)).

No arrests were made nor summonses issued as a result of this incident.

TARU (**Board Review 01**) video was obtained but does not capture the incident in question. Three sets of BWC footage were received by the investigation (**Board Review 02**) (**Board Review 11**) (**Board Review 12**), and the incident timeframe is captured in the third of three requests (**Board Review 12**).

Since the incident date in question, Sgt. Hockaday was promoted to Lieutenant.

§ 87(2)(g)

Findings and Recommendations

Allegation (A) Discourtesy: An officer spoke discourteously to § 87(2)(b)

During his initial statement on February 18, 2021, § 87(2)(b) alleged that when an officer approached him with his baton parallel to the ground, holding it at both ends, § 87(2)(b) lifted his press pass and stated that he was press (**Board Review 03**). In response the officer said, “I don’t give a fuck about your press pass.”

On January 12, 2022, after this case was closed, § 87(2)(b) requested this case be reopened because he learned the name of the officer in question, Keith Hockaday (**Board Review 14**).

During his CCRB interview, Sgt. Hockaday stated that he did not have any specific recollection of interacting with § 87(2)(b) (**Board Review 13**). He did not recall telling anyone that he did not “fucking” care about a press pass on that evening.

On March 25, 2022, the investigation received video captured by Sgt. Hockaday’s BWC on the incident date in question (**Board Review 12**). At four seconds, § 87(2)(b) is seen in the frame until the 35 second mark. During that time, a lanyard is hanging from his neck with an ID attached. § 87(2)(b) is holding the ID card in his hand facing the Sgt. Hockaday. No audio is captured during this time frame. Just over a minute later, at 1:54 § 87(2)(b) reappears in the frame and at 1:59 he trips over a curb and onto the sidewalk, confirming that the timeframe in question was when the allegation occurred.

No other BWC videos aided in determining whether Sgt. Hockaday made the alleged statement (**Board Review 02**) (**Board Review 11**).

While the investigation does have video of the moments where the allegation would have occurred, no audio was captured at that time. § 87(2)(b), § 87(2)(g)

Allegation (B) Force: Chief Terence Monahan authorized use of physical force against § 87(2)(b).

It is undisputed that on the evening of May 29, 2020, thousands of members of the public gathered for protest in front of and in the streets surrounding the Barclay's Center in Brooklyn and engaged in tumultuous behavior (**Board Review 10**). It is also undisputed that instructions were constantly being given to the crowd to disperse (**Board Review 10**). Finally, it is undisputed that Sgt. Hockaday, and likely other officers, used their batons to push § 87(2)(b) and other civilians off streets and away from a NYC Transit Authority Building (NYCTA) (**Board Review 12**).

On March 29, 2021, Chief Monahan retired from the NYPD (**Board Review 06**).

During his CCRB statement, § 87(2)(b) stated that he arrived at the Barclay's Center on the evening of May 29, 2020, to document the 2020 George Floyd protests in his capacity as a photojournalist on assignment for ABC news (**Board Review 03**). While there, he had his press credentials displayed on a lanyard that was around his neck, and multiple cameras and camera equipment on his person. Sometime between 9:00 p.m. and 10:30 p.m., he began to document "pushing back and forth" between protestors and officers near the intersection of Atlantic Avenue and Flatbush Avenue. When the pushing started, § 87(2)(b) was not able to get on the side of the NYPD line because officers were not allowing him to.

As § 87(2)(b) was taking photos, an officer approached him with his baton parallel to the ground, holding it at both ends. § 87(2)(b) told the officer he was press and held up his press pass, but the officer said he did not care and pushed § 87(2)(b) at his chest with the baton. § 87(2)(b) then began to step backward, and the officer pursued him, walking forward, continuously pushing him at his chest. After walking back "a few steps," § 87(2)(b) tripped over the sidewalk curb and fell onto his back. The officer then walked away as protestors helped § 87(2)(b) to his feet.

§ 87(2)(b) was not able to provide identifying information for the officer who pushed him beyond a general description and did not identify any witnesses or other means of evidence collection.

§ 87(2)(b) provided a photo of his NYC issued press pass (**Board Review 04**). The press pass has an expiration date of January 15, 2021 and lists him as an affiliate of ABC news.

Chief Monahan stated that between 6:00 p.m. and 6:30 p.m., he deemed civilian protestors congregating at the Barclay's Center pavilion in Brooklyn and the surrounding streets unlawful assembly (**Board Review 05**). For that reason, he instructed SRG supervisors to clear the pavilion and surrounding streets, and officers did so. That consisted of officers getting civilians off the streets, instructing them to leave or placing them under arrest for participating in an unlawful assembly. A Long-Range Acoustic Device (LRAD) broadcast multiple orders to disperse before SRG began clearing civilians from the plaza.

At 9:00 p.m., Chief Monahan still considered the crowd at the Barclays Center to be an unlawful assembly because civilians were still throwing objects at officers. For that reason, the dispersal instructions remained.

Sgt. Hockaday stated that on the day in question NYPD officers did use their batons to disburse civilians from the location (**Board Review 13**). He did not issue the instruction to remove civilians from the vicinity of Barclay's center. The instruction came to him via the chain of command.

On March 25, 2022, the investigation received video captured by Sgt. Hockaday's BWC on the incident date in question (**Board Review 12**). At four seconds, § 87(2)(b) is seen in the frame, and between seven seconds and 13 seconds, Sgt. Hockaday seemingly pushes him with his baton multiple times. At that time, § 87(2)(b) is standing on an island next to a NYC Transit Authority (NYCTA) building, which is in the middle of three roadways, Atlantic Avenue to the South, Flatbush Avenue to the East, and 4th Avenue to the West.

Just over a minute later, at 1:54 § 87(2)(b) reappears in the frame (**Board Review 12**) (**Board Review 15**). Between 1:55 and 1:58, the view of Sgt. Hockaday's BWC is obstructed by other officers, who may have possibly interacted with § 87(2)(b). At 1:59, he is positioned in the center of the frame, off left, and he trips over a curb and onto the sidewalk. It is unclear if he is pushed

Signature

Print Title & Name

Date

Reviewer:

Signature

Print Title & Name

Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jackie Manginelli	Team: Squad #10	CCRB Case #: 202008249	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/30/2020 11:30 PM	Location of Incident: South and middle of Union Square Park.	Precinct: 13	18 Mo. SOL 11/30/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 12/17/2020 10:15 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 12/17/2020 10:15 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. INS Michele Irizarry	00000	915113	PBMS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. CPT Tommy Keung	00000	942001	013 PCT
2. POM Vincent Bieniek	10679	965951	013 PCT
3. POM Edward Griffin	05091	962449	013 PCT
4. POM Joseph Cosolito	18282	958441	013 PCT
5. SGT Jocelyn Peralta	01767	930927	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.INS Michele Irizarry	Force: Inspector Michele Irizarry used physical force against § 87(2)(b)	
B.INS Michele Irizarry	Discourtesy: Inspector Michele Irizarry spoke discourteously to § 87(2)(b)	

Case Summary

On December 11, 2020, § 87(2)(b) made the following complaint with the CCRB over the phone.

On May 30, 2020, at approximately 11:30 p.m., in the vicinity of the South of Union Square Park near 14th Street in Manhattan, § 87(2)(b) was going to take the train home. While inside of Union Square Park she observed as a group of protesters interact with police officers. The officers told the protesters to get out of the park.

Inspector Michele Irizarry, of Patrol Borough Manhattan South, approached § 87(2)(b) allegedly picked her up by both of her arms, pushed her back into a fence, and told her to get out of the park (**Allegation A—Force: Physical force: Pushed: § 87(2)(g)**). She said, “When I tell you to get out of the park, get out of the fucking park” (**Allegation B—Discourtesy: Word: § 87(2)(g)**). § 87(2)(b) left the park.

Body-worn camera footage was obtained for CCRB Case Number 202004899 that was related to this case. It included body-worn camera footage for PO Vincent Bieniek, PO Joseph Cosolito, Sergeant Jocelyn Peralta, and PO Edward Griffin (**Board Reviews 02-11**). Handheld and pole TARU footage was requested, however, footage provided was unrelated to this complaint (**Board Review 12**). No additional footage was recovered upon a follow-up request (**Board Review 13**). There was no other video footage of this incident.

Since this incident, Inspector Irizarry has been promoted to Deputy Chief Irizarry for the Training Bureau.

Findings and Recommendations

Allegation A— Force: Inspector Michele Irizarry used physical force against § 87(2)(b)

Allegation B – Discourtesy: Inspector Michele Irizarry spoke discourteously to § 87(2)(b)

On December 11, 2020, § 87(2)(b) provided a statement to the CCRB over the phone (**Board Review 01**).

§ 87(2)(b) stated that she was going to take the train home. She saw siren lights, a small trashcan fire near the entrance to the park towards the back of the steps near a fence, and protesters in Union Square. She did not know who the organizer of the protest was. § 87(2)(b) saw two rows of individuals near the front steps of the park. There was a line of police officers, all in uniform, standing shoulder to shoulder in a single file line in front of a group of protesters. The protesters were shouting things at the officers very close, almost-eye-to-eye with the officers. There was one person who seemed to be the leader of the group who would get very close to the officers’ faces and shout things at the officers. There were police cars everywhere with their sirens on. § 87(2)(b) stood to the side of the group and was not within the group of protesters. The protesters were very aggressive, and the officers were standing still and not saying anything. At some point, someone pushed someone else. § 87(2)(b) thought the protesters started pushing the officers. Officers started bringing protesters to the ground and arresting them. (The investigation determined that this allegation of bringing protesters to the ground was a duplicate allegation of CCRB Case Number 202004899). A man was brought to the ground and a woman was screaming, “What are you doing to my boyfriend? Get your hands off my boyfriend!” (The investigation determined that this allegation of bringing this individual to the ground was a duplicate allegation of CCRB Case

Number 202005166). § 87(2)(b) backed up. The officers told the protesters to get out of the park. An officer, identified by the investigation as Inspector Irizarry, approached § 87(2)(b) picked her up by both of her arms, pushed her back into a fence, and said, “When I tell you to get out of the park, get out of the fucking park.” Officers continued to tell protesters that the park was closed. § 87(2)(b) did not want to leave the park because she was concerned about the other protesters who were in the park who were getting pushed to the ground. After she was pushed into the fence, § 87(2)(b) decided to leave the park. § 87(2)(b) did not describe any injuries.

PO Cosotilo’s body-worn camera footage captures this portion of the incident (**Board Reviews 04, 08**). At 01:35, a number of protesters are being apprehended by officers at the top of the steps of Union Square Park. Additional officers are seen directing bystanders to leave the park. At 01:45, § 87(2)(b) a short white woman with blond hair in a ponytail, is seen wearing a white dress with red flowers and no face mask approximately five to ten feet away from officers arresting individuals. At 01:48, Inspector Irizarry is seen, wearing a uniform with a white shirt, approach § 87(2)(b) and push her lightly on the back in the direction of the stairs behind her. § 87(2)(b) begins walking towards the stairs behind her.

The first part of PO Bieniek’s body-worn camera footage captures this portion of the incident (**Board Reviews 02, 07**). At 00:55, PO Bieniek walks up the stairs of Union Square Park and past a trash fire on his right-hand side. He walks up the stairs with other officers where there is another trash fire directly in front of him. At 01:25, officers are heard telling people to leave the park. At 01:36, § 87(2)(b) is seen at the top of the steps. Inspector Irizarry quickly approaches her and at 01:39, grabs both her arms and moves her back forcing her to walk away from the area. § 87(2)(b) and Inspector Irizarry exit the camera frame.

§ 87(2)(g)

According to Patrol Guide Procedure 221-01 (**Board Review 14**), when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of service should consider the following:

- A. The nature and severity of the crime or circumstances
- B. Actions taken by the subject
- C. The duration of the action
- D. The immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders
- E. Whether the subject is actively resisting custody
- F. Whether the subject is attempting to evade arrest by flight
- G. Number of subjects in comparison to the number of MOS
- H. Size, age, and condition of the subject in comparison to the MOS
- I. Subject’s violent history, if known
- J. Presence of a hostile crowd or agitators
- K. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence

§ 87(2)(g)

§ 87(2)(g) [Redacted]

According to DCT Case Law 2017-17276, language which would ordinarily be inappropriate in dealing with civilians may be excused in the course of a violent confrontation (**Board Review 15**).

§ 87(2)(g) [Redacted]

Civilian and Officer CCRB Histories

- This is the second complaint to which § 87(2)(b) [Redacted] has been a subject (**Board Review 16**).
 - § 87(2)(g), § 87(2)(b) [Redacted]
- This is the first CCRB complaint for which Inspector Irizarry has been a subject.

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- On January 26, 2021, a request was sent to the Office of the Comptroller regarding any Notice of Claim related to this case. No Notice of Claim was located regarding this case (**Board Review 17**).
- According to the Office of Court Administration (OCA), § 87(2)(b) [Redacted] does not have a history of convictions in New York (**Board Review 18**).

Squad No.: 10

Investigator:	<u>Jackie Manginelli</u>	<u>Inv. Jackie Manginelli</u>	<u>04/09/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Eric Rigie</u>	<u>IM Eric Rigie</u>	<u>4/14/2021</u>
	Signature	Print Title & Name	Date

Reviewer: _____

Signature

Print Title & Name

Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Wassim Abedrabbo	Team: Squad #9	CCRB Case #: 202008260	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Monday, 06/01/2020 3:00 AM	Location of Incident: In front of 440 Broadway in Manhattan; Inside 440 Broadway in Manhattan	Precinct: 05	18 Mo. SOL 12/1/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 12/08/2020 3:59 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 12/08/2020 3:59 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. An officer			069 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Stephanie Alba	19604	958228	042 PCT
2. POM Christophe Radzinski	17537	959105	042 PCT
3. POM Paul Polintan	10834	956175	042 PCT
4. SGT Ruben Arroyoperez	01181	947892	042 PCT
5. SGT Derek Pasolini	03070	954217	069 PCT
6. POM Jairo Asilis	19790	958268	042 PCT
7. POM Buddhadeb Biswas	25570	962259	069 PCT
8. POM Frankie Tong	06999	966887	069 PCT
9. POM John Orourke	12156	965378	069 PCT
10. POM Abdelhai Sahel	05775	957120	069 PCT
11. POM Tony Tan	19407	968152	069 PCT
12. POM Nicholas Obrien	05390	965379	069 PCT
13. PO Anna Midyushko	08914	957858	069 PCT
14. PO Viviana Segovia	21202	959217	069 PCT
15. LT Steven Vansoest	00000	943909	050 PCT

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: Inside 440 Broadway in Manhattan, an officer struck an individual with an asp/baton.	
B. An officer	Force: Inside 440 Broadway in Manhattan, an officer struck an individual with an asp/baton.	
C. Officers	Force: In front of 440 Broadway in Manhattan, officers struck § 87(2)(b) with an asp/baton.	
D. Officers	Force: In front of 440 Broadway in Manhattan, officers used physical force against § 87(2)(b)	

Case Summary

On December 17, 2020, Robert Balin, of Davis Wright Tremaine, LLP., filed this complaint on behalf of § 87(2)(b) and individuals.

On June 1, 2020, at approximately 3:00 a.m., § 87(2)(b) and § 87(2)(b) each a photojournalist documenting the 2020 Police Brutality Protests, were standing in front of the Footlocker at 440 Broadway in Manhattan, when they observed (a) 69th Precinct officer(s) inside of the Footlocker utilize asp strikes against two unidentified individuals (**Allegations A and B: Force – Nightstick as club, § 87(2)(g)**).

Officers from the 42nd Precinct arrived and formed a line in front of the Footlocker entrance. § 87(2)(b) and other photojournalists were on the edge of the sidewalk, just off the street, when 42nd Precinct officers allegedly rushed forward and struck them and pushed them with asps/batons (**Allegation C: Force – Nightstick as club, § 87(2)(g)**) (**Allegation D: Force – Physical force, § 87(2)(g)**).

Ultimately, multiple civilians that were inside the store were arrested and removed for processing.

The investigation verified the arrest of three civilians a result of this incident, each for burglary in the 3rd degree (**Board Review 01**). The investigation did not obtain BWC footage related to this incident because the 69th Precinct officers' cameras ran out of battery and the 42nd Precinct officers were not required to use their BWC as per the Patrol Guide. The investigation obtained surveillance video footage from Footlocker (**Board Review 02**) (**Board Review 03**). § 87(2)(b) provided approximately 100 still photos she captured on the evening in question (**Board Review 04**).

Findings and Recommendations

Allegation (A) Force: Inside 440 Broadway in Manhattan, an officer struck an individual with an asp/baton.

Allegation (B) Force: Inside 440 Broadway in Manhattan, an officer struck an individual with an asp/baton.

It is undisputed that on the night in question, there were protests around New York City that involved serious property damage. It is also undisputed that a large number of protestors broke into and looted the Footlocker at 440 Broadway.

While in the vicinity of 440 Broadway in Manhattan, § 87(2)(b) was documenting the 2020 Police Brutality protests (**Board Review 05**). Leading up to 3:00 a.m., a Footlocker store was broken into and people were taking merchandise inside. At around 3:00 a.m., § 87(2)(b) saw at least four or five NYPD officers arrive and go into the store. When she approached the store front, she saw officers inside “beating” an individual in attempt to arrest him. She was not able to further describe the force used. She was not able to give context as to the individual’s actions before and while the officers were using force. § 87(2)(b) stated she was not able to provide the details because she was focused on getting still shots through her camera.

At approximately 2:40 a.m., while documenting the 2020 Police Brutality protests as a photojournalist, § 87(2)(b) saw individuals compromise a security gate in front of 440 Broadway in Manhattan (**Board Review 06**). After focusing elsewhere, he saw officers arrive 20 minutes later. Approximately three to four officers went into the store, and while inside, they surrounded one civilian. The officers were attempting to apprehend the individual and utilized their asps to do so. When asked, § 87(2)(b) stated that he saw officers raising batons over their heads and bring them down on the individual. He was not able to provide any additional contextual details.

Searches of the NYPD’s Booking and Arraignment Disposition System (BADs) identified three individuals arrested on June 1, 2020, inside 440 Broadway for an incident that occurred at 3:00 a.m., by Police Officer Nicholas O’Brien and Police Officer John O’Rourke, both of the 69th Precinct (**Board Review 01**). The investigation made attempts to contact § 87(2)(b)

§ 87(2)(b) . The parties were not cooperative with the investigation.

The investigation obtained video surveillance footage from the Footlocker Field Investigations team (**Board Review 02**). For the first 10 minutes of the nearly 35-minute video, many civilians are depicted entering, stealing from, and exiting the Footlocker. Between the 10:00 and 10:40 VLC timestamps, NYPD officers are seen interacting with two civilians. At the 10:00 mark, as officers walk past a closed door, an individual exits the door and two officers attempt to grab hold of the individual. While the video is highly pixilated, the individual seemingly does not immediately surrender and actively attempts to evade the officers. A third officer enters the frame seconds later and begins to strike the individual with what seems to be a baton or an asp. Additional officers approach to assist at the 10:10 mark, and after they do, motions consistent with continued asp/baton strikes are not clearly seen.

In the same video, at the 10:33 mark, a second individual is depicted exiting the same door as the first individual. Officers' approach to apprehend that individual and they all engage in a push/pull struggle, resulting in officers and the civilian going to the ground out of the frame of the video.

§ 87(2)(g)
§ 87(2)(b) provided a series of photos capturing the incident in question (**Board Review 07**). The investigation determined that the photos depict the officers' interaction with the second individual that emerges from the right-side doorway in the store. Beginning at § 87(2)(b) 36592," an individual is depicted emerging from the right-side doorway inside the store and into the arms of an officer, determined by the investigation to be Police Officer Buddhadeb Biswas, of the 69th Precinct. In § 87(2)(b) 36594," an officer depicted behind PO Biswas has his arm raised. § 87(2)(b) 36595" to § 87(2)(b) 36600" depict the same officer raising his arm above his head and bringing it down multiple times. Upon reviewing § 87(2)(b) 36595" versus § 87(2)(b) 36596" and § 87(2)(b) 36597," the investigation determined that a long, dark object is in the hand of the officer raising and bringing down his arm. The individual is depicted actively resisting and attempting to evade arrest, ultimately pushing PO Biswas backward onto his back and ending up on top of PO Biswas; at which point, officers converge and work to apprehend the individual. The pictures do not capture officers using additional asp/baton strikes after the civilian goes to the ground.

The investigation interviewed the four members of the 69th Precinct who arrived at 440 Broadway to address the looting and could have been the officers who used the force in question. Police Officer Frankie Tong, Police Officer Tony Tan, Police Officer Abdelhai Sahel, and PO O'Brien each stated that they did not use asp/baton strikes against the civilians inside the store and they did not see any other officer do so (**Board Review 08**) (**Board Review 09**) (**Board Review 10**) (**Board Review 11**).

Sergeant Derek Pasolini, also of the 69th Precinct, stated he observed an officer utilize asp/baton strikes against the second individual who pushed and fell on top of PO Biswas, but he did not know which officer did so (**Board Review 12**). At the conclusion of the interaction, he contacted Lieutenant Steven Vansoest of the 50th Precinct, who was assigned as the team's supervisor at the time of this incident and informed him what happened, including the fact that asp/baton strikes were used. Lieutenant Vansoest told him that a Threat, Resistance, or Injury report did not need to be prepared.

NYPD Patrol Guide 221-01 (**Board Review 13**). Force may be used when it is reasonable to ensure the safety of others, place a person in custody, and/or prevent the escape of an individual. In assessing whether force is reasonable, officers should consider the nature of the circumstances, whether the subject is actively resisting and/or attempted to evade arrest, presence of hostile crowds, number of subjects to officers, and factors known about the subject.

§ 87(2)(g)

Allegation (C) Force: In front of 440 Broadway in Manhattan, officers struck § 87(2)(b) with an asp/baton.

Allegation (D) Force: In front of 440 Broadway in Manhattan, officers used physical force against § 87(2)(b).

§ 87(2)(b) stated that as she observed officers interacting with civilians inside the Footlocker, four NYPD officers arrived at the location and lined up in front of the store entrance (**Board Review 05**). She, § 87(2)(b) and other photojournalists moved away from the storefront to the edge of the sidewalk just before the street. As she continued to take photos with her camera, without any prior instruction or warning, the four officers “lunged” forward at the photojournalists. § 87(2)(b) was struck in the face and somewhere else she could not define with an asp. § 87(2)(b) did not observe any other civilian be struck by the asps/batons but stated that the officers were swinging their asp/baton indiscriminately.

§ 87(2)(b) further stated that she did not see who struck her with the asp because she was looking at her camera when it happened but believed that it was a female officer who did so (**Board Review 05**). § 87(2)(b) stated that she was struck just before she took the photo titled § 87(2)(b) – 36640” and the first photo she took was titled § 87(2)(b) – 36641” (**Board Review 04**). She pointed out that Police Officer Stephanie Alba of the 42nd Precinct was the only officer standing in a different position between the two photos, therefore she believed that PO Alba struck her with the asp/baton.

§ 87(2)(b) stated that approximately five officers arrived to assist the officers inside the footlocker, which they did by forming a line in front of the storefront (**Board Review 06**). While he was standing at the edge of the sidewalk with a crowd of photojournalists, officers “rushed” them. He explained that he was pushed with an asp/baton off the sidewalk; however, he was looking into his camera when it happened, so he did not see which officer did so. No instructions or commands were given prior to the officers taking the action.

§ 87(2)(b) added that § 87(2)(b) was also pushed off the sidewalk onto the street; however, when he looked at her, she was bleeding from her lip. He did not see what happened to her.

The investigation obtained video surveillance footage from the Footlocker Field Investigations team (**Board Review 03**). Of the many angles provided, no cameras were positioned on the outside of the store; however, there was a camera on the inside facing the front of the store. The video from that camera does capture NYPD personnel; however, the quality was poor and did not assist in the investigation.

PO Alba stated that she did not use her asp/baton to strike any civilian in front of Footlocker or at any point during the evening (**Board Review 15**). She did not recall stepping toward civilians and pushing them with her asp in front of the Footlocker, and she did not recall seeing any other officer do so.

Police Officer Paul Polintan, also of the 42nd Precinct, did not recall the incident in question (**Board Review 16**). Sergeant Ruben Arroyo-Perez did not utilize his baton against civilians while in front of 440 Broadway that evening and he did not see any other officer do so (**Board Review 17**). None of the 69th Precinct officers who were inside the store saw NYPD officers outside of the store utilize an asp/baton against any civilian.

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 18**).
- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 19**).

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 mental anguish, emotional distress and suffering, psychological injuries, violation of his constitutional rights, and other injuries and seeking \$1,000,000 as redress (**Board Review 20**). § 87(2)(b)
- According to the Office of Court Administration (OCA), § 87(2)(b)
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of convictions in New York City (**Board Review 14**).

Squad: 09

Investigator:	<u>Wassim Abedrabbo</u>	<u>SI Wassim Abedrabbo</u>	<u>1/19/2022</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Monique West</u>	<u>IM Monique West</u>	<u>1/20/2022</u>
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Kelly Lyon	Team: Squad #11	CCRB Case #: 202100268	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 7:30 PM	Location of Incident: West Street and Rector Street	Precinct: 01	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 01/12/2021 4:00 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/12/2021 4:00 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Kieran Higgins	971	941903	SRG 5
2. POM John Oneill	10463	959001	SRG 1
3. SGT Elliot Zinstein	05494	947634	TRN BUR
4. POM Joseph Deck	08350	947736	SRG 1
5. POM Anthony Buonomo	09259	954579	SRG 3
6. POM Scott Obenauer	23942	935422	SRG 4
7. POF Jamilet Rosario	27058	967309	042 PCT
8. POM Rubenson Marcellus	14793	956063	042 PCT
9. POF Ileana Feliz	25565	950538	SRG 3
10. POM James Obrien	23885	946071	PB POD
11. SGT Leo Park	04731	949448	WTC CMD
12. POM Riviere Adhemar	02753	923422	TB DT33
13. POM Adam Heaphy	16137	960650	090 PCT
14. POF Katrina Watts	03050	957274	TB M/TF
15. POM Vincent Daquaro	11470	966014	090 PCT
16. POM Jonathan Lederman	11476	957082	101 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers threatened individuals with the use of force.	
B. An officer	Force: An officer struck an individual with a baton.	

Officer(s)	Allegation	Investigator Recommendation
C. An officer	Abuse: An officer interfered with an individual's use of a recording device.	[REDACTED]
D. Officers	Force: Officers used physical force against individuals.	[REDACTED]
E. Officers	Force: Officers struck individuals with batons.	[REDACTED]

Case Summary

On January 12, 2021, § 87(2)(b) filed this complaint with the CCRB by phone.

On June 2, 2020, at approximately 8:15 p.m., in the vicinity of West Street and Rector Street in Manhattan, § 87(2)(b) and § 87(2)(b) were marching with a large group of protesters when the 8:00 p.m. curfew came into effect. § 87(2)(b) was also present; however, he was not accompanying § 87(2)(b) or § 87(2)(b). Officers allegedly began driving toward the back of the crowd and chasing protesters with vehicles (**Allegation A: Abuse of Authority – Threat of force, § 87(2)(g)**). Officers blocked off the street at the front of the crowd by standing in a line and the protesters could not get through. § 87(2)(b) observed an unidentified male and four unidentified females become separated from the rest of the group. Then an officer allegedly hit the male in the head with his baton (**Allegation B: Force: Nightstick as club, § 87(2)(g)**). § 87(2)(b) observed an unidentified male who was recording when he was taken to the ground, beaten, and arrested (**Allegation C: Abuse of Authority – Interference with recording device, § 87(2)(g)**). § 87(2)(b) also observed officers taking unidentified individuals to the ground, kicking them, and beating them with their batons (**Allegation D: Force - Physical force, § 87(2)(g)** and **Allegation E: Force – Nightstick as club, § 87(2)(g)**), § 87(2)(b) and § 87(2)(b) left the location and went home.

Neither § 87(2)(b), § 87(2)(b), nor § 87(2)(b) were summonsed or arrested as a result of this incident. There were no specific victims identified who were summonsed or arrested as a result of this incident.

The investigation received 14 body-worn camera videos (**BR 01, BR 02, BR 03, BR 04, BR 05, BR 06, BR 07, BR 08, BR 09, BR 10, BR 11, BR 12, BR 13, and BR 14; videos, and BR 15 and BR 16; summaries**), none of which captured the allegations raised in this complaint and duplicates of these videos were originally received at the CCRB under related complaints that were filed prior to this one. The seven additional CCRB complaints (202004684, 202004315, 202004232, 202004222, 202004203, 202004048, and 202003978) occurred within the vicinity of this incident. Amongst these complaints, there were 30 additional body-worn camera videos from CCRB #202004684 (**BR 17, BR 18, BR 19, BR 20, BR 21, BR 22, BR 23, BR 24, BR 25, BR 26, BR 27, BR 28, BR 29, BR 30, BR 31, BR 32, BR 33, BR 34, BR 35, BR 36, BR 37, BR 38, BR 39, BR 40, BR 41, BR 42, BR 43, BR 44, BR 45, and BR 46; videos, and BR 47; summaries**). There were seven additional videos located in CCRB #202004315 (**BR 48, BR 49, BR 50, BR 51, BR 52, BR 53, and BR 54; videos**). There were two additional body-worn camera videos located in CCRB #202004232 (**BR 55 and BR 56; videos**). There were nine additional body-worn camera videos located in CCRB #202004222 (**BR 57, BR 58, BR 59, BR 60, BR 61, BR 62, BR 63, BR 64, and BR 65; videos**). There were eight additional body-worn camera videos located in CCRB #20204203 (**BR 66, BR 67, BR 68, BR 69, BR 70, BR 71, BR 72, BR 73, and BR 74; videos**). There were six additional body-worn camera videos located in CCRB #202003978 (**BR 75, BR 76, BR 77, BR 78, BR 79, and BR 80; videos**). Of the additional body-worn camera videos, none clearly depicted this incident. There was one handheld TARU footage video (**BR 81**) which also did not clearly depict this incident. § 87(2)(b) provided six cell phone videos of the protest (**BR 82, BR 83, BR 84, BR 85, BR 86, and BR 87; videos, and BR 88; summaries**) and § 87(2)(b) provided five videos of the protest (**BR 89, BR 90, BR 91, BR 92, and BR 93; videos and BR 94; summaries**) none of which depicted any allegations.

Findings and Recommendations Allegation (A) Abuse of Authority: Officers threatened individuals with the use of force.

Allegation (B) Force: An officer struck § 87(2)(b) with a baton.

Known Facts and General Descriptions

It was undisputed that a protest occurred on June 2, 2020, in the general vicinity of West Street and Rector Street in which protesters were out after the mayoral emergency curfew went into effect at 8:00 p.m.

§ 87(2)(b) stated (BR 95) that he and his friend § 87(2)(b) were marching on West Street toward Battery Park when the citywide curfew went into effect. Officers lead protesters into a “strategic location” around a corner by the overpass and there was a line of officers in riot gear waiting. Protesters were chased by officers in vehicles including § 87(2)(b)’s friend who was chased for 20 yards by an SUV (§ 87(2)(b) did not specify whether this friend was § 87(2)(b) and § 87(2)(b) never stated (BR 96) that this had happened to him. Additionally, § 87(2)(b) did not state when or where this took place). Officers on foot circled the protesters and started attacking. Four unidentified females and one unidentified male got separated from the rest of the protesters. An officer hit the male in the back of the head with a baton and arrested him. § 87(2)(b) did not describe any injuries and was unable to provide a description of the male who was struck in the head. § 87(2)(b) did not provide an exact location for where he witnessed the baton strike.

§ 87(2)(b) also described observing a sergeant who was a white male in his late thirties to early forties who was 5’4” tall, pushing people with his baton from behind. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b) stated (BR 96) that as the protesters marched downtown, efforts were made by officers to break up the crowd. There were police vehicles driving in the highway breaking up protesters while they were marching. § 87(2)(b) did not specify where he observed the vehicles breaking up protesters. § 87(2)(b) did not observe any injuries. At approximately 8:15 p.m. in the vicinity of West Street and Rector Street, just after the curfew went into effect, the group of officers that had been marching with the protestors suddenly started arresting three people who were marching too close to them. There was a white male on the bottom of the pile who appeared to be the subject of the arrest. The officers had batons, but § 87(2)(b) did not remember whether the officers were striking the individuals. This caused a stoppage in the march and created a bottle neck. § 87(2)(b) felt that the officers were deliberately doing this to break up the crowd.

§ 87(2)(b) stated (BR 97) that he did observe the barricade separating the sidewalk and the street on West Street and Rector Street. § 87(2)(b) stated that there were two individuals, a Hispanic male, and a Black female, getting arrested in this vicinity. The male was on the ground, but § 87(2)(b) did not see him go to the ground. § 87(2)(b) did not see any officer hit either of these individuals with a baton.

Body-Worn Camera and Additional Footage

§ 87(2)(b) provided a video (BR 87; video and BR 88; summary) which captures protesters standing near a construction barricade on West Street and Rector Street who are separated from the rest of the protesters and being arrested. It was unclear whether this video captured the individuals § 87(2)(b) was describing as being separated from the rest of the protesters. The video does not capture any male being struck in the back of the head with a baton. Two of § 87(2)(b)’s videos (BR 89 and BR 90; videos, BR 94 summaries) captured this location, however, none of these videos depicted any allegations and § 87(2)(b) did not specifically describe witnessing any allegations at this location.

Of the 77 body-worn camera videos related to this incident location, none of the videos captured any police vehicles driving toward protesters nor did they capture any of the individuals who were shown getting arrested by the construction barricade on Rector Street and West Street in § 87(2)(b)’s video.

NYPD Documents Reviewed

The arrest log from the Mass Arrest Processing Center (**BR 102**) lists numerous arrests in the general vicinity of West Street and Rector Street. § 87(2)(g)

The investigation identified one individual from this log, § 87(2)(b) who was arrested by the construction barricades on West Street and Rector Street, however, § 87(2)(b) was unavailable to provide a statement (**BR 98**). § 87(2)(g)

Ranking Officers and Officers Interviewed

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Conclusion

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (C) Abuse of Authority: An officer interfered with § 87(2)(b)'s use of a recording device.

Allegation (D) Force: Officers used physical force against individuals.

Allegation (E) Force: Officers struck individuals with batons.

Known Facts and General Descriptions

§ 87(2)(b) stated (**BR 96**) that officers in riot gear appeared to be attacking and arresting anyone who was in the way and trying to record. There was a young white male in a black hoodie who was recording another male who had been taken to the ground, beaten, and arrested. § 87(2)(b) was unable to provide any further description of the protester or the officer. Another protester was taken down, kicked, and beaten with a baton for not backing up enough. § 87(2)(b) observed officers slowing people down and then three officers would come out of line, pile on, and beat the person.

§ 87(2)(b) stated (**BR 97**) that he observed a white male officers who was 5'7" to 5'8" tall with a stocky build hit § 87(2)(b) with a baton, however, he was unable to describe this individual.

Body-Worn Camera and Additional Footage

All the available body-worn camera footage, TARU footage, and cellphone footage was reviewed. § 87(2)(g)

None of the body-worn camera footage captured a white male in a black hoodie who was recording prior to being arrested. § 87(2)(g)

NYPD Documents Reviewed

The arrest log from the Mass Arrest Processing Center (**BR 102**) indicated that numerous arrests were made in the vicinity of the West Street and various cross streets in the vicinity. § 87(2)(g)

Ranking Officers and Officers Interviewed

§ 87(2)(g)

Conclusion

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b) has been a party to two additional CCRB complaints and named a victim in one allegation (**BR 99**).

- § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 24, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this incident (**BR 100**).
- According to the Office of Court Administration (OCA), as of August 19, 2021, § 87(2)(b) has no record of convictions in New York City (**BR 101**).

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Enoch Sowah	Team: Squad #1	CCRB Case #: 202100495	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Thursday, 06/04/2020 7:45 PM	Location of Incident: Brook Avenue and East 136th Street	Precinct: 40	18 Mo. SOL 12/4/2021	EO SOL 5/4/2022	
Date/Time CV Reported Mon, 01/25/2021 10:31 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 01/25/2021 10:31 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Brianna Carlo	13238	960326	SRG 5
2. POM Derek Bruno	16445	952504	SRG 2
3. COD Terence Monahan	0000	876747	CD OFF
4. AC Kenneth Lehr	00000	891719	PBBX

Officer(s)	Allegation	Investigator Recommendation
A. An officer	Force: An officer used physical force against § 87(2)(b)	
B. An officer	Force: An officer used physical force against § 87(2)(b)	
C. An officer	Force: An officer tightly handcuffed § 87(2)(b)	

Case Summary

On January 25, 2021, § 87(2)(b) called the CCRB and filed this complaint on behalf of § 87(2)(b). § 87(2)(b) did not witness this incident.

On June 4, 2020, at approximately 7:45 p.m., § 87(2)(b) and approximately 200+ individuals participated in a Black Lives Matter protest march in the Bronx. At some point, in the vicinity of East 136th Street and Brook Avenue in the Bronx, the protestors were surrounded by several NYPD officers, who began making arrests. An officer pulled § 87(2)(b) to the ground, while another hit her face with his foot (**Allegations A and B: Force:** § 87(2)(g)). An officer tightly handcuffed § 87(2)(b) (**Allegation C: Force:** § 87(2)(g)). § 87(2)(b) received a summons as a result of this incident, but it was ultimately dismissed (Board Review 01).

Forty-four (44) cellphone videos, twenty-four (24) commercial surveillance camera videos, twenty-four (24) TARU videos, and over one hundred (100+) police body worn camera (BWC) videos, were received for this incident (Board Review 3 – Board Review 11).

This case involves allegations of kettling and other concerted enforcement actions performed under the command and supervision of the then NYPD Chief of Department (COD) Terrance Monahan and Assistant Chief (AC) Kenneth Lehr. These investigations are being addressed in CCRB case 202006855.

Pleading Language for all allegations § 87(2)(g)

Allegation (A) Force: An officer used physical force against § 87(2)(b)

Allegation (B) Force: An officer used physical force against § 87(2)(b)

Allegation (C) Force: An officer tightly handcuffed § 87(2)(b)

Known facts and general descriptions

§ 87(2)(b) (Board Review 12) and her friend, § 87(2)(b), participated in a Black Lives Matter protest in the Bronx. § 87(2)(b) and § 87(2)(b), who was dressed in a black hoodie, dark jeans, and sneakers, joined the protest at approximately 7 p.m., in the vicinity of East 136th Street. There were over 200 people marching in the street. There was also a large group of police officers that appeared to follow the protestors. Some of the officers, none of whom § 87(2)(b) could describe, were dressed in uniform and riot gear. At some point, the number of officers increased as the protestors marched eastbound on East 136th Street, and headed towards Brook Avenue. Some of the officers, the majority of whom appeared to be on bikes, appeared to have formed a line at the intersection of East 136th Street and Brook Avenue. § 87(2)(b), who was somewhere in the middle of the protest, turned and saw several officers on bikes and riot gear, approaching the protestors from behind. There were also several officers on the sidewalks. The officers appeared to have surrounded the protestors, and thus prevented them from continuing their march. The protestors yelled and asked the officers to let them leave, but they were ignored. Approximately 20 to 30 minutes later, an automated curfew message played on the loudspeaker, at which point officers approached from all directions and began making arrests. § 87(2)(b) did not recall hearing anyone give an order to make arrests. There was some commotion between officers and protestors during the arrests, but § 87(2)(b) could not describe exactly what happened, except that the officers struggled and tussled with protestors. § 87(2)(b) and § 87(2)(b) decided to move away from the commotion, and headed towards the north sidewalk on East 136th Street. An officer grabbed § 87(2)(b)'s right bicep from behind, and pulled § 87(2)(b) to the ground. § 87(2)(b) fell and landed on her left side. The officer, who § 87(2)(b) described as a Hispanic man in his late 30s or mid-40s, 6'0" tall, muscular build, with short hair or bald, and dressed in turtlelike riot gear, turned § 87(2)(b) so that she was lying on her stomach, brought her hands behind her back, and placed her wrists in plastic cuffs. § 87(2)(b) immediately felt an excruciating pain over her wrist as soon as the cuffs were applied. Another officer, who § 87(2)(b) only described as a white man in

his late 40s or early 50s, approached the vicinity where § 87(2)(b) was being handcuffed, and hit § 87(2)(b)'s jaw on the left side with his foot. § 87(2)(b) denied that the officer kicked her in the jaw but said she did not believe the officer's actions were accidental because there was no reason for the officer to have made physical contact with her. § 87(2)(b) acknowledged that the officer who hit her jaw did not make any other physical contact with her, nor did he assist in placing her in cuffs. The officer who pulled § 87(2)(b) to the ground and handcuffed her, picked § 87(2)(b) up from the ground, and escorted her to a section of the street, where a large number of protestors, who had also been arrested, were being held. § 87(2)(b) informed the officer that the handcuffs were too tight and that she was in pain, but the officer told § 87(2)(b) to "Deal with it," and sat her on the ground. § 87(2)(b) told some other officers, none of whom she could describe, that her handcuffs were too tight, but the officers, who were either moving around or standing by the arrested protestors, ignored her. At some point, a protestor who was sitting next to § 87(2)(b) informed her that her hands were turning blue. § 87(2)(b) did not see this, but said she felt her hands swelling and about to "fall off." A group of protestors began to yell, "She can't feel her hands." Approximately 10 minutes later, an officer, who § 87(2)(b) could not describe, stood § 87(2)(b) up, cut off § 87(2)(b)'s handcuffs, and applied new ones. The officer then escorted § 87(2)(b) to a waiting Corrections bus, which transported § 87(2)(b) and some other protestors to Brooklyn Central Booking. § 87(2)(b) met PO Brianna Carlo at Central Booking, who ultimately issued § 87(2)(b) a summons for violating the citywide curfew. § 87(2)(b) acknowledged that she did not see PO Carlo at the scene of the protest, and said her first encounter with PO Carlo was at Brooklyn Central Booking. § 87(2)(b) suffered severe swelling and numbness to her wrists as a result of the tight handcuffs, and subsequently sought medical attention at the § 87(2)(b), where she was diagnosed with nerve damage to her wrists.

§ 87(2)(b) (Board Review 13) corroborated § 87(2)(b)'s account in that she was brought to the ground and handcuffed, but did not recall seeing any officer hit § 87(2)(b) in the face with their foot. § 87(2)(b) also said he observed § 87(2)(b)'s hand turning blue, and that he attempted to draw the attention of some officers to § 87(2)(b)'s tight handcuffs, but was ignored. § 87(2)(b), however, could not describe any of the officers on scene, could not describe the officers who pulled § 87(2)(b) to the ground and handcuffed her.

§ 87(2)(b)'s medical records revealed that she reported to the hospital on § 87(2)(b), and complained of severe pain to her jaw, which she said was as a result of being thrown to the ground and kicked in the face. § 87(2)(b) also complained of numbness to her right thumb, which she said was as a result of being restrained in tight handcuffs. A physical examination and a computed tomography (CT) scan performed on § 87(2)(b) revealed no facial bone fractures. § 87(2)(b) was prescribed ibuprofen for the jaw pain, and informed that the numbness to her hand would "get better with time" (Board Review 14).

BWC and other video

None of the cellphone, surveillance, TARU, and BWC videos depicted any of the allegations in this case (Board Review 03- Board Review 11). PO Derek Bruno's BWC (Board Review 08), however, captures portions of this incident. The footage shows PO Bruno, assigned to Strategic Response Group (SRG) 2, standing behind a group of protestors, who are yelling, "Fuck the police," "No Justice, No Peace," and "Let us go." The camera is slightly tilted upward, and thus does not depict clear images of officers and protestors in the frame. At 11:44 of the video player, a group of officers, wearing what appear to be cyclist helmets, appear to be standing in front of the protestors. There also appear to be some protestors behind PO Bruno. At 12:40, there appears to be some pushing in the crowd. It is unclear from the footage what causes the pushing. At 12:46, PO Bruno and some other officers yell and instruct the protestors to move back. Some of the protestors appear to have hands raised in the air. At 13:00, a protestor, who is not depicted, asks PO Bruno if he could get out. PO Bruno replies, "no." At 13:35, the pushing continues. At 15:17, an officer, who is not depicted, says, "Start pulling them out." At 17:34, an officer appears to say, "Okay, one

at a time, put your hands behind your back.” Protestors begin moving out of the crowd. It appears the protestors exiting are being zip tied, but none are clearly depicted. At 22:00, PO Bruno and other officers, some of whom are dressed in uniformed white shirts, but are not clearly depicted, appear to be in the street. At 22:33, PO Bruno appears to walk towards the southeast corner of East 136th Street and Brook Avenue. A large group of officers from SRG appear to be walking in the street, some of whom appear to be escorting protestors away. At 25:20, there appear to be a crowd of protestors sitting in the street. It is dark outside and the position of the camera, which is slightly tilted upwards, makes it difficult to identify anyone. At 26:21, one of the protestors appears to say, “Can someone please help her? She can’t feel her hands,” while another protestor repeatedly yells, “§ 87(2)(b).” At 26:39, another person says, “She is losing circulation to her hands,” and “She can’t feel her hands. Please help her.” At 27:20, a protestor yells, “She is hurting. Help her.” At 27:39, another person yells, “They are fucking turning blue,” and “they are too tight.” At 27:46, what appears to be a crowd of protestors begin to repeatedly chant, “She can’t feel her hands.” None of the protestors yelling and requesting help for the individual, identified via investigation as § 87(2)(b), are depicted in the footage, and neither is § 87(2)(b). At 28:00, a protestor, who is not depicted in the footage, appears to say to PO Bruno, “Help her.” PO Bruno replies, “I don’t see anything.” It is unclear from the footage where PO Bruno is standing in relation to § 87(2)(b). At 28:30, The protestors continue to yell and scream for help for § 87(2)(b). At 28:41, someone yells, “§ 87(2)(b), I see you. You are stronger and smarter than all of them.” PO Bruno remains standing at the corner of East 136th Street and Brook Avenue. At 32:33 PO Bruno walks away after another officer approaches him, and says he is looking for his bike bag. The video ends 34:08.

NYPD documents reviewed

The above videos together with the 40th Precinct summons log (Board Review 15), and the Mass Arrest Processing Log (Board Review 16) establishes that there were hundreds of officers from multiple commands, including but not limited to SRG, Disorder Control Unit (DCU), Patrol Borough Bronx (PBBX), 40th Precinct, and Police Service Area (PSA) 7, on scene, but none of the Roll Calls and Detailed Rosters from these commands list any specific assignments relating to the incident location or the protest in the Bronx (Board Review 17 – Board Review 24). Additionally, there was no Threat Resistance and Injury report prepared for § 87(2)(b) (Board Review 25). § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Concurrent Investigations

There are no concurrent investigations into the incident involving § 87(2)(b), but there are approximately twenty CCRB investigations into the protest at the incident location. Additionally, multiple Non-Governmental Organizations (NGOs), along with the NYC Department of Investigations (DOI) and the New York State Office of the Attorney General (OAG) have released public reports analyzing the NYPD’s response to the protest at the incident location.

Ranking Officers

As discussed in detail in CCRB case #202006855, then NYPD COD Terrance Monahan and AC Kenneth Lehr were on scene for this incident, and were by their own accounts, the highest-ranking NYPD officers on scene. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Officers Interviewed

Police Officers Derek Bruno and Brianna Carlo of SRG 2 and SRG 5, respectively, were

interviewed in relation to this incident (Board Review 26 – Board Review 27). Both officers said that they and their respective SRG units, were assigned to the location in regard to a protest. PO Bruno (Board Review 26) and PO Carlo (Board Review 20), however, did not recall what information was relayed to them about the protest, but said they appeared to have been assigned to the location in regard to the Citywide curfew. They also did not recall receiving any instructions about surrounding the protestors and preventing them from leaving. PO Carlo did not recall how she arrived at the location, whereas PO Bruno, who was assigned to the SRG bike unit, arrived on his bicycle. There were hundreds of protestors and officers from multiple commands at the location when both PO Carlo and PO Bruno arrived. PO Bruno and some other officers from the bike unit, none of whose names he recalled, formed a line either in front or behind a group of protestors. PO Bruno did not recall why the officers formed a line, but said they might have been instructed to do so. PO Bruno, however, did not recall who instructed them to form a line, nor did he recall the names of any supervisors that were on scene. PO Bruno did not recall if the protestors were surrounded, nor did he recall the exact time he arrived at the location, but said an automated curfew message played on a loudspeaker at about the time the officers formed the line. At some point, PO Bruno and the other bike officers moved to the side while other officers approached and began arresting protestors for violating the citywide curfew. PO Bruno did not participate in the arrests, and said his primary responsibility was to provide security for the officers making the arrests. He did not recall observing any officer pull a female protestor to the ground, nor did he observe any officer kick a protestor in the face. He also did not recall, nor could he describe any of the officers who were handcuffing the protestors. PO Bruno did not recall observing how officers handcuffed the protestors, did not recognize § 87(2)(b) when shown her photo, nor did he recall ever interacting with her at the location. PO Bruno and some other officers, none of which he could describe, were later assigned to watch over a group of protestors that had been arrested, and were waiting to be transported to Central Booking, but he did not recall anything transpiring during this period. PO Bruno reviewed his BWC, but said he had no independent recollection regarding any protestor complaining about her handcuffs being too tight, nor did he recall hearing protestors yelling and chanting that an arrested protestor's hands were turning blue and could not feel them. PO Bruno did not recall if he could see who the protestors were referring to, nor did he recall if he was in a position to assist the said protestor, identified via investigation as § 87(2)(b), especially given that he was assigned to stand and watch over the group, and might have been holding another arrested protestor at the time. He also did not see nor know the officer who handcuffed § 87(2)(b), nor did he know if her handcuffs were removed or loosened.

PO Carlo did not recall anything she did when she arrived on scene, except that she remained on the sidewalk, while other officers made arrests. PO Carlo denied participating in any arrests, nor did she recall receiving any instructions while on scene. She did not observe the arrest of § 87(2)(b), nor did she observe any civilian being pulled to the ground or kicked in the face. At some point, a supervisor, who PO Carlo could not describe, called PO Carlo over, and instructed PO Carlo to take the arrest of § 87(2)(b), who was being escorted to a Corrections van. PO Carlo did not know why she was assigned § 87(2)(b)'s arrest, but said other officers on scene were also randomly assigned arrests. PO Carlo approached § 87(2)(b) while her photograph was being taken and being placed in a bus. PO Carlo did not know which officer took the photograph of § 87(2)(b), and said she did not observe any injuries on § 87(2)(b)'s face, nor did she recall seeing § 87(2)(b)'s hands because they were behind her back. She, however, did not recall hearing § 87(2)(b) complaining of her handcuffs too tight. PO Carlo met § 87(2)(b) at Brooklyn Central Booking, where she processed § 87(2)(b)'s arrest, and issued her a summons for violating the citywide curfew.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Maura Roche	Team: Squad #10	CCRB Case #: 202106215	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Tuesday, 06/02/2020 8:10 PM	Location of Incident: West Street at Morris Street	Precinct: 01	18 Mo. SOL 12/2/2021	EO SOL 5/4/2022	
Date/Time CV Reported Fri, 06/26/2020 3:38 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/26/2020 3:38 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Jason Ragoo	07277	939268	GVSD Z1
2. DT3 Carlos Velez	05575	919817	GVSD Z1
3. DT3 Mike Civil	02114	935092	GVSD Z1
4. An officer			
5. DT3 Christopher Vickery	07174	945079	DB GVSD

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. LT CD William Buchanan	00000	924993	DET BUR
2. SGT Irene Bonicadelgado	02352	938343	100 PCT
3. PO Vicente Cardenas	00840	959532	SRG 4
4. PO David Cardona	16573	960324	SRG 4
5. SGT Joseph Carlsen	01940	951586	SRG 1
6. PO Jose Colon	20734	931603	SRG 2
7. PO Patrick Connolly	12224	930038	SRG 3
8. CPT Julio Delgado	00000	918927	SRG 2
9. INSP Gerard Dowling	00000	915640	SRG
10. PO Roberto Feliciano	19830	958578	044 PCT
11. DT3 Anthony Fernandez	02026	950401	VED ZN2
12. SGT Randy Figueroa	04844	941750	032 PCT
13. SGT Richard Guerrieri	01567	948039	SRG 5
14. DT3 Michael Harkins	00219	955974	GVSD Z1
15. PO Robert Harrington	30008	965171	040 PCT
16. PO Jhunaissy Hidalgo	12852	951820	043 PCT
17. DC Michele Irizarry	00000	915113	TRN BUR
18. PO Jonathan Ku	01199	951890	SRG 4
19. SGT David Lamarre	03547	947929	SRG 3
20. PO Lilian Lozada	20533	962917	041 PCT
21. DI James Mcgeown	00000	889041	SRG
22. DT3 John Mchugh	00581	948163	GVSD Z1

Witness Officer(s)	Shield No	Tax No	Cmd Name
23. PO Eduardo Mejia	10215	960929	SRG 1
24. PO Adam Muniz	31861	955234	SRG 1
25. SGT Daniel Nicoletti	05379	942271	F S S
26. PO Michael Pascale	30095	956153	SRG 3
27. SGT Joel Polanco	04089	953261	040 PCT
28. PO Harvey Rabel	18646	937321	SRG 3
29. CPT Ronald Ramos	00000	935562	SRG 4
30. LT Christopher Schmidt	00000	907284	SRG 1
31. SGT Ray Soriano	00701	956275	PA UPTU
32. LT Peter Sotiriou	00000	924515	SRG 3
33. DT3 Christian Villacis	05498	949772	GVSD Z1
34. DI CHET WAKIE	00000	927702	C S O
35. PO Crystal Washington	20523	968187	040 PCT
36. DT3 Eric Yeung	00699	941257	VED ZN2
37. PO Franz Zabala	08624	939730	SRG 1
38. DI Ronald Zedalis	00000	927702	C S O
39. SGT Elliot Zinstein	05494	947634	TRN BUR

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Jason Rago	Force: Detective Jason Rago struck an individual with a baton.	[REDACTED]
B.DT3 Jason Rago	Force: Detective Jason Rago struck an individual with a baton.	[REDACTED]
C.DT3 Jason Rago	Force: Detective Jason Rago used physical force against an individual.	[REDACTED]
D.DT3 Mike Civil	Force: Detective Mike Civil struck an individual with a baton.	[REDACTED]
E. An officer	Force: An officer struck an individual with a baton.	[REDACTED]
F.DT3 Christopher Vickery	Force: Detective Christopher Vickery used physical force against an individual.	[REDACTED]
G.DT3 Carlos Velez	Force: Detective Carlos Velez used physical force against an individual.	[REDACTED]
H.DT3 Carlos Velez	Force: Detective Carlos Velez struck an individual with a baton.	[REDACTED]
I.DT3 Jason Rago	Force: Detective Jason Rago used physical force against an individual.	[REDACTED]
J.DT3 Jason Rago	Force: Detective Jason Rago struck an individual with a baton.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On June 26, 2020, § 87(2)(b) filed this complaint on behalf of unknown individuals with the CCRB by phone. This case and case number 202103129 were split from CCRB case 202003978 for closing purposes.

On June 2, 2020, at approximately 8:10 p.m., at West Street and Morris Street in Manhattan, § 87(2)(b) was taking part in a protest in honor of Black Trans Lives. § 87(2)(b) was walking northbound on the east side of West Street away from officers while filming on his cell phone when he captured on video a group of officers, including Det. Jason Ragoo, Det. Carlos Velez, Det. Mike Civil, Det. Christopher Vickery, Sgt. Daniel Nicoletti, and Lieutenant William Buchanan, all of the Gun Violence Suppression Division (Det. Ragoo and Lieutenant Buchanan have since been transferred to the Detective Bureau, Sgt. Nicoletti has since been transferred to the Firearms Suppression Section, and Det. Velez has since retired), approaching a group of protestors who were slowly walking away from the officers. A Black female ran forward from the group of protestors and approached the officers. Det. Ragoo pushed this female away from the officers with his baton (**Allegation A: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)). This female then backed away from the officers.

As the officers continued to move northbound, a white male wearing a camouflage patterned backpack stopped walking and put his hands above his head. Det Ragoo approached this male, who turned so his back was facing Det. Ragoo, and Det. Ragoo pushed this male by the backpack forward with his baton (**Allegation B: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)). This male turned back to face Det. Ragoo and, as Det. Ragoo was going to apprehend the female he had previously pushed, Det. Ragoo felt the male allegedly reach his arm around his neck and try to pull Det. Ragoo away from the female. Det. Ragoo then allegedly pushed the male off him (**Allegation C: Force – Physical Force**, § 87(2)(g)) as Det. Civil struck the same male in the head with his baton (**Allegation D: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)).

An Asian female approached the male as Det. Civil struck him, and an officer struck this female in the legs with his baton (**Allegation E: Force – Nightstick as club (incl asp & baton)**, § 87(2)(g)). Det. Vickery took the male to the ground (**Allegations F: Force – Physical Force**, § 87(2)(g)) with the assistance of Det. Velez (**Allegation G: Force – Physical Force**, § 87(2)(g)). As the male was going to the ground, Det. Velez struck him in the torso with his baton (**Allegation H: Force - Nightstick as club (incl asp & baton)**, § 87(2)(g)).

After the officer struck the second female in the legs with the baton, Det Ragoo pulled her down to the ground on her right side into a fetal position with her hands above her head (**Allegation I: Force – Physical Force**, § 87(2)(g)). While she was in this position on the ground, Det. Ragoo struck the female with the end of his baton in her torso (**Allegation J: Force - Nightstick as club (incl asp & baton)**, § 87(2)(g)).

§ 87(4-b), § 87(2)(g)

§ 87(2)(b) provided cell phone footage of this incident (**BR 01 and BR 02**). Body worn camera footage was obtained from PO Jonathan Ku (**BR 03 and BR 04**), Lieutenant Schmidt (**BR 05 and BR 06**), PO Cardenas (**BR 07 and BR 08**), PO Zabala (**BR 09 and BR 10**), PO Patrick Connolly (**BR 11, BR 12, BR 13, BR 14, and BR 15**), PO Michael Pascale (**BR 16 and BR 17**), PO Adam Muniz (**BR 18 and BR 19**), PO Harvey Rabel (**BR 20 and BR 21**), PO Roberto Feliciano (**BR 22 and BR 23**), PO Eduardo Mejia (**BR 24 and BR 25**), PO Crystal Washington (**BR 26 and BR 27**), Sgt. Elliot Zinstein (**BR 28 and BR 29**), PO David Cardona (**BR 30 and BR 31**), PO Jhunaissy Hidalgo (**BR 32, BR 33, and BR 34**), Lieutenant Peter Sotiriou (**BR 35 and BR 36**), Sgt. David Lamerre (**BR 37, BR 38, BR 39, and BR 40**). The relevant videos are discussed below.

§ 87(2)(b) received a summons as a result of this incident (**BR 41**). Although the male and second female were likely arrested, the investigation was unable to identify them. There was no

additional video of this incident.

This case was added to the sensitive case list on June 11, 2020, due to media coverage of the incident (**BR 50** and **BR 51**).

Findings and Recommendations

Allegation (A) Force: Detective Jason Ragoo struck an individual with a baton.

Allegation (B) Force: Detective Jason Ragoo struck an individual with a baton.

Cell phone video from § 87(2)(b) (**BR 01** and **BR 02**), from the beginning until 00:27 seconds, as well as body-worn camera footage from PO Ku (**BR 03** and **BR 04**), from 1:25 minutes until 1:42 minutes, captured this portion of the incident.

§ 87(2)(b)'s video (**BR 01** and **BR 02**) begins with the camera focused on a group of civilians walking northbound on the east side of West Street. The camera faces south, where a line of police officers is visible at the south end of the protest walking northbound with the protestors also walking northbound away from the officers. At 00:10 seconds, someone on the left side of the frame throws what appears to be a water bottle toward officers. At 00:12 seconds, someone throws another item toward the officers from the same general area. At 00:17 seconds, on the upper right side of the frame, a Black female wearing a green multi-colored, long sleeve shirt with long hair that is blonde on top and black on the bottom, moves southbound to approach the officers and then walks backward while facing the officers as they approach her. At 00:19 seconds, someone yells, "Hold the Line! Hold the Line!" Beginning at 00:24 seconds on the middle right of the frame, Det. Ragoo approaches this female, and, while holding his baton on either end with both of his hands at mid-chest height, pushes the female at torso level. While most of the contact happens outside of the frame, a screenshot from 00:24 seconds captures a portion of this (**BR 42**).

At 00:25 seconds, a white male wearing a black t-shirt, dark blue jeans, and a camouflaged patterned backpack turns his back toward the officers. At 00:26 seconds on the right side of the frame, Det. Ragoo pushes this male with his baton, which he is holding with both of his hands at mid-chest level in the mid back in the backpack. A screenshot at 00:26 seconds, captures this contact (**BR 43**). Det. Ragoo and this male move out of the frame, while officers, including Det. Civil on the left of the frame, walk forward and direct people to leave the area.

In PO Ku's body-worn camera footage (**BR 03** and **BR 04**), beginning at 1:25 minutes, the Black female is visible on the left of the frame closest to the officers. This female walks back and forth horizontally across the street in front of the officers slowly backing up as the officers advance. At 1:35 minutes, this female slows her pace in front of Det. Ragoo, who, at 1:37 minutes, pushes her back with his baton. This female remains standing and moves further away from the officers. A screenshot from 1:37 minutes captures this contact (**BR 44**).

At approximately the same time, the white male is visible behind the female with his back turned to Det. Ragoo and his hands raised in the air. This male walks slowly northbound, and, at 1:39 seconds, Det. Ragoo pushes the male in the back by the backpack while holding either end of his baton with both his hands. The male then continues walking forward with his arms above his head in the air. A screenshot from 1:39 minutes captures this contact (**BR 45**).

§ 87(2)(b) (**BR 46**) stated that he was primarily focused on filming the protest with his phone, so, while he saw officers interacting with many people, he did not recall witnessing this specific incident other than what he captured on video. § 87(2)(b) did not know any of the people captured in this footage.

The investigation was unable to identify the victims in the incident.

Det. Ragoo (**BR 47**) stated that he had been assigned that day to a mobile field force detail to assist with controlling the ongoing protests. Det. Ragoo could not recall all the officers in the detail, but it included Lieutenant Buchanan, Sgt. Nicoletti, Det. Vickery, and Det. Civil. At approximately 8 p.m., Lieutenant Buchanan instructed the detail that they were going to the West Side Highway because a large number of protestors were out after the 8:00 p.m. curfew. When they arrived, Det. Ragoo observed approximately 100 people walking southbound on West Street toward

the entrance to the Battery Tunnel where a group of SRG officers were lined up to stop their forward progress. A loudspeaker was projecting an announcement instructing people to disperse because of the curfew or else they would be arrested.

Det. Rago and the officers in his detail immediately joined the line of SRG officers near the entrance to the Battery Tunnel and started to give verbal instructions for people in the crowd to disperse. A few people complied and left the area, but most of the people yelled profanities at the officers and threw fist-sized rocks, glass and plastic water bottles, and liquids at the officers, some of which hit Det. Rago in the head, arms, and back. Officers from the Legal Bureau, who Det. Rago could not describe other than that they were wearing shirts with the word “Legal” written on them, told him and the other officers around him to move forward. The Legal Bureau officers then pointed out specific people for the officers to arrest but did not provide the reason for the arrests.

Det. Rago was initially with the other members of his detail. As they moved forward, some people in the crowd dispersed. However, most of the protestors started to move toward the officers, surrounding them on all sides, at which time Det. Rago lost track of the other officers in his detail. Det. Rago, who was holding his baton on either end with both hands, continued to give instructions for people to disperse and pushed people who advanced on the officers back to compel them to clear the area. The protestors did not comply, and Det. Rago observed them yelling, punching officers, throwing the same objects as before, and using bikes and hands to push back against the officers.

As they continued to move north, Det. Rago instructed a female he could not describe who was standing in front of him to disperse. The female verbally responded, but Det. Rago could not recall what she said. Det. Rago then moved forward to apprehend her. Det. Rago did not recall pushing this female with his baton and did not recall pushing a male shortly after. Det. Rago was presented with cell phone footage from § 87(2)(b) and body-worn camera footage from PO Ku. However, Det. Rago had no further recollection of the incident based on the video.

Det. Civil’s statement (**BR 48**) was generally consistent with that of Det. Rago with the following exceptions noted. Just prior to arriving at West Street near the Battery Tunnel, Det. Civil and his detail had been pursuing a group of looters on foot who merged into and hid themselves amongst the large group of protestors. The protestors were chanting and screaming loudly, some using their own sound devices, making threats toward the officers present, although Det. Civil could not recall what the threats were, fighting amongst each other, and throwing objects including water bottles, rocks, pocket change, and tennis balls. At some point, Det. Civil could not recall when, a water bottle hit him in the head, and he saw other officers also hit with airborne objects.

A few minutes after he arrived at the location, a male inspector Det. Civil could not describe told officers to start to clear the street and to enforce the curfew; however, this inspector provided no instructions about how the officers were to do this. Det. Civil, while holding either end of his baton with both of his hands, walked northbound and gave instructions for people to clear the area. While he saw officers taking multiple people into custody, Det. Civil had no recollection of seeing any officers strike any individuals with their batons, nor could he recall the incident having viewed § 87(2)(b) cell phone video and PO Ku’s body-worn camera footage.

Det. Vickery’s statement (**BR 49**) was generally consistent with those of Det. Rago and Det. Civil with the following exceptions noted. When Det. Vickery first arrived at the location, a line of officers was standing across West Street at Battery Place opposite a stationary crowd of protestors, the size of which he could not estimate. Det. Vickery and the other officers in his detail joined the line of officers, and a supervising officer behind him who he did not see gave an order for them to move forward and disperse the crowd. Almost as soon as they started walking north, Det. Vickery saw Det. Rago struggling to place a white male with a ponytail into handcuffs, but Det. Vickery did not see how this male came to be on the ground. Det. Vickery did not see Det. Rago push that white male with his baton, and he did not see Det. Rago push anyone else with his baton. Det. Rago later told Det. Vickery that he had tried to grab a female, but that the white male had doubled back from the crowd to intervene.

Det. Vickery viewed cell phone footage from § 87(2)(b) and body-worn camera footage from PO Ku, and he confirmed that this was the incident he observed with Det. Ragoo. However, Det. Vickery had no recollection of seeing Det. Ragoo push the female or the male.

Lieutenant Buchanan's statement (**BR 52**) was generally consistent with those of Det. Ragoo, Det. Vickery, and Det. Civil with the following exceptions noted. Upon arrival, Lieutenant Buchanan observed approximately 500 to 1000 protestors who did not appear to be doing anything physically threatening. At approximately 8:15 p.m., SRG gave an order to clear the streets, and, when the protestors did not disperse, SRG officers began making arrests. Lieutenant Buchanan and the officers in his detail followed behind the SRG officers and assisted the SRG officers as they made arrests. As officers started making arrests, protestors began throwing bottles and other debris at officers. Lieutenant Buchanan observed officers arrest approximately 70 people while in the general area, but he could not recall specifics of any of the arrests. Lieutenant Buchanan did not recall ever seeing any officer strike anyone with their baton or push anyone back their baton. Lieutenant Buchanan was shown § 87(2)(b)'s cell phone footage and PO Ku's body-worn camera footage, but he had no further recollection of this portion of the incident

Det. Velez (**BR 53**), Sgt. Nicoletti (**BR 54**), PO Ku (**BR 55**), PO Washington (**BR 56**), PO Muniz (**BR 57**), PO Mejia (**BR 58**), Deputy Inspector McGeown (**BR 59**), Inspector Dowling (**BR 60**), Deputy Inspector Zedalis (**BR 61**), Captain Ramos (**BR 62**), PO Connolly (**BR 63**), PO Pascale (**BR 64**), and Lieutenant Schmidt (**BR 70**) all provided generally consistent statements. None of the officers recalled seeing Det. Ragoo push anyone with his baton. All of the officers viewed § 87(2)(b)'s cell phone footage and PO Ku's body-worn camera footage, but they had no further recollection of this portion of the incident.

Emergency Executive Order No. 118 (**BR 65**), issued by Mayor Bill DeBlasio on June 1, 2020, established a city-wide curfew from 8:00 p.m. on June 2, 2020, until 5:00 a.m. on June 3, 2020, during which time no persons or vehicles were permitted in public. Exceptions to the executive order were police officers, peace officers, firefighters, first responders and emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies.

It was undisputed that the protestors were out after curfew, that some protestors were throwing items at officers, and that officers were giving repeated warning for people to disperse from the area. However, rather than comply with these commands to leave the area, the Black female protestor approached the officers and remained in the street, at which point Det. Ragoo pushed her back while holding either end of this baton with both of his hands. Immediately after pushing the female, Det. Ragoo pushed a male from behind in the backpack with his baton in the same manner when he refused to leave the area.

Patrol Guide procedure 221-01 (**BR 66**) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

§ 87(2)(g)

[REDACTED]

Allegation (C) Force: Detective Jason Ragoo used physical force against an individual.

Allegation (D) Force: Detective Mike Civil struck an individual with a baton.

Allegation (E) Force: An officer struck an individual with a baton.

Allegation (F) Force: Detective Christopher Vickery used physical force against an individual.

Allegation (G) Force: Detective Carlos Velez used physical force against an individual.

Allegation (H) Force: Detective Carlos Velez struck an individual with a baton.

Allegation (I) Force: Detective Jason Ragoo used physical force against an individual.

Allegation (J) Force: Detective Jason Ragoo struck an individual with a baton.

Cell phone video from § 87(2)(b) (BR 01 and BR 02), from 00:28 seconds unit 00:44 seconds, as well as body-worn camera footage from PO Ku (BR 03 and BR 04), from 1:42 minutes until 1:55 minutes, captured this portion of the incident.

In § 87(2)(b)'s video (BR 01 and BR 02), beginning at 00:33 seconds, Det. Civil runs toward Det. Ragoo and the same white male wearing a black t-shirt, dark blue jeans, and a camouflaged patterned backpack, who are initially out of the frame. Det. Ragoo is behind the male, who has his back toward Det. Ragoo. It is not clear from the video what the contact is between Det. Ragoo and this male. However, this male has turned partially to his left toward Det. Ragoo. Det. Civil lifts his baton to the male's neck level, and, with both hands holding either end of the baton, hits the back of this male's head at the base of the skull, pushing him forward so that he is bent at the waist. A screenshot of the moment of contact from 00:33 seconds captures the locations of the identified officers (BR 67). Det. Vickery, who is to the right of the frame, is walking and looking forward, and Det. Velez and PO Washington are further south on West Street.

At 00:34 seconds, a white female wearing all black and a yellow and orange facemask is directly behind Det. Ragoo, who is now between the male and this female. The male's, female's, and Det. Ragoo's hands are not visible in the frame, and the contact between them is not captured. A white male officer wearing a dark blue uniform with long sleeves approaches from the left side of the frame, and, at 00:35 seconds he strikes the female with his baton on the outer side of her right thigh as she turns around to face southbound. The female is directly behind Det. Ragoo and is close enough to touch his back. However, specific contact is not captured. As the female continues to turn southbound, at 00:36 seconds, the white male officer strikes her with his baton a second time in the back of the left thigh, and, at 00:37 seconds, a third time in the back of the left thigh.

At approximately the same time, Det. Velez and Det. Vickery pull the male down to the ground backwards with their hands so that he lands on his buttocks. Simultaneously, Det. Ragoo grabs the female by the hair on the right side of her head with his right hand and pulls her backward down to the ground such that she lands on her buttocks. By 00:38 seconds, the female turns and lies on her right side in the fetal position with both of her hands over her head. At 00:39 seconds, Det. Ragoo bends over the female, puts both of his hands on his baton, and strikes her with the end of his baton on the left side of her torso by the stomach and upper chest area in a swift downward motion. A screenshot from 00:39 seconds (BR 68) captures the moment of contact. At the time Det. Ragoo strikes the female, Det. Vickery is attending to the male, who is lying on the ground on his left side in the fetal position with his hands over his head. There are approximately 10 officers in the general vicinity and no other protestors present in the immediate area.

In PO Ku's body-worn camera footage (BR 03 and BR 04), beginning at 1:45 minutes, the female wearing all black with the yellow and orange facemask is standing between Det. Ragoo and the male. A screenshot from 1:46 minutes captures their general locations (BR 69). Det. Ragoo grabs the female from behind by the upper arms and turns her southbound away from the male. Det. Ragoo turns with her as she continues to rotate until she is facing northbound. At 1:47 minutes, the female and the male are on either sides of Det. Ragoo. Both the male and the female are close enough to touch Det. Ragoo, but specific contact is not clear in the footage. PO Ku approaches the area behind an unidentified officer from the legal bureau. At 1:49 minutes, Det. Velez, who is

wearing a dark blue uniform with short sleeves approaches from the left side of the frame, and, at 1:50 minutes, strikes the male individual in the torso with the end of his baton as the male is going down to the ground. After striking the male, Det. Velez steps back, and Det. Vickery moves to the ground to place the male into flex cuffs. PO Ku then continues to walk past the male and the female northbound.

As noted above, § 87(2)(b) (BR 43) stated that he was primarily focused on filming the protest and made no independent observations of this portion of the incident.

The investigation was unable to identify the victims in this incident.

Det. Ragoo (BR 44) stated that after he told the female he could not describe to disperse and she refused, he moved forward to apprehend her, at which time he felt a male reach his arm around his [Det. Ragoo's] neck and make contact with the front of his neck with his arm. At few moments later, he felt the male on his back trying to pull Det Ragoo away from the female. Det. Ragoo could not recall what his exact physical response to this was, but he thought that he tried to push the male off him. He and other officers then took the male and the female into custody, but he could not recall specifically how he and the other officers did this. The situation was very chaotic, so Det. Ragoo could not recall what other officers were around him or if any officers came to his assistance when he felt the male try to pull him away from the female, nor could he recall which officers helped him place the male and female into custody. Det Ragoo could not recall if he struck the female in the torso while trying to take her into custody and did not see Det. Civil or any other officer strike anyone with their batons.

Once the male and female were in custody, Det. Ragoo walked them further south on West Street where SRG officers were waiting with other arrestees for transportation. Det. Ragoo remained with the male and female until a supervisor, he was not sure who the officer was or his command, assigned the arrests to another officer. Det. Ragoo did not know who the arresting officer ultimately was.

Det. Ragoo noted that he received training in the Police Academy to use baton strikes to overcome or prevent physical assault. Strikes to the "green area," which comprises the arms and legs, are permissible. He was instructed to avoid striking the head.

Det. Ragoo reviewed § 87(2)(b)'s cell phone footage and PO Ku's body-worn camera footage; however, he had no further recollection of the incident.

Det. Civil's statement (BR 48) was generally consistent with that of Det. Ragoo with the following exceptions noted. Although Det. Civil saw officers affect numerous arrests as he walked north on West Street trying to clear the crowd, he had no recollection of this particular incident. Det. Civil described assisting in one arrest. However, the circumstances of that arrest were not similar to this particular incident.

Det. Civil initially denied ever striking anyone in the head area, stating, "I would never intentionally strike anyone in the head with a baton. That's, like, red." Det. Civil did not recall observing any other officers strike any protestors in the legs or the torso, but noted that it was possible and that the situation was chaotic with events unfolding very quickly.

Det. Civil noted that he received training in the Police Academy 16 years prior regarding the use of baton strikes, where he was instructed that it was permissible to utilize baton strikes in instances of escalating force by civilians to gain compliance. Baton strikes should be directed toward major muscle groups like the biceps or thighs. Areas to be avoided are the head and joints. However, as situations are fluid and subjects are rarely stationary, no areas are strictly prohibited. Factors to consider when determining whether to use a baton strike to gain compliance include the level of force being used against officers, proximity of a crowd, and whether other means to gain compliance, like verbal commands or the use of pepper spray, were ineffective or not possible.

Det. Civil viewed § 87(2)(b)'s cell phone footage and, although he was able to identify himself as the officer who strikes the male in the head area with his baton, Det. Civil had no independent recollection of doing so, nor did he recall any portion of this particular incident. However, having seen the video, Det. Civil stated that it appeared to him that the male had grabbed

one of the officers [Det. Rago.] Det. Civil stated, “I don’t know what he’s [the male] doing, but for me to go from, ‘Get back, everybody!’ to a straight bash to him specifically? He was assaulting a cop. That’s what he was doing.” Det. Civil clarified that this statement was only in regard to what he observed in the video and not based on any independent recollection of the incident. Det. Civil did not recall aiming to strike anyone’s head during the course of the incident and noted, “I think I aimed for his shoulder, and it probably rolled up, but I know the head is a no-no.” Again, Det. Civil noted that this was only based on his observations of the video and not his own recollections.

Det. Civil also viewed PO Ku’s body-worn camera footage, but he did not further recall the incident.

Det. Velez’s statement (**BR 53**) was generally consistent with those of Det. Rago and Det. Civil with the following exceptions noted. Det. Velez recalled assisting a supervising officer arrest an individual who had been swinging a bike at officers, but he had not recollection of this particular incident. Det. Velez initially denied ever striking a male individual in the torso with his baton, and he did not see any other officers strike any individuals with their batons. Det. Velez explained that he received training regarding the use of baton strikes in 1997 when he was in the Police Academy. He was instructed to use baton strikes if necessary in response to general force from civilians. When using baton strikes, he was told to avoid the head and to aim for center mass, which he described as the torso, arms, and legs.

Det. Velez viewed § 87(2)(b) s cell phone footage, but he still had no recollection of the incident, although he was able to identify himself at 00:34 seconds as the officer in the short sleeves with a mustache on the right of the frame by the median in the middle of the road. Having viewed the footage, Det. Velez had no independent recollection of the incident.

Det. Velez also viewed PO Ku’s body-worn camera footage, and he was able to identify himself as the officer in the left side of the frame holding a baton in his right hand at 1:33 minutes. Having viewed this video, Det. Velez still had no recollection of this particular incident. However, based on the video, it appeared to Det. Velez that the female and the male were grabbing an officer, Det. Velez was not sure who, by the neck. Det. Velez confirmed that this was only based on what he saw in the video and not his own independent recollection of the incident. Det. Velez also identified himself as the officer at 1:50 minutes who utilizes an “end strike,” which he described as a strike with the end of the baton to gain compliance, against the male, but he stated that he had no independent recollection of having done this and still did not recall the interaction. Based on the video, it appeared to Det. Velez that the male was resisting the officers, but he did not independently recall this.

Det. Vickery’s statement (**BR 49**) was generally consistent with those of Det. Rago, Det. Civil, and Det. Velez with the following exceptions noted. As Det. Vickery was walking northbound on West Street, he saw Det. Rago, who was approximately five to 10 feet away from him, struggling to put handcuffs on the white male, who was already on the ground. Det. Vickery could not recall if Det. Rago was holding his baton while interacting with the male. The male was initially on his side, and Det. Vickery was trying to pull his hands behind his back. Det. Vickery ran over to assist Det. Rago and helped Det. Rago roll the male onto his stomach so they could more easily place him into restraints. Det. Vickery asked the male to put his hands behind his back, and the male asked Det. Vickery how he was supposed to do that. Det. Vickery told him to roll over, which he did, and Det. Vickery and Det. Rago were able to handcuff him without further incident. Det. Vickery was not sure if a female was arrested at approximately the same time, but he noted that it was a possibility.

Once the male was handcuffed, Det. Vickery and Det. Rago walked him to a rendezvous point on the sidewalk to wait for a transportation truck to take the male to the arrest processing location. While waiting, the male complained about pain to one of his teeth, but he did not further explain the injury or how he obtained it. Det. Vickery looked at the male’s face, but he did not observe any visible injuries. A supervisor eventually assigned the arrest to another officer, Det. Vickery was not sure who, and he and Det. Rago resumed patrol. Det Rago later told Det.

Vickery that he had tried to grab a female and that the male and doubled back from the crowd to intervene. Det. Ragoo had shifted his focus to the male, and it was at that time that Det. Vickery came over to assist.

Det. Vickery did not see Det. Civil strike the male in the head area with his baton, and he did not see any officers strike either the male or the female in the torso with their batons.

Lieutenant Buchanan's statement (**BR 52**) was generally consistent with those of Det. Ragoo, Det. Civil, Det. Velez, and Det. Vickery with the following exceptions noted. Lieutenant Buchanan did not recall seeing any officers in his detail make any arrests and did not recall seeing any officers strike any individuals in any parts of their bodies with their batons. Lieutenant Buchanan viewed § 87(2)(b)'s cell phone footage and PO Ku's body-worn camera footage, but neither refreshed his memory of the incident.

PO Ku (**BR 55**), PO Washington (**BR 56**), Captain Ramos (**BR 62**), Sgt. Nicoletti (**BR 54**), PO Muniz (**BR 57**), PO Mejia (**BR 58**) and Deputy Inspector McGeown (**BR 59**) all provided generally consistent statements. While they were in the general vicinity of the incident, they had no recollection of having observed this portion of the incident. They all viewed § 87(2)(b)'s cell phone footage and PO Ku's body-worn camera footage but still had no recollection of having observed the incident.

Lieutenant Schmidt (**BR 70**), Deputy Inspector Zedalis (**BR 61**), and Inspector Dowling (**BR 60**) all consistently stated that they were not in the general vicinity of the incident, and, having viewed § 87(2)(b)'s cell phone footage and PO Ku's body-worn camera footage, noted that they were not present when it occurred.

Emergency Executive Order No. 118 (**BR 65**), issued by Mayor Bill DeBlasio on June 1, 2020, established a city-wide curfew from 8:00 p.m. on June 2, 2020, until 5:00 a.m. on June 3, 2020, during which time no persons or vehicles were permitted in public. Exceptions to the executive order were police officers, peace officers, firefighters, first responders and emergency medical technicians, individuals travelling to and from essential work and performing essential work, people experiencing homelessness and without access to a viable shelter, and individuals seeking medical treatment or medical supplies.

DAO confirmed that Det. Velez retired on May 29, 2021 (**BR 71**).

It was undisputed that the male and female were out after curfew in violation of the Mayoral Executive Order and that they were refusing to disperse from the roadway. At the time Det. Ragoo initiated contact, the male and female were the closest protestors to the line of approximately 15 to 20 officers who were approaching and surrounding them, isolating them from the larger group of protestors. The other protestors were slowly backing away from the officers. It was also undisputed that people in the crowd were throwing objects, at a distance, at the officers.

Det. Ragoo stated that when he tried to apprehend the female, the male reached his arm around the front of Det. Ragoo's neck and tried to pull Det. Ragoo away from the female, but this contact was not captured on video, was not corroborated by any other officers or witnesses, and the investigation was unable to identify any of the victims directly involved to obtain their statements. Det. Civil had no independent recollection of striking the male in the head with his baton but stated that, based solely on the video, he had probably thought that the male was attacking Det. Ragoo. Det. Civil denied deliberately aiming for the male's head. None of the other officers present recalled observing Det. Civil striking the male or the circumstance under which he did this.

Once Det Civil struck the male, the female turned so that Det. Ragoo was between her and the male, at which time an unidentified officer struck her three times in the mid to upper thigh area. At approximately the same time, Det. Vickery and Det. Velez pulled the male to the ground. While the male was going to the ground, Det. Velez struck him with the end of his baton in the torso. Det. Ragoo then pulled the female down to the ground by her shoulder with his hand to the ground. The female went to the ground on her right side in the fetal position with her hands above her head. When the female was on the ground in this position, the male was next to her lying on his left side also in the fetal position with his hands above his head, and they were immediately surrounded by

approximately 10 to 15 officers with no other protestors nearby. Det. Rago then lifted his baton up with both his hands on the baton and drove it down into the female's torso. Det. Rago had no independent recollection of having done this. Det. Rago and Det. Vickery placed the male and female into restraints and led them to a holding area to wait for transportation to the arrest processing area, but neither officer knew the arresting officer(s).

Patrol Guide procedure 221-01 (**BR 66**) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody. In determining whether the use of force is reasonable, members of the service should consider the following: 1) The nature and severity of the crime/circumstances. 2) Actions taken by the subject. 3) Duration of the action. 4) Immediacy of the perceived threat or harm to the subject, members of the service, and/or bystanders. 5) Whether the subject is actively resisting custody. 6) Whether the subject is attempting to evade arrest by flight. 7) Number of subjects in comparison to the number of MOS. 8) Size, age, and condition of the subject in comparison to the MOS. 9) Subject's violent history, if known. 10) Presence of hostile crowd or agitators. 11) Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

Members of the service shall not use any level of force to punish, retaliate, or coerce a subject to make statements.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(2)(g) [Redacted]

§ 87(4-b), § 87(2)(g) [Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
- Det. Rago has been a member of service for 16 years he has been a subject in 13 CCRB complaints and 28 allegations, none of which were substantiated. § 87(2)(g) [Redacted]
- Det. Velez was a member of service for 24 years and retired on May 29, 2021 (**BR 71**). During that time, Det. Velez was a subject in 11 CCRB complaints and 34 allegations, one of which was substantiated.
 - 201606359 involved a substantiated allegation of a search of a person. The Board recommended Command Discipline A, and the NYPD imposed Command Discipline A. § 87(2)(g) [Redacted]
- Det. Vickery has been a member of service for 14 years and has been a subject in one CCRB complaint and one allegation, which was not substantiated. § 87(2)(g) [Redacted]
- Det. Civil has been a member of service for 17 years and has been a subject in 29 CCRB complaints and 93 allegations, three of which were substantiated.
 - 200609036 involved a substantiated allegation of physical force. The Board recommended charges, and the NYPD imposed no penalty.

- 200715114 involved a substantiated allegation of a traffic stop. The Board recommended charges, and the NYPD imposed no penalty.
- 201113437 involved a substantiated allegation of a discourteous word. The Board recommended Charges, and the NYPD imposed Command Discipline B.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- As of August 21, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (**BR 76**).
- According to the Office of Court Administration (OCA), § 87(2)(b) [REDACTED] has no history of convictions in New York City (**BR 77**).
- The investigation was unable to identify the victims in the case, and therefore could not determine their criminal histories.

Squad: 10

Investigator:	Maura R. Roche	SI Maura R. Roche	12/01/2021
	Signature	Print Title & Name	Date

Squad Leader:	Eric Rigie	IM Eric Rigie	12/3/2021
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Genevieve Lamont	Team: Squad #3	CCRB Case #: 202107262	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tuesday, 07/28/2020 5:43 PM, Tuesday, 07/28/2020 6:00 PM, Tuesday, 07/28/2020 6:27 PM	Location of Incident: East 25th Street and Madison Avenue (Madison Square Park)	Precinct: 13	18 Mo. SOL 1/28/2022	EO SOL 5/4/2022	
Date/Time CV Reported Tue, 11/30/2021 9:26 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 11/30/2021 9:26 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. An officer			
2. Officers			
3. SGT Adiv Koenig	04459	935124	SRG 3
4. LT Michael Gaon	00000	933794	P S B
5. DT2 Kaz Daughtry	03581	940052	CAB
6. DC James Kehoe	00000	891678	PBMS
7. AC Stephen Hughes	00000	874365	PBMS

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Force: Officers used physical force against an individual.	
B.AC Stephen Hughes	Force: Assistant Chief Stephen Hughes used physical force against individuals.	
C. Officers	Force: An officer used physical force against § 87(2)(b)	
D.SGT Adiv Koenig	Force: Sergeant Adiv Koenig used physical force against § 87(2)(b)	
E.DC James Kehoe	Force: Deputy Chief James Kehoe used physical force against § 87(2)(b)	
F.LT Michael Gaon	Force: Lieutenant Michael Gaon used physical force against § 87(2)(b)	
G. An officer	Force: An officer used physical force against § 87(2)(b)	
H. An officer	Force: An officer used physical force against § 87(2)(b)	
I. Officers	Abuse: An officer damaged § 87(2)(b)'s property.	
J. Officers	Discourtesy: Officers spoke discourteously to individuals.	
K.DT2 Kaz Daughtry	Abuse: Detective Kaz Daughtry threatened § 87(2)(b) with the use of force.	

Case Summary

On November 30, 2021, § 87(2)(b) filed this complaint over the phone with the CCRB on behalf of himself and unidentified individuals. This complaint is a spin-off from CCRB case #202005289 [BR01].

On July 28, 2020, at approximately 6:00 p.m., § 87(2)(b) was part of a 2020 Police Brutality protest, which marched from East 25th Street and Second Avenue to East 25th and Madison Avenue in Manhattan. As they were marching, § 87(2)(b) observed multiple officers take § 87(2)(b) to the ground (**Allegation A: Force;** § 87(2)(g)). Upon reaching the intersection, § 87(2)(b) and the other protesters were grabbed, taken to the ground, and arrested under the direction of Assistant Chief (AC) Stephen Hughes of Patrol Borough Manhattan South (**Allegation B: Force;** § 87(2)(g)). Multiple officers then grabbed § 87(2)(b) and took him to the ground, including Deputy Chief (DC) James Kehoe of Patrol Borough Manhattan South, Lt. Michael Gaon of the Patrol Services Bureau, and Sgt. Adiv Koenig of Strategic Response Group 3 (SRG) (**Allegations C through F: Force;** § 87(2)(g)). § 87(2)(b) alleged that while he was on the ground, an officer dropped onto § 87(2)(b)'s thigh with his knee and an officer punched him, although he could not describe where (**Allegations G and H: Force;** § 87(2)(g)). § 87(2)(b) alleged that the officers' actions caused his glasses to break (**Allegation I: Abuse of Authority;** § 87(2)(g)). During the incident, § 87(2)(b) allegedly heard multiple officers on scene using profanity (**Allegation J: Discourtesy;** § 87(2)(f)). While § 87(2)(b) was being handcuffed, Det. Kaz Daughtry of the Community Affairs Bureau placed his taser it against § 87(2)(b)'s neck (**Allegation K: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) was subsequently handcuffed and transported to the 17th Precinct stationhouse, where he was charged with resisting arrest and obstruction of governmental administration [BR05]. He was ultimately released with a desk appearance ticket (DAT) [BR02].

The investigation received body-worn camera (BWC) footage from Lt. Gaon, Sgt. Koenig, Det. Damon Plonczynski from the Disorder Control Unit, PO Marco Dutan of the 32nd Precinct, PO Damian Thamos from SRG 3, Sgt. Steven Lackos from Tactical Training Department, PO Errol Murphy from SRG 1, PO Omar Aguilar from SRG 1, Sgt. Thomas Durkin from the Counterterrorism Division, PO Zavier Morales from Tactical Training Department, PO Jackson Dagobert from the 13th Precinct, PO Edward Mendes from the Central Park Precinct, PO Louis Delia from SRG 4, PO Stephen Centore from Tactical Training Department, PO Jonathan Formichelli from SRG 5, PO Anthony Serrano from SRG 5, Sgt. Matthew Tocco from Tactical Training Department, Sgt. Joseph Narnjo from Chief Crime Control Strategies, PO Mikel Strauch from SRG 4, PO Gregory Schoendorf from SRG 4, PO Alexis Martinez from SRG 4, PO Ismael Remigio from SRG 1, Lt. Cory Weiner from SRG 5, PO Michael Rivera from SRG 2, PO Sandra Gonzalez from SRG 2, PO Rudolph Rosado from Disorder Control Unit, Sgt. Consuelo Ruiz from Transit Bureau District Transit 11, PO Bekir Oner from SRG 3, PO Brett Jackson from the Police Academy, PO Robert Wong from Brooklyn Special Victims Unit, PO Jesus Munet from SRG 3, PO Asar Rhymer from SRG 3, Lt. Adam Mellusi from SRG, PO Wegens Desiste from SRG 3, PO Brianna Caroli from SRG 5, PO Michael Riggio from SRG 2, Sgt. Elias Vasquez from SRG 2, PO Lam Ho from SRG 1, PO Ye Aung from SRG 5, PO Anibal Vasquez from SRG 2, PO Allan Pajak from SRG 5, PO Gregory Baluzy from SRG 3, PO Granit Shaba from SRG 1, Sgt. Thomas Garguilo from the 120th Precinct, Lt. Peter Sotiriou from SRG 3, PO Harry Kerr from SRG 2, Sgt. Gerardo Mena from SRG 1, PO Krystina Poloni from SRG 1, Sgt. Angel Vasquez from Transit Bureau District Transit 4, PO Mohamed Yafai from SRG 3, Sgt. Keith Hockaday from 81st Precinct, PO Egemen Aydin from SRG 1, Lt. Kevin Mulhern Chief Crime Control Strategies, PO Patrick Connolly from SRG 3, PO March Assael from SRG 1, PO THomas Peters from SRG 3, PO Michael

Pasacale from SRG 3, PO James Morgante from SRG 3, PO Elvir Lekperic from SRG 3, and PO Alfonso Vargas from SRG 4[BR03]. No other video footage was obtained for this incident.

Findings and Recommendations

Allegation (A) Force: Officers used physical force against § 87(2)(b)

Allegation (B) Force: Assistant Chief STEPHEN HUGHES used physical force against individuals.

Allegation (C) Force: Officers used physical force against § 87(2)(b)

Allegation (D) Force: Sergeant ADIV KOENIG used physical force against § 87(2)(b)

Allegation (E) Force: Deputy Chief JAMES KEHOE used physical force against § 87(2)(b)

Allegation (F) Force: Lieutenant MICHAEL GAON used physical force against § 87(2)(b)

Allegation (G) Force: An officer used physical force against § 87(2)(b)

Allegation (H) Force: An officer used physical force against § 87(2)(b)

Allegation (I) Abuse of Authority: Officers damaged § 87(2)(b) s property.

Allegation (J) Discourtesy: Officers spoke discourteously to individuals.

The incident is a continuation of the protest at East 25th Street and Second Avenue on July 28, 2020, which is investigated in CCRB case #202005289. During the protest, one of the protesters, known as § 87(2)(b), was arrested by plainclothes Warrant Officers and transported off-scene in an unmarked van. The remaining protesters on scene surrounded the van to prevent it from leaving, prompting SRG officers to form a line around the van and move the protesters back. The officers and the protesters became physically engaged, with protesters pushing and grabbing onto the SRG officers bicycles. Additional units arrived responded to officers calls for assistance shortly after. Once officers arrived on scene, the protesters moved towards East 25th Street and Madison Avenue

§ 87(2)(b) testified that he was at the intersection of East 25th Street and Second Avenue in Manhattan when he was directed by the group, he was marching with to move towards Madison Square Park. He stated that the intersection was very chaotic, with pockets of people being arrested, but approximated that there were probably 40 to 50 protesters who joined in the march there. As they were walking, § 87(2)(b) observed officers take a protester, who was a photographer, to the ground. § 87(2)(b) was unable to provide physical descriptions for these officers. He stated that he later encountered this individual in a holding cell at the 17th Precinct stationhouse. The individual informed § 87(2)(b) that his name was “§ 87(2)(b).” He did not observe any protesters throw any objects at police officers or their vehicles. Eventually, § 87(2)(b) and the rest of the marchers reached the eastern entrance of Madison Square Park on Madison Avenue. The marchers in front of § 87(2)(b) stopped inside of the park and faced the officers who were following them. § 87(2)(b) who was carrying his bicycle, and four to five other cyclists were positioned in between the officers and the other marchers. While standing in the intersection, § 87(2)(b) heard an officer, identified by the investigation as AC Hughes, tell the officers around him, “When that light changes, we go,” referring to the traffic light in the intersection. Upon hearing this, § 87(2)(b) told the cyclists next to him that they needed to leave the intersection because the officers were about to “attack.” Subsequently, three or four officers grabbed § 87(2)(b) and brought him to the ground on his back. Officers grabbed onto § 87(2)(b) s right hands. He was unable to physically describe these officers. § 87(2)(b) stated that he has a history of dislocating his left shoulder and knew that if his left arm was pulled behind his back, it would be dislocated again. § 87(2)(b) tried to keep his left arm close to his stomach as officers tried to pull it backward. While he was on the ground, an officer punched § 87(2)(b) although he could not describe where he was struck and could not

pushed off their bicycles by protesters. AC Hughes did not take any police action while on scene. Shortly after AC Hughes arrived, the protesters began marching westbound towards Madison Avenue. AC Hughes followed the crowd on foot, keeping one to two blocks. AC Hughes stated that the protest was considered violent at this point. § 87(2)(e), § 87(2)(g)

He instructed the officers present, as well as the SRG officers and Mobile Field Force officers who were called for backup, to affect arrests of any protester who was conducting a violation. The crowd stopped at the intersection of East 25th Street and Madison Avenue. AC Hughes observed that a crowd of about 25 protesters were gathered in front of Madison Square Park on the sidewalk, with a row of SRG officers standing in front of them. As the protesters were not committing any violations, AC Hughes instructed the officers to move back to the sidewalk across the street. He stated that he did this to deescalate the situation. Within minutes, the protesters moved into the street and towards the officers, coming within a few feet. The protesters were in the middle of the street, blocking oncoming traffic as well as the bus lane. They remained in the street for a few light changes. AC Hughes informed the officers around him that when the traffic light turned green, to start arresting all protesters who were in the street. None of the officers issued commands for the protesters to get back on the sidewalk. Upon the light turning green, officers entered the street and began arresting protesters. AC Hughes observed officers conducting forcible takedowns of protesters who were resisting but did not recall them using any other force. He did not observe officers take § 87(2)(b) to the ground. He did not take any protester to the ground. He did not assist in the arrest of any individuals. AC Hughes did not observe § 87(2)(b)'s arrest. He did not observe any officer punch § 87(2)(b) and did not do so himself. He did not observe any officer drop onto § 87(2)(b)'s thigh with their thigh and did not do so himself. He was unaware of § 87(2)(b)'s glasses being broken during the incident. He stated that he observed multiple officers conducting multiple arrests on scene. He supervised these arrests but did not participate in them. 11 people were ultimately arrested, and he believed they were transported to Manhattan Central Booking. AC Hughes supervised the officers conducting “force protection,” which he stated was when officers form a line between the arrested and non-arrested protesters. This ensures that no protester attempts to intervene in the arrest of and processing of any individuals. Once the arrested protesters were placed in the transport van, AC Hughes left the scene. He did not take any other administrative actions regarding the protest, as he was feeling unwell and subsequently ended his tour. He did not have any further interaction with any of the arrested protesters. He did not learn any additional information from other officers regarding the arrested protesters [BR08].

DC Kehoe testified that he was acting as the Executive Officer of Patrol Borough Manhattan South on the incident date. He stated that he initially responded to an assault in progress at the intersection of East 25th Street and Second Avenue. Upon arriving on scene, he observed SRG officers, who had lined their bicycles across the roadway. The officers were instructing the protesters to get onto the sidewalk, which they were not compliant with. Protesters were pushing against the SRG officers, as well as throwing items, such as water bottles. DC Kehoe also observed some additional graffiti on scene as well. Several other officers responded to scene, although DC Kehoe did not recall how many officers responded. He did not recall speaking with any other responding officers on scene. DC Kehoe did not take any police action while on scene. Shortly after DC Kehoe arrived, the crowd, consisting of about 40 protesters, moved westbound towards Madison Avenue. DC Kehoe believed that the crowd left the scene because of the additional police presence on scene. He did not know of any other reason why the protesters left aside from officers issuing instructions for them to do so. He did not recall any specific statements made by the protesters on scene. He did not observe any arrests being made at that location, but later learned that an arrest had been affected by warrant officers prior to the radio call. DC Kehoe proceeded to follow the crowd on foot, following a block behind. He was aware that some other SRG officers were also following the crowd. He did not issue any instructions to officers while they were

following. He did not receive any instructions during this time either. He stated that the intention in the following the crowd was to ensure public safety, as the crowd was blocking traffic and they had thrown objects prior, which made them disorderly. DC Kehoe did not have any interaction with the protesters while following them and did not observe any officer do so. He did not observe any officers take § 87(2)(b) with a camera to the ground and did not do so himself. The crowd stopped at the intersection of East 25th Street and Madison Avenue. Officers began issuing orders for the protesters to get onto the sidewalk, as they were in the street, blocking traffic. The group complied with and went onto the sidewalk in front of Madison Square Park. The protesters continued to shout at the officers, although DC Kehoe did not recall specific statements. All the police officers were instructing the protesters to move up onto the sidewalk. The officers did not use anything aside from verbal commands to get the protesters onto the sidewalk. At this, AC Hughes directed by the officers to move across the street. After a few minutes, the protesters moved back into the street towards the officers, stopping within a few feet of them. DC Kehoe did not have any interaction with the protesters at this point. The protesters continued with their verbal assaults, but DC Kehoe did not recall what statements they were making. Protesters were again told to go back to the sidewalk, which they were not compliant with. He did not hear any protesters provide a reasoning as to why they did not go onto the sidewalk. The protesters were blocking the bus lane and the car lanes. After several minutes, AC Hughes instructed the officers that when the traffic light turned green, to start arresting protesters who were in the street. After this command was given, the officers moved into the intersection to effect the arrests of the protesters. DC Kehoe only assisted in arresting § 87(2)(b) was on the ground, clenching his hands towards his body and refusing to give them to the officers arresting him. DC Kehoe did not recall if he was the first officer who approached § 87(2)(b) but believed officers were already there. He did not see how § 87(2)(b) was taken to the ground. He did not recall having any involvement in § 87(2)(b) going to the ground. At one point after being taken to the ground, § 87(2)(b) turned on his side. DC Kehoe stated § 87(2)(b) continually moved around while the officers attempted to arrest him. § 87(2)(b) did not resist in any other way aside from refusing to give his hands. DC Kehoe and the other officers issued orders for § 87(2)(b) to stop resisting. He did not recall if § 87(2)(b) said anything during his arrest. DC Kehoe was holding onto § 87(2)(b)'s arm and was attempting to get his arm behind his back. The other officers were also attempting to grab § 87(2)(b)'s hands. He did not recall contacting any other part of § 87(2)(b)'s body. He did not recall using any other force aside from grabbing § 87(2)(b)'s arm. DC Kehoe did not punch § 87(2)(b) and did not observe any officer do so. He did not drop onto § 87(2)(b) with his knee and did not observe any officer do this. He did not recall what else, if anything, § 87(2)(b) did with his body. After a couple of minutes, § 87(2)(b) was handcuffed. DC Kehoe did not recall who handcuffed § 87(2)(b). § 87(2)(b) was then lifted off the ground. DC Kehoe believed that an officer placed a pair of glasses in § 87(2)(b)'s pocket, but he did not observe their state, nor did he observe § 87(2)(b)'s glasses being damaged during the arrest. He did not hear any officers using profanity while on scene and did not use any profanity himself while on scene. DC Kehoe did not have any other physical contact with any other individuals on scene that day. § 87(2)(b) was then escorted away by two officers to be processed. DC Kehoe did not recall how long he was at Madison Avenue and E. 25th Street. He did not recall debriefing with any commanding officer after the incident. He did not recall where the arrested individuals were taken. He stated that eventually the crowd dispersed, as there was no further incident between the crowd and the officers. [BR09].

Lt. Gaon testified that he was acting as administrative lieutenant when he responded to an officer call for assistance at Madison Avenue and East 25th Street. He observed about 30 protesters, possibly more, in the street and 30 officers on scene. He did not observe any officers take § 87(2)(b) with a camera to the ground and did not do so himself. Chief Hughes, who was the commanding officer on scene, told all the officers on scene that they were going to arrest the protesters. Prior to that, Lt. Gaon heard him tell the protesters, who were standing in the street, that

once the light turned green, they were going to be arrested if they did not move. At that command, the officers on scene began arresting the protesters who were in the street. Lt. Gaon observed § 87(2)(b) a couple of minutes after this order was given. He approached § 87(2)(b) who was already on the ground with five or six other officers, being arrested. § 87(2)(b) was lying with his stomach on the ground and had his hands underneath his body. Lt. Gaon did not witness § 87(2)(b) being taken to the ground by officers. Lt. Gaon did not have any physical contact with § 87(2)(b) prior to him being handcuffed. He observed officers attempting to grab § 87(2)(b)'s arms and turn him over, while simultaneously instructing him to give them his arms. Lt. Gaon did not recall how the officers got § 87(2)(b)'s arms from under him but stated that § 87(2)(b) eventually gave his arms to the officers. Once § 87(2)(b)'s arms were behind his back, Lt. Gaon assisted in bringing the two arms together so they could be handcuffed. He did not have any other physical contact with § 87(2)(b) aside from this. Lt. Gaon did not observe any officers punch § 87(2)(b) while he was on the ground and did not do so himself. He did not drop his knee onto § 87(2)(b)'s body and did not observe any officer do so. He was not aware of § 87(2)(b)'s having glasses or whether they were damaged at all during the incident. He did not hear § 87(2)(b) mention an injury in his left shoulder or any other injuries while he was being handcuffed. He did not recall what, if anything, § 87(2)(b) said while being handcuffed. He did not use any profanity on scene and did not recall any officers doing so. Once § 87(2)(b) was handcuffed, Lt. Gaon assisted in lifting him off the ground. He was then escorted away by unknown officers and Lt. Gaon returned to the 13th Precinct stationhouse. He did not participate in the arrests of anyone else that day. He did not have any further contact with § 87(2)(b) or any other arrested individual that day [BR10].

Sgt. Koenig testified that he was acting as patrol sergeant when he responded to an officer's radio call for assistance at East 25th Street and Madison Avenue with other SRG officers. Upon arriving on scene, he observed § 87(2)(b) wrestling with DC Kehoe, who was attempting to place him under arrest in the middle of the intersection. Both § 87(2)(b) and DC Kehoe were upright. DC Kehoe had two hands on § 87(2)(b) attempting to place him under arrest, while § 87(2)(b) refused to give the officer his hands. Sgt. Koenig approached them to assist in arresting § 87(2)(b). He did not take any actions on scene before assisting DC Kehoe. Several other officers also went to assist DC Kehoe, but Sgt. Koenig did not know exactly how many and did not recognize any of them. Sgt. Koenig believed that § 87(2)(b) was taken to the ground by DC Kehoe. He stated he may have been involved in the takedown but did not recall. § 87(2)(b) was brought to the ground because he was resisting arrest by refusing to give his hands to the officers. Once § 87(2)(b) went to the ground, the officers attempted to grab his hands and place them behind his back. § 87(2)(b) who was on his side, had one arm pressed underneath his body while officers held onto his other arm. Sgt. Koenig did not know exactly what actions were taken to get § 87(2)(b)'s arm but stated that he was not compliant with the officers. He did not remember if he used any physical force to get § 87(2)(b)'s hands from under him. The officers present repeatedly told § 87(2)(b) "Give us your hands," although Sgt. Koenig did not know how many times. He did not recall what other actions, if any, § 87(2)(b) was taking during this. He did not recall what, if anything, § 87(2)(b) was saying during that time. Sgt. Koenig did not punch § 87(2)(b) while he was on the ground and did not recall seeing any officer do so. He did not drop onto § 87(2)(b)'s body with his knee and did not recall seeing any officer do so. He did not recall how long it took to handcuff § 87(2)(b). He recalled seeing § 87(2)(b)'s glasses on the ground once they lifted them up and Sgt. Koenig placed these in his pocket. He did not recall if they were broken. After § 87(2)(b) was handcuffed, Sgt. Koenig and PO Dutan stood him up. He and PO Dutan then brought § 87(2)(b) to a transport van for processing. Sgt. Koenig believed § 87(2)(b) was being arrested for disorderly conduct. PO Dutan became the arresting officer for § 87(2)(b). Sgt. Koenig did not recall being involved in any other arrest on scene. He estimated he was on scene for approximately twenty minutes. He did not recall what other actions he took on scene once § 87(2)(b)

§ 87(2)(b) was transported off scene. He did not observe any officers take § 87(2)(b) with a camera to the ground and did not do so himself. He did not use any profanity on scene and did not hear any other officers doing so [BR11].

Det. Daughtry testified that he was assigned as a Community Affairs officer on the incident. He stated that, during the Police Brutality Protests, the Community Affairs Unit responded to any ongoing protest. He did not recall responding to a protest on July 28, 2020, stating that he had responded to “hundreds” of protests during 2020. He did not recall details of the protest or what actions he took while responding. He was not familiar with § 87(2)(b). He did not recall receiving the instructions to arrest protesters at Madison Square Park. He did not recall any individual being taken to the ground [BR12].

No BWC or TARU footage captures “§ 87(2)(b) being taken to the ground by officers. None of the BWC footage captures officers using profanity on scene [BR03 and BR20, respectively].

PO Lekperic’s BWC corroborates AC Hughes’ testimony regarding the protesters actions prior to their arrest. From 00:00 minutes to 07:16 minutes, PO Lekperic and other SRG officers follow the protesters, reaching Madison Square Park at 07:16 minutes. Upon reaching the park, the officers form a line in front of the sidewalk’s curb, where the protesters are standing. He appears to remain there until 09:20 minutes, when he moves back across the street. At 09:32 minutes, protesters who were on the sidewalk can be seen entering the street. PO Lekperic’s arm partially covers his BWC, but protesters can still be seen in the street at 10:16 minutes. At 11:09 minutes, a white-shirted officer tells PO Lekperic and the officers he is with, “[The protesters] are blocking traffic...when the right turns green, alright?”. At 11:23 minutes, PO Lekperic and the other officers enter the intersection and begin conducting arrests [BR03].

While there is multiple BWC footage from the protest, § 87(2)(b)’s arrest is most clearly captured in BWC footage from Sgt. Koenig, Det. Plonczynski, and Lt. Gaon. Handheld TARU footage briefly captures § 87(2)(b) being grabbed by officers at 01:48 minutes but does not capture the entirety of his arrest [BR20].

Sgt. Koenig’s BWC footage captures DC Kehoe participating in § 87(2)(b)’s arrest. The video opens with Sgt. Koenig riding his bicycle towards the protesters at the intersection of Madison Avenue and East 25th Street. At 00:23 seconds, DC Kehoe grabs § 87(2)(b)’s arm, who is walking his bicycle in the middle of the road. § 87(2)(b) pulls away from DC Kehoe, who is still holding onto his arm. From 00:29 seconds 00:36 seconds, § 87(2)(b) continues to pull back from DC Kehoe, who moves behind § 87(2)(b) and wraps his arms around his torso. Sgt. Koenig, whom the BWC shows running towards the two, reaches DC Kehoe and § 87(2)(b) at 00:36 seconds. He grabs § 87(2)(b)’s arm and, along with another officer, attempts to pull it behind his back. At 00:42 seconds, § 87(2)(b) goes to the ground, although it is unclear how he does so. § 87(2)(b) lands on his back and officers attempt to roll him onto his stomach. § 87(2)(b) resists, pulling his arm away from the officers, as they attempt to bring his right arm behind his back. § 87(2)(b) repeatedly tells the officers that he has a medical condition as they do this. At 01:04 minutes, Det. Daughtry points a taser at § 87(2)(b) as he lies on his side. Det. Daughtry tells § 87(2)(b) “If you don’t turn over, we’re going to taser you right now.” Other officers yell at § 87(2)(b) to turn over. At 01:30 minutes, § 87(2)(b) is handcuffed and at 01:35, Sgt. Koenig and Lt. Gaon lift § 87(2)(b) to his feet. At 01:44 minutes, Sgt. Koenig picks up a pair of glasses, assumedly belonging to § 87(2)(b). He appears to rub the lens and at 02:01 minutes, he places the glasses in § 87(2)(b)’s pocket. It is not apparent from the video what damage, if any, was sustained [BR13].

Lt. Gaon's BWC footage shows officers arresting § 87(2)(b) Prior to this, Lt. Gaon walks in between officers conducting arrests of another protester. At 02:25 minutes, officers begin running towards § 87(2)(b) who is in the middle of the street. At 02:37 minutes, § 87(2)(b) is seen with multiple officers grabbing onto his arms. § 87(2)(b) is holding his arms to the side of his body as the officer's attempt to pull them behind his back. At 02:39 minutes, § 87(2)(b) goes to the ground, although it is unclear how. Lt. Gaon reaches § 87(2)(b) at 02:49 minutes. § 87(2)(b) is on his side on the ground and Lt. Gaon grabs onto one of his arms. At 3:05 minutes, an officer in the upper left screen is seen holding a taser to § 87(2)(b) and says, "If you don't turn over, we're gonna taser you right now." It does not appear that he is tased. At 3:39 minutes, Lt. Gaon assists in lifting § 87(2)(b) up, who is subsequently walked away. No other force is shown [BR14].

Upon reviewing Sgt. Koenig's BWC, DC Kehoe confirmed that he saw himself approach § 87(2)(b) The video did not refresh his recollection of how § 87(2)(b) went to the ground or what his involvement was, if any. He stated that he initiated § 87(2)(b)'s arrest because he was in the middle of the street and was directed by AC Hughes to arrest any individual who was [BR09].

Det. Daughtry was shown Lt. Gaon's BWC. He stated that footage did not refresh recollection of the protest. He "vaguely" recalled there being a protest at Madison Square Park, but that the context of the protest did not look familiar, as they all "looked the same". The footage did not refresh his recollection of § 87(2)(b)'s arrest [BR12].

A Threat, Resistance, and Injury (TRI) report for § 87(2)(b) was prepared by Lt. Peter Sotirou of SRG 3. The TRI states that, while attempting "to place the listed subject under arrest, the subject did resist" and went to the ground. Once § 87(2)(b) was on the ground, he "flail[ed] his arms and legs in attempt to prevent the officers from placing handcuffs on his wrist" [BR21].

According to NYPD Patrol Guide Procedure 221-01, force may be used by an MOS when it is reasonable to ensure the safety of an MOS or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force is reasonable, members of service should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat or harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to the MOS, subject's violent history (if known), presence of hostile crowd or agitators, and the subject's apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence [BR15].

While Sgt. Koenig and Lt. Gaon's BWC captures § 87(2)(b)'s arrest, the angle of both officers' cameras did not capture the actions of all the officers present during the incident. § 87(2)(g)

§ 87(2)(g)

A physical force allegation is being pled against AC Hughes, as he was the commanding officer on scene and gave the order for officers to arrest protesters. § 87(2)(g)

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

§ 87(2)(g) [Redacted text block]

Allegation (K) Abuse of Authority: Detective KAZ DAUGHTRY threatened § 87(2)(b) with the use of force.

This allegation is being discussed separately but occurred at the same time as the allegations discussed above. The following allegation is being pled based on BWC footage received by the investigation.

Sgt. Koenig's BWC footage captures Det. Daughtry with his taser out. At 01:04 minutes, Det. Daughtry points a Taser at § 87(2)(b) as he lies on his side. Det. Daughtry tells § 87(2)(b) "If you don't turn over, we're gonna taser you right now." Other officers yell at § 87(2)(b) to turn over. At 01:35 minutes, Sgt. Koenig and Lt. Gaon lift § 87(2)(b) to his feet. Sgt. Koenig walks with § 87(2)(b) to a prisoner van, where Sgt. Koenig then hands him another officer for arrest processing [BR13].

Lt. Gaon's BWC footage captures Det. Daughtry at 3:05 minutes in the upper left screen, holding a taser to § 87(2)(b) and says, "If you don't turn over, we're gonna taser you right now." At 03:08 minutes, Det. Daughtry is seen pushing the tip of his taser into § 87(2)(b)'s back three subsequent times. He does not deploy his taser at any point. § 87(2)(b) continues to move back and forth on the ground, with the officers grabbing at his arms and upper body. At 03:24 minutes he is handcuffed and at 03:39 minutes, Lt. Gaon and another officer lift § 87(2)(b) up, who is subsequently walked away. No other force is shown [BR14].

Det. Plonczynski's BWC also captured Det. Daughtry with his taser out. The video briefly opens with § 87(2)(b) being arrested. At 00:20 seconds, Det. Daughtry, identifiable by wearing a blue shirt and tan khakis, stands up and holsters his taser. It does not depict Det. Daughtry's interaction with § 87(2)(b) or any other actions he took with his taser [BR16].

Det. Daughtry testified that he did not recall § 87(2)(b)'s arrest [BR12]. He did not recall if he had his taser out during the incident or if he threatened to tase § 87(2)(b). Upon reviewing Sgt. Koenig's BWC footage, Det. Daughtry acknowledged hearing an officer make the statement, "If you don't turn over, we're gonna tase you," but stated that the voice was not familiar to him. He did not recall, after viewing this footage, if he made this statement. Det. Daughtry's attention was directed to the black male officer holding the taser at 01:39 minutes. He acknowledged being able to see an officer holding a taser but stated that he did not recall the incident after viewing the footage. He was unable to recognize himself on screen and was unable to recall if he had his taser out from viewing the footage [BR12]. Det. Daughtry was also shown Lt. Gaon's BWC footage. He did not recognize § 87(2)(b) and stated that the protest did not look familiar. After reviewing the footage, he did not recall the context of § 87(2)(b)'s arrest or the protest in general. Det. Daughtry was additionally shown Det. Plonczynski's BWC. Det. Daughtry acknowledged seeing himself on the screen, stating that he was the officer in the tan pants. He stated that, upon seeing himself on screen, he did not recall being at the protest or the protest itself. Det. Daughtry confirmed that he saw himself holster a taser in the video. Det. Daughtry stated that, based on his viewing of his footage, it depicts § 87(2)(b) not complying with the orders to place his hands behind, which would have warranted the use of non-lethal force, such as a taser or pepper spray. He stated that he would have his taser out to use non-lethal force against a protester, rather than use physical force. He did not want to testify regarding anything else with this protest, as he did not recall any other details of the protest. He stated that he did not deploy his taser and did not recall if he used any other force during the incident [BR12].

As per NYPD Patrol Guide Procedure 221-08, a conducted electrical weapon (CEW) should be used against persons who are actively resisting, exhibiting active aggression, or to prevent

individuals from physically injuring themselves or other person(s) present. In determining whether the use of a CEW is reasonable a member of service should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, immediacy of the perceived threat/harm to the subject, MOS, and/or bystanders, whether the subject is actively resisting custody, attempting to evade arrest by flight, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject' violent history (if known), presence of hostile crowd/agitators, or if subject is apparently under the influence of a stimulant/narcotic which would affect pain tolerance/increase likelihood of violence. MOS should issue (if possible) a verbal warning to the intended subject and other MOS present. The verbal waring may be used in conjunction with laser/arc warning to gain voluntary compliance and prevent the need to use force [BR22].

§ 87(2)(g) [REDACTED]

§ 87(2)(g) [REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) [REDACTED]
 - § 87(2)(b) [REDACTED]
- AC Hughes has been a member of service for 41 years and has been a subject in seven prior CCRB cases and 11 allegations, none of which have been substantiated. § 87(2)(g) [REDACTED]
- DC Kehoe has been a member of service for 35 years and has been a subject in one prior CCRB case and one allegation, which was not substantiated. § 87(2)(g) [REDACTED]
- Sgt. Koenig has been a member of service for 17 years and has been a subject in one prior CCRB case and two allegations, neither of which were substantiated. § 87(2)(g) [REDACTED]
- Lt. Gaon has been a member of service for 18 years and has been a subject in one prior CCRB case and two allegations, neither of which were substantiated. § 87(2)(g) [REDACTED]
- Det. Daughtry has been a member of service for 18 years and has been a subject in 17 prior CCRB cases and 53 allegations, four of which were substantiated:

- CCRB case #200710793 contains a gun pointed and a threat of force allegation that were substantiated against Det. Daughtry. The Board recommended charges, to which Det. Daughtry plead guilty and received a penalty of ten vacation days.
- CCRB case #201906887 involved an inaccurate official statement and misleading official statement allegations that were substantiated against Det. Daughtry. The Board recommended charges and is awaiting an NYPD disposition.
- § 87(2)(g) [REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On April 5, 2022, a FOIL request was filed with the New York City Office of the Comptroller to determine if a Notice of Claim was filed for this incident; the results of which will be added to the case file upon its receipt [BR18].
- § 87(2)(b) [REDACTED]

Squad: 3

Investigator:	Genevieve Lamont	SI Genevieve Lamont	04/28/2022
	Signature	Print Title & Name	Date

Squad Leader:	Olga Golub	IM Olga Golub	04/28/2022
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date