

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Matthew Chaves	Team: Squad #10	CCRB Case #: 201808725	<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) Saturday, 10/20/2018 8:15 PM	Location of Incident: 721 Tinton Avenue	Precinct: 40	18 Mo. SOL 4/20/2020	EO SOL 12/5/2020	
Date/Time CV Reported Sun, 10/21/2018 4:05 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 10/21/2018 4:05 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. LT Eric Dym	00000	933762	PSA 7

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM John Olsen	16266	957920	PSA 7
2. LT Mark Herman	00000	944648	PSA 7
3. SGT Natalie Bautista	01127	926408	PSA 7
4. SGT Edwin Reyes	01641	939296	PSA 7
5. SGT Augusto Hernandez	00353	935012	PSA 7
6. LT Anselmo Ioele	00000	938869	PSA 7
7. POM Dang Nguyen	08326	940509	PSA 7

Officer(s)	Allegation	Investigator Recommendation
A.LT Eric Dym	Force: Lieutenant Eric Dym used physical force against § 87(2)(b)	
B.LT Eric Dym	Force: Lieutenant Eric Dym hit § 87(2)(b) against a vehicle.	

## Case Summary

On October 21, 2018, § 87(2)(b) filed the following complaint via the DIRAD messaging system.

At approximately 8:15 p.m., on October 20, 2018, § 87(2)(b) and § 87(2)(b) were arrested in front of 721 Tinton Avenue in the Bronx for allegedly kicking a livery cab. Lieutenant Eric Dym and Sergeant Natalie Bautista of PSA 7 handcuffed § 87(2)(b) and § 87(2)(b) as other officers arrived on scene. § 87(2)(b) complied with the arrest procedure and was escorted into a police vehicle. § 87(2)(b) argued with officers about the validity of her arrest. Lieutenant Dym interlaced his arms around § 87(2)(b)'s left arm to restrain her and place her against the rear of a police vehicle (**Allegation A: Force: Physical Force: § 87(2)(g)**). Lieutenant Dym also used his foot to separate § 87(2)(b)'s legs to facilitate a search incident to her arrest (within **Allegation A**). During this process, Lieutenant Dym allegedly pushed § 87(2)(b)'s head into the top of a police vehicle (**Allegation B: Force: Hit Against Inanimate Object: § 87(2)(g)**).

§ 87(2)(b) and § 87(2)(b) were transported, separately, to the PSA 7 stationhouse. At the stationhouse, § 87(2)(b) requested medical attention and was transported in an ambulance to § 87(2)(b). After being evaluated by medical staff, § 87(2)(b) was transported back to the stationhouse and charged with § 87(2)(b).

§ 87(2)(b) was charged with § 87(2)(b).

The investigation obtained BWC video footage of this incident from seven PSA 7 officers: Sergeant Bautista (**Board Review 10**), Lieutenant Dym (**Board Review 12**), Sergeant Edwin Reyes (**Board Review 21**), Police Officer John Olson (**Board Review 22**), Sergeant Augusto Hernandez (**Board Review 23**), Lieutenant Anselmo Ioele (**Board Review 14**), and Police Officer Dang Nguyen (**Board Review 24**).

## Findings and Recommendations

**Allegation A – Force: Lieutenant Eric Dym used physical force against § 87(2)(b)**

**Allegation B – Force: Lieutenant Eric Dym hit § 87(2)(b) against a vehicle.**

§ 87(2)(b) provided a telephone statement on October 24, 2018 (**Board Review 01**), and was interviewed at the CCRB on October 29, 2018 (**Board Review 02**). § 87(2)(b) provided a telephone statement on October 24, 2018 (**Board Review 03**), and was interviewed at the CCRB on October 29, 2018 (**Board Review 04**). Sergeant Bautista was interviewed on February 7, 2019 (**Board Review 05**). Police Officer John Olsen of PSA 7 was interviewed on February 13, 2019 (**Board Review 06**). Lieutenant Dym was interviewed on February 21, 2019 (**Board Review 07**).

It is undisputed that on the incident date, § 87(2)(b) and § 87(2)(b) were crossing Tinton Avenue from west to east via East 156<sup>th</sup> Street when they were approached by Sergeant Bautista and Lieutenant Dym. Both civilians were handcuffed as other police officers arrived on scene. The civilians were transported to the PSA 7 stationhouse in separate vehicles and processed. While lodged in a cell, § 87(2)(b) requested medical attention. EMTs responded and transported her to § 87(2)(b)

In her original DIRAD message, § 87(2)(b) stated that officers slammed her against a vehicle. She sustained injuries to her head, back, and wrist.

In her telephone statement, § 87(2)(b) stated that as the civilians crossed Tinton Avenue, a black, unmarked Chevrolet Impala pulled up and stopped near them. Two male officers got out, immediately grabbed § 87(2)(b) and threw her up against the Impala. § 87(2)(b) could not tell which officer grabbed her, but she felt someone grab her left arm. § 87(2)(b) hit her head on the Impala, but did not describe this moment in further detail. The officers then twisted her arms behind her back as she asked why she was being arrested. An officer or officers kicked or pushed her legs apart, making her stance wider.

§ 87(2)(b) and § 87(2)(b) were transported to the PSA 7 station house at 156<sup>th</sup> Street and Melrose Avenue. § 87(2)(b) was held in a cell with the handcuffs on for approximately an hour. She requested medical attention due to the pain in her hands, wrists, and arm. § 87(2)(b) was taken to § 87(2)(b) on § 87(2)(b). She was then taken back to PSA 7 and her arrest was processed.

§ 87(2)(b)'s sworn statement was broadly consistent with her original complaint and telephone statement, but she provided additional details regarding the force allegations. She described an officer grabbing the back of her neck and her left arm and throwing her up against the car. The force of the officer's hand on her neck caused § 87(2)(b) to hit the left side of her forehead on the top of a side door of the Impala. This impact caused pain but did not render § 87(2)(b) unconscious. An officer or officers kicked the tops of § 87(2)(b)'s ankles, causing her to lean forward on to the side of the police car.

At the stationhouse, § 87(2)(b) was held in a cell with her handcuffs on. She requested medical attention due to pain in her hands and her head. § 87(2)(b) had a headache and blurred vision at this point, which she attributed to the earlier impact of her head against the police car. § 87(2)(b) was seated on a bench running along the rear wall of her cell while she waited for medical attention. § 87(2)(b) then passed out and came to on the floor of the cell with two EMTs (a Hispanic male and a black male, both under 40 years old) attending to her. The EMTs helped § 87(2)(b) stand up. § 87(2)(b) was not thrown or otherwise moved on to the floor by officers. § 87(2)(b) Garrett denied being intoxicated in any way during this incident.

§ 87(2)(b) telephone and sworn statements were both substantively consistent with § 87(2)(b)'s statements. He did not mention an officer kicking § 87(2)(b)'s ankles. He stated that an officer asked § 87(2)(b) to put her hands behind her back. § 87(2)(b) responded by asking a question before officers grabbed and handcuffed her.

In her interview, Sergeant Bautista stated that she approached § 87(2)(b) while Lieutenant Dym approached § 87(2)(b). Sergeant Bautista stated that both civilians were

under arrest, and both civilians replied that they were not and that they were not going anywhere. Sergeant Bautista said, “Yeah you are.” Sergeant Bautista took out her handcuffs, grabbed one of § 87(2)(b) s arms, and tried to handcuff § 87(2)(b) “pulled away” from Sergeant Bautista, freeing her arm. She then began spinning in a circle to prevent Sergeant Bautista from securing her arms. Sergeant Bautista described this motion to the investigation as “dancing.” Sergeant Bautista told § 87(2)(b) to stop resisting and that she was under arrest.

Lieutenant Dym handcuffed § 87(2)(b) At that point, other police units arrived on scene. Once more officers had arrived, Lieutenant Dym walked away from § 87(2)(b) and helped Sergeant Bautista handcuff § 87(2)(b) Lieutenant Dym grabbed one of § 87(2)(b) s arms and applied handcuffs, and Sergeant Bautista grabbed her other arm. The two officers put § 87(2)(b) against a car and finished handcuffing her in that position. During this process, § 87(2)(b) said, “You don’t know who I am” but did not physically resist, try to flee, or attack officers. § 87(2)(b) was placed against the car, not pushed into it at speed. § 87(2)(b) s head did not impact the car, because the car was a “regular sedan” and her head was higher than the vehicle body.

Lieutenant Dym put § 87(2)(b) into a marked police car, but Sergeant Bautista did not observe this happen. Sergeant Bautista did not observe § 87(2)(b) hit her head as she was placed into the police car, and never heard § 87(2)(b) complain that her head had hit a vehicle. Sergeant Bautista did not describe any officer kicking § 87(2)(b) s ankles during this incident.

In his interview, Lieutenant Dym stated that he handcuffed § 87(2)(b) quickly and easily. He then saw § 87(2)(b) being “very verbally combative” with Sergeant Bautista. § 87(2)(b) repeatedly turned her shoulders away from Sergeant Bautista. § 87(2)(b) also flexed her upper body so that Sergeant Bautista could not control or handcuff her wrists. § 87(2)(b) did not try to punch or strike Sergeant Bautista.

§ 87(2)(b) was apparently intoxicated. Lieutenant Dym smelled alcohol on her breath, her eyes were “completely bloodshot,” and her statements did not make sense to Lieutenant Dym. When asked by the investigation to quote § 87(2)(b) s nonsensical statements, Lieutenant Dym was unable to recall them.

Lieutenant Dym could not recall whether § 87(2)(b) was handcuffed by the time he reached her. Lieutenant Dym could not recall whether he physically participated in § 87(2)(b) s handcuffing. He believed that Sergeant Bautista gained control of § 87(2)(b) s wrists and handcuffed her without using any specific technique or tactic § 87(2)(b) continued to “move around a lot” after she was handcuffed. Lieutenant Dym used an armlock to control § 87(2)(b) Lieutenant Dym put one arm under § 87(2)(b) s armpit and on to her shoulder, and then used his second arm to cover his first. § 87(2)(b) repeatedly flexed or “muscled” her body in response to this armlock. She did not go limp or try to lay on the ground. She did not try to strike or injure Lieutenant Dym.

Lieutenant Dym lead § 87(2)(b) into a marked police car, and § 87(2)(b) did not wrestle or resist being put into the vehicle. § 87(2)(b) s head did not impact the car. No officer pushed § 87(2)(b) or otherwise caused her head to strike the roof of the car. Lieutenant Dym did not describe any officer kicking § 87(2)(b) s ankles.

In his interview, Police Officer Olsen stated that § 87(2)(b) was physically separated from § 87(2)(b) by the time that he arrived on scene. Police Officer Olsen observed another, unspecified officer holding § 87(2)(b) by the arm, but did not see officers make further contact with her. § 87(2)(b) did not struggle against or attack any officers at this point. Police Officer Olsen did not observe § 87(2)(b) getting pushed into the side of a vehicle, and did not observe her head or face strike a vehicle. Police Officer Olsen did not describe any officer kicking § 87(2)(b)'s ankles.

Police Officer Olsen saw § 87(2)(b) in a stationhouse cell. In the cell, she began yelling and was “very unruly.” § 87(2)(b) was still handcuffed because she had refused to allow officers to search her. She appeared to be physically uninjured. However, § 87(2)(b) lay down on the cell floor and rolled around while screaming. § 87(2)(b) lay down of her own apparent volition (she was not placed or forced into that position) and Police Officer Olsen did not know why she did this.

§ 87(2)(b) said that she needed to go to a hospital because she had her period. Police Officer Olsen did not recall any other complaints or reported ailments. Police Officer Olsen asked other, unspecified officers whether EMS had been called for § 87(2)(b) and he learned that they had not. Police Officer Olsen went over the radio and called for EMS.

§ 87(2)(b) was escorted to the hospital by other officers. Police Officer Olsen stayed back at the stationhouse and continued processing the arrests. Police Officer Olsen got a call indicating that § 87(2)(b) was ready to be picked up and brought back from the hospital. Police Officer Olsen went to the hospital and picked up § 87(2)(b). § 87(2)(b) was in a “jolly” state at this point, and spoke in a polite and upbeat manner to the officers. Police Officer Olsen found the significant difference between § 87(2)(b)'s demeanor during her arrest and at the hospital to be odd.

Over the course of the entire incident, § 87(2)(b) never reported any injury or pain to her head and neck to Police Officer Olsen. Police Officer Olsen never learned of any injury to § 87(2)(b) from other sources, such as a report or medical professional.

The investigation obtained the ambulance call report prepared by the EMTs who observed and transported § 87(2)(b) (**Board Review 08**). The report narrative states that EMTs found § 87(2)(b) laying on the floor of a cell, and that she complained of a headache.

The investigation also obtained § 87(2)(b)'s medical records from § 87(2)(b) (**Board Review 09**). At approximately § 87(2)(b), § 87(2)(b) was admitted into the ER. Her chief complaint was pain, redness, and swelling to her left wrist and hand from being handcuffed. § 87(2)(b) told medical personnel that she had been hit in the head but did not lose consciousness. She reported feeling dizzy. At approximately 1:16 a.m. on October 21, 2018, § 87(2)(b) was examined and interviewed by more medical personnel. She repeated her complaint of pain in her left wrist, but denied head trauma. A physical exam revealed no evidence of head trauma. § 87(2)(b) eventually asked to leave the hospital, and was discharged against medical advice. She was given Tylenol but no other medication.

The investigation obtained BWC footage from multiple officers who responded to this incident. Footage recorded by Sergeant Batista's BWC (video in **Board Review 10**, summarized in **Board Review 11**) shows the period in which § 87(2)(b) was first

brought near a police vehicle, a grey, unmarked sedan. Between timestamp 0:12 and timestamp 0:26, Lieutenant Dym grips § 87(2)(b)'s left arm. Her arm is bent behind her back, and Lieutenant Dym has his left arm laced underneath § 87(2)(b) Garret's left elbow. Lieutenant Dym's left hand grips his own right wrist to create an armlock, and his right hand rests on top of § 87(2)(b)'s left shoulder. § 87(2)(b)'s lower body is either pressed against the sedan's rear quarter panel or very close to it. Her chest, shoulders, and head are all higher than the sedan's body, and she is standing up straight (not bent forward).

At timestamp 0:46, § 87(2)(b) argues with Lieutenant Dym and Sergeant Bautista, denying that she or § 87(2)(b) ever kicked a taxi. § 87(2)(b) then turns her body and steps away from the sedan, pulling Lieutenant Dym with her. Lieutenant Dym orders § 87(2)(b) to "Stop, stop!" and § 87(2)(b) stops walking. At timestamp 1:29, Lieutenant Dym walks backward, away from Sergeant Bautista, while maintaining his armlock on § 87(2)(b)'s shoulder. § 87(2)(b) steps or is pulled backwards. As she moves, § 87(2)(b) asks, "Why you doing that?" Lieutenant Dym and § 87(2)(b) both stopping moving approximately one to two steps away from the trunk of the unmarked sedan. At timestamp 1:44, Lieutenant Dym uses the arm lock to rotate § 87(2)(b) so that her front is angled towards the sedan's trunk. Lieutenant Dym then appears to kick or push § 87(2)(b)'s legs apart, prompting § 87(2)(b) to ask, "Oh you're doing that? Is that being recorded?" Lieutenant Dym tells § 87(2)(b) to "Stop" while again pulling on her arm and shoulder. § 87(2)(b) repeatedly yells "Ma'am" at Sergeant Bautista while Sergeant Bautista tells her to "cut it out." At timestamp 1:59, § 87(2)(b)'s torso is against the sedan's trunk, but her neck, head, and face do not touch the vehicle. Sergeant Bautista then reaches into § 87(2)(b)'s pants pockets. Lieutenant Dym's BWC footage (video in **Board Review 12**, summarized in **Board Review 13**) also captures this portion of the incident, but from a less clear vantage point. Lieutenant Dym's BWC was clipped to the front of his body, and the lens was often blocked by § 87(2)(b)'s body as she was arrested.

Footage recorded by Lieutenant Anselmo Ioele's BWC (video in **Board Review 14**, summarized in **Board Review 15**) shows the period in which § 87(2)(b) was placed into a marked police SUV for transport. Between timestamp 0:28 and timestamp 0:51, § 87(2)(b) enters the frame from the right side, with Lieutenant Dym gripping her left arm in an armlock. § 87(2)(b) enters the rear passenger area of the SUV and sits down. She does not appear to hit any part of her body on the vehicle's doorframe. Lieutenant Dym repeatedly orders § 87(2)(b) to put her feet inside the vehicle. § 87(2)(b) asks where she is being taken and Lieutenant Ioele tells her "PSA 7." He then closes the vehicle door. The rest of the video shows § 87(2)(b) being transported, processed, and lodged in a stationhouse cell. Throughout the video, no injury is visible to § 87(2)(b)'s head, neck, or face, and § 87(2)(b) remains conscious and consistently verbal.

Footage from Sergeant Reyes' BWC is consistent with the footage from Sergeant Bautista's, Lieutenant Dym's, and Lieutenant Ioele's cameras. Footage from Police Officer Olson's, Sergeant Hernandez's, and Police Officer Nguyen's BWCs does not capture any of the FADO allegations.



