

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Hebert	Team: Squad #2	CCRB Case #: 201803866	<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, 03/23/2018 2:23 AM	Location of Incident: [REDACTED]	Precinct: 114	18 Mo. SOL 9/23/2019	EO SOL 9/23/2019	
Date/Time CV Reported Thu, 05/10/2018 9:10 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Wed, 05/16/2018 11:08 AM		

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

Witness(es)	Home Address
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM John Ottomano	20133	§ 87(2)(b)	114 PCT
2. POF Anna Garlinska	00324	§ 87(2)(b)	114 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jayson Perez	09670	§ 87(2)(b)	114 PCT
2. POM Nicholas Xavier	10288	§ 87(2)(b)	114 PCT
3. POM Russell Kenton	26744	§ 87(2)(b)	114 PCT
4. POF Elizabeth Schramm	14371	§ 87(2)(b)	114 PCT
5. POF Cristina Mcdonald	04468	§ 87(2)(b)	114 PCT
6. POM Xin Zheng	30669	§ 87(2)(b)	114 PCT
7. POM Thomas Matera	14677	§ 87(2)(b)	114 PCT
8. POM Mujibulla Mashriqi	16961	§ 87(2)(b)	114 PCT
9. POM John Randazzo	14922	§ 87(2)(b)	HWY DST
10. SGT Christophe Roach	03732	§ 87(2)(b)	114 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM John Ottomano	Abuse of Authority: Police Officer John Ottomano stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	A . § 87(2)(g)
B . POF Anna Garlinska	Abuse of Authority: Police Officer Anna Garlinska stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	B . § 87(2)(g)
C . POM John Ottomano	Force: Police Officer John Ottomano pointed his gun at § 87(2)(b).	C . § 87(2)(g)
D . POM John Ottomano	Force: Police Officer John Ottomano used physical force against § 87(2)(b).	D . § 87(2)(g)
E . An officer	Force: An officer used physical force against § 87(2)(b).	E . § 87(2)(g)

<b>Officer(s)</b>	<b>Allegation</b>	<b>Investigator Recommendation</b>
F . POM John Ottomano	Other: There is evidence suggesting Police Officer John Ottomano provided a false official statement in violation of PG 203-08.	F . § 87(2)(g)
G . POF Anna Garlinska	Other: There is evidence suggesting Police Officer Anna Garlinska provided a false official statement in violation of PG 203-08.	G . § 87(2)(g)

## Case Summary

On May 10, 2018, § 87(2)(b) called the IAB Command Center to report this complaint, which was subsequently received by the CCRB on May 16, 2018.

On March 23, 2018, at approximately 2:23 a.m., § 87(2)(b) was driving a vehicle with her friend § 87(2)(b) in the front passenger's seat when it was pulled over by Police Officer John Ottomano and Police Officer Anna Garlinska, both of the 114<sup>th</sup> Precinct, at the intersection of § 87(2)(b) in Queens (**Allegations A and B – Abuse of Authority – Vehicle Stop, § 87(2)(g)**). Police Officer Ottomano exited his vehicle, drew his gun, and pointed it at § 87(2)(b) (**Allegation C – Force -- Gun Pointed, § 87(2)(g)**). When § 87(2)(b) attempted to exit her vehicle, Police Officer Ottomano pushed her back inside (**Allegation D – Force – Physical force, § 87(2)(g)**).

Police Officer Ottomano and Police Officer Garlinska placed § 87(2)(b) inside a police vehicle. An officer allegedly grabbed § 87(2)(b) removed her from the police vehicle, and dropped her onto the ground from the height of the first step into the vehicle, causing her to sustain a scrape on her lower back (**Allegation E – Force – Physical Force, § 87(2)(g)**). § 87(2)(b) was arrested and charged with assault of a police officer, assault in the third degree, obstructing governmental administration in the third degree, operating motor vehicle while under the influence of alcohol, and obedience to a required traffic-control devices (Board Review 01). There is evidence suggesting Police Officer Ottomano and Police Officer Garlinska provided false official statements in violation of PG 203-08 (**Allegations F and G – Other Misconduct – False Official Statement**).

Video evidence depicting part of this incident was provided to the CCRB by § 87(2)(b) (Board Review 03). The video was recorded on a cell phone by § 87(2)(b). The video is attached to IA # 52 and is summarized in IA # 66 (Board Review 04). The relevant portions are embedded in the relevant sections below.

## Findings and Recommendations

**Allegation (A) – Police Officer John Ottomano stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

**Allegation (B) – Police Officer Anna Garlinska stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) provided a telephone statement to the CCRB on May 29, 2018 (Board Review 05) and was interviewed at the CCRB on June 22, 2018. § 87(2)(b) provided a follow-up statement by telephone on August 21, 2018 (Board Review 06). § 87(2)(b) provided telephone statements to the CCRB on July 10, 2018 (Board Review 07) and August 23, 2018 (Board Review 08). Police Officer Garlinska was interviewed at the CCRB on July 13, 2018. Sergeant Christopher Roach of the 114<sup>th</sup> Precinct, who was not present during the initial vehicle stop but arrived on scene during the incident, was interviewed at the CCRB on July 18, 2018. Police Officer Ottomano was interviewed at the CCRB on August 10, 2018.

It is undisputed that § 87(2)(b) was intoxicated at the time that the vehicle she was driving was pulled over. § 87(2)(b) stated in both her May 29, 2018, telephone statement and her CCRB interview that she turned at a yellow traffic light approximately two blocks before she noticed a police vehicle behind her. Furthermore, according to her medical records from § 87(2)(b) (Privileged Documents), § 87(2)(b) stated to medical personnel that she disobeyed a red traffic light “without realizing it.” Both Police Officer Ottomano and Police Officer Garlinska stated that when they first observed § 87(2)(b) turned left at a red traffic light and drove at a high rate of speed which they believed was over the speed limit.

§ 87(2)(b) stated to the CCRB that she had drunk three beers a few hours prior to the incident. Highway patrol officers attempted to administer blood testing to § 87(2)(b) at the hospital, but, as shown by the Refusal to Submit to Chemical Testing Report, § 87(2)(b) refused to undergo the testing (Board Review 09). Hospital staff at § 87(2)(b) tested her blood alcohol level at an unspecified time during her stay, and the results were 110 mg/dL, which was designated as abnormal based on a normal range of 0-80 mg/dL. The Emergency Department diagnosed § 87(2)(b) with alcoholic intoxication and the Psychiatric Emergency Department subsequently diagnosed § 87(2)(b) with substance induced mood disorder. According to the chief complaint listed in the Prehospital Care Report prepared by EMT § 87(2)(b) and EMT § 87(2)(b) § 87(2)(b) stated that she drank the day of the incident (Privileged Documents).

New York State Vehicle and Traffic Law Section 1110-A states that every person shall obey the instructions of any official traffic-control device (Board Review 10).

§ 87(2)(g)  
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**Allegation (C) – Police Officer John Ottomano pointed his gun at § 87(2)(b)**

It is undisputed that Police Officer Ottomano removed and pointed his gun at § 87(2)(b) vehicle.

§ 87(2)(b) stated that that, at the time of the incident, the vehicle she was driving did not have any after-market modifications, including window tints. Before being stopped at the intersection of § 87(2)(b) she had noticed the police vehicle two blocks earlier. It was approximately one and a half to two blocks behind her vehicle with no other vehicles in between her vehicle and the police vehicle. When she first noticed the police vehicle, it had its turret lights on but she did not hear a siren or a loudspeaker. § 87(2)(b) did not believe that the police vehicle was attempting to pull her over. When she pulled over, Police Officer Ottomano approached her vehicle, placed his gun in her window, and pointed it at her.

§ 87(2)(b) stated that § 87(2)(b) did not commit any traffic violations immediately prior to being stopped by police. § 87(2)(b) noticed the police vehicle, which had its turret lights on but never used its siren or loudspeaker, and § 87(2)(b) did not know whether it was trying to stop their vehicle. § 87(2)(b) traveled for three blocks before stopping. Police Officer Ottomano had his

gun out when he exited the police vehicle. Police Officer Ottomano approached § 87(2)(b) vehicle and pointed his gun directly at § 87(2)(b) through the driver's window.

Police Officer Ottomano stated that, after initially observing § 87(2)(b) disobeying a red traffic light at the intersection of 51<sup>st</sup> Street and Northern Boulevard in Queens, § 87(2)(b) drove for half of a block, during which time Police Officer Ottomano followed behind her vehicle with the turret lights of his police vehicle on. Then § 87(2)(b) slowed down on 51<sup>st</sup> Street, which Police Officer Ottomano believed was because she was pulling over. Police Officer Ottomano slowed down as well, but then § 87(2)(b) sped up and drove on, prompting Police Officer Ottomano to follow her with his turret lights and siren on. With the police vehicle following approximately three car lengths behind her the entire time, § 87(2)(b) continued driving for approximately eight or nine blocks, disobeying approximately six to eight red traffic lights along the way. Police Officer Ottomano used the loudspeaker in his vehicle to say, "Pull over," multiple times during this pursuit. During the entire pursuit, § 87(2)(b) was driving at approximately 80 to 90 miles per hour and Police Officer Ottomano was driving at approximately 70 to 75 miles per hour. At the intersection of § 87(2)(b) "slammed" on her vehicle's brakes and Police Officer Ottomano stopped his vehicle as well. Police Officer Ottomano stopped § 87(2)(b) for initially driving through a red traffic light and then evading police, driving over the speed limit, and driving recklessly.

Police Officer Ottomano stated that, after § 87(2)(b) stopped her vehicle, he observed that the windows of her vehicle, which were rolled up, were "completely" tinted. Police Officer Ottomano drew his gun for his and Police Officer Garlinska's safety, since he could not see inside the vehicle and did not know why § 87(2)(b) had evaded police. Police Officer Ottomano pointed his gun at § 87(2)(b) vehicle while issuing her instructions to turn off her engine and roll down her windows. § 87(2)(b) rolled down the windows of her vehicle but did not turn off the engine. While standing in front of the hood on the driver's side of the police vehicle, Police Officer Ottomano looked inside § 87(2)(b) vehicle and observed that there was a passenger inside, there was no one in the back seat, and § 87(2)(b) hands were on the steering wheel.

Police Officer Garlinska stated that, after initially observing § 87(2)(b) disobeying a red traffic light and driving over the speed limit at the intersection of 51<sup>st</sup> Street and Northern Boulevard, § 87(2)(b) drove for approximately fifteen blocks while continuing to exceed the speed limit. The police vehicle, which was following approximately one foot behind § 87(2)(b) vehicle, had its turret lights and siren on but neither officer used the loudspeaker. At the intersection of § 87(2)(b) Police Officer Ottomano passed in front of § 87(2)(b) vehicle, then stopped in front of § 87(2)(b) vehicle at an angle in order to get § 87(2)(b) to stop. § 87(2)(b) stopped her vehicle. § 87(2)(b) had been stopped for driving over the speed limit and disobeying a red traffic light.

Patrol Guide Procedure 221-01 states that an officer's decision to draw their firearm should be based on an articulable belief that the potential for serious physical injury is present (Board Review 11). Officers are permitted to draw and point their firearm when ordering a person out of a car during the investigation of a crime or traffic infraction. People v. Livigni, 453 N.Y.S.2d 708 (1982) (Board Review 12).

Police Officer Ottomano observed § 87(2)(b) disobey at least one traffic light and drive for multiple blocks at a high rate of speed while officers were attempting to pull her over. § 87(2)(g)

**Allegation (D) – Police Officer John Ottomano used physical force against § 87(2)(b)**

§ 87(2)(b) stated that after she stopped her vehicle, she opened her vehicle door and began to exit, at which point Police Officer Ottomano pushed her back inside the vehicle, with his left hand making contact with her chest.

Police Officer Ottomano stated that, when he attempted to grab her to remove her from the vehicle, § 87(2)(b) “assaulted” him by flailing her arms (which caused her to strike him in the face, arm, and his shoulders) and then kicking him in the groin approximately two to three times. Police Officer Ottomano denied using any force against § 87(2)(b) including pushing her away from him or ever making contact with her to create separation between them. Police Officer Ottomano further stated that he “would not have” pushed § 87(2)(b) into the vehicle because he was trying to get her to exit the vehicle.

Police Officer Garlinska stated that she never saw § 87(2)(b) start to get out of the vehicle and then be pushed back into the vehicle by Police Officer Ottomano.

The cell phone video, embedded below, shows Police Officer Ottomano saying, “Don’t move” three times. Then, as § 87(2)(b) leans and appears to begin to exit the vehicle, Police Officer Ottomano places his right hand on § 87(2)(b) left upper arm and pushes her back into the vehicle into a seated position. Then Police Officer Ottomano says, “Ma’am, I said ‘don’t move.’”



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Patrol Guide Procedure 221-01 states that Members of Service may use reasonable force to gain control, compliance, or custody of an uncooperative person (Board Review 11). During a vehicle stop, officers are permitted to use their discretion to require that the occupant of the vehicle either exit or remain in the vehicle. People v. Forbes, 183 Misc. 2d 613 (2000) (Board Review 13).

Police Officer did not acknowledge pushing § 87(2)(b) back into her vehicle, and Police Officer Garlinska denied observing this occur. However, the video shows Police Officer Ottomano doing so. § 87(2)(g)

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§ 87(2)(g)

**Allegation (E) – An officer used force against § 87(2)(b)**

§ 87(2)(b) stated that, after she was placed inside a police vehicle on scene, a black male officer with an average build and brown skin opened the car door against which § 87(2)(b) was leaning. The officer then reached inside and grabbed § 87(2)(b) placing his hands under her underarms. The officer pulled § 87(2)(b) out of the vehicle and dropped her onto the street from the height of the step into the vehicle. § 87(2)(b) landed on her buttocks in a seated position and sustained a scrape on her lower back.

§ 87(2)(b) stated that she observed a white female and a white male officer, neither of whom were Police Officer Ottomano or Police Officer Garlinska, remove § 87(2)(b) who was handcuffed, from the police vehicle in a "regular" manner.

Police Officer Ottomano, who is a white male, stated that he observed Sergeant Roach, who is a white male, ask § 87(2)(b) to step out of the police vehicle, which she did in a "cooperative" manner, landing on her feet in the process.

Police Officer Garlinska, who is a white female, stated that she did not observe § 87(2)(b) removal from the police vehicle.

Sergeant Roach stated that he observed Police Officer Ottomano open the door to the police vehicle and remove § 87(2)(b) by pulling § 87(2)(b) legs toward the car door, picking her up by either her shoulder or her arm, then standing § 87(2)(b) up onto her feet.

The investigation identified multiple black male officers who responded to this incident following the initial vehicle stop. On August 21, 2018, § 87(2)(b) stated by phone that she did not believe she would be capable of recognizing a photo of the black male officer who removed her from the police vehicle.

§ 87(2)(g)  
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**Allegation (F) – There is evidence suggesting Police Officer John Ottomano provided a false official statement in violation of PG 203-08.**

**Allegation (G) – There is evidence suggesting Police Officer Anna Garlinska provided a false official statement in violation of PG 203-08.**

As previously discussed, Police Officer Ottomano stated in his CCRB interview that, when he attempted to grab § 87(2)(b) to remove her from the vehicle, § 87(2)(b) still seated inside the vehicle, swung her arms wildly and struck Police Officer Ottomano in his face and shoulders multiple times, though he could not recall how many times. § 87(2)(b) kicked Police Officer Ottomano in the groin approximately two to three times. Police Officer Ottomano then grabbed § 87(2)(b) arm and removed her from the vehicle.

Police Officer Ottomano's narrative on his Line-of-Duty (LOD) Injury Report (Board Review 20), filed on the incident date, states, "Upon approaching the vehicle, I requested the driver to exit the vehicle, at which time she began to kick me in the groin, and punched me in the face several times with closed fists. As a result, I sustained pain and soreness, which included my right arm from attempting to apprehend the perpetrator."

Police Ottomano's memo book entries for this incident (Board Review 24) note that, during a car stop, he suffered unspecified injuries to his arm, face and groin. He did not specify how he sustained these injuries.

The Threat Resistance and Injury Report filed by Police Officer Ottomano on the date of this incident (Board Review 22), states that he was the victim of a hand strike, a foot strike, and pushing/shoving and as a result had minor swelling and complaint of substantial pain. Photographs of both sides of his face and his arm were attached. The photos do not show any apparent injury.

Police Officer Garlinska stated in her CCRB interview that she observed § 87(2)(b) while sitting in the driver's seat of her vehicle and prior to being removed by Police Officer Ottomano, smack Police Officer Ottomano in the left and right cheek and in his arm. She also observed § 87(2)(b) kick Police Officer Ottomano in his groin, causing Police Officer Ottomano to grunt in pain. She also observed § 87(2)(b) push and shove Police Officer Ottomano in his torso or chest. § 87(2)(b) took each of these actions immediately one after the other and Police Officer Garlinska affirmed that she personally observed all of these violent actions against Police Officer Ottomano.

In the Criminal Court Complaint for § 87(2)(b) arrest (Board Review 01), for which Police Officer Garlinska was deposed, she stated that she observed § 87(2)(b) punch, slap, and kick her partner in the face, arm, and body, causing substantial pain and redness to his left and right cheek and to his arm.

In her memo book entries for this incident (Board Review 20), Police Officer Garlinska noted that she observed § 87(2)(b) refusing to get out of her vehicle during the car stop and then smack, push, shove, and kick Police Officer Ottomano and punch him with closed fists, causing redness to his right and left cheek and substantial pain to his right arm. Police Officer Garlinska provided the same account in her witness statement for Police Officer Ottomano's LOD Injury Report (Board Review 20) and § 87(2)(b) arrest report (Board Review 21).

§ 87(2)(b) in her statements to the CCRB, denied striking Police Officer Ottomano.

§ 87(2)(b) in her statements to the CCRB, denied that § 87(2)(b) struck any officers.

The cell phone video of this incident, embedded above (Board Review 03), which is one minute long and contains audio, was shot by § 87(2)(b) who was sitting in the front passenger seat of § 87(2)(b) vehicle. As the video begins, § 87(2)(b) is sitting in the driver's seat, with her seatbelt on and her body and both legs facing forward with both of her feet inside the vehicle. The camera pans towards the driver's side and, approximately 6 seconds into the video, § 87(2)(b) is seen unbuckling her seatbelt as her head is turned sideways and looking towards Police Officer





- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) has been a party (Board Review 14) (Board Review 15).
- Police Officer Ottomano has been a member of service for one year, and has not been a subject in any prior CCRB complaints.
- Police Officer Garlinska has been a member of service for two years, and has not been a subject in any prior CCRB complaints.

**Mediation, Civil and Criminal Histories**

- § 87(2)(b) declined to mediate this complaint.
- On September 19, 2018, an inquiry was sent to the Comptroller’s Office of the City of New York to determine whether a Notice of Claim was filed for this incident. The inquiry results will be added to the case file upon receipt (Board Review 16) (Board Review 17).
- § 87(2)(b) [REDACTED]
- According to the Office of Court Administration, in the court case resulting from her arrest in this incident, § 87(2)(b) was ultimately convicted of driving while ability-impaired, resulting in a \$300 fine and license suspension for 90 days.
- A search of the NYPD Booking and Arraignment Disposition System revealed that § 87(2)(b) has no prior criminal convictions (Board Review 19).

Squad No.: \_\_\_\_\_

Investigator:	_____	_____	_____
	Signature	Print Title & Name	Date

Squad Leader:	_____	_____	_____
	Signature	Print Title & Name	Date

Reviewer:	_____	_____	_____
	Signature	Print Title & Name	Date

