

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Laura Strauss	Team: Squad #6	CCRB Case #: 202006515	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input checked="" type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Tue, 10/08/2019 6:02 PM	Location of Incident: [REDACTED]	Precinct: 108	18 Mo. SOL 04/08/2021	EO SOL 11/23/2021	
Date/Time CV Reported Sat, 09/26/2020 10:39 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Sat, 09/26/2020 10:39 PM		

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

Subject Officer(s)	Shield	TaxID	Command
1. POM Paul Bentz	20690	§ 87(2)(b)	108 PCT
2. LT Tamara Mclamb	00000	§ 87(2)(b)	108 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Alex Mcclellan	31443	§ 87(2)(b)	108 PCT
2. POM Shaikh Islam	11669	§ 87(2)(b)	108 PCT
3. POM Cedric Frisby	04773	§ 87(2)(b)	108 PCT
4. POM Michael Harold	06827	§ 87(2)(b)	108 PCT
5. POM Brian Merle	26772	§ 87(2)(b)	108 PCT
6. POM Matthew Rousseau	15196	§ 87(2)(b)	108 PCT
7. POF Cydni Darrell	18852	§ 87(2)(b)	108 PCT
8. POM Disrol Harry	08186	§ 87(2)(b)	108 PCT

Officer(s)	Allegation	Investigator Recommendation
A . POM Paul Bentz	Force: Police Officer Paul Bentz used a Taser against § 87(2)(b) [REDACTED]	A . § 87(2)(g) [REDACTED]
B . POM Paul Bentz	Discourtesy: Police Officer Paul Bentz spoke discourteously to § 87(2)(b) [REDACTED].	B . § 87(2)(g) [REDACTED]
C . POM Paul Bentz	Abuse of Authority: Police Officer Paul Bentz refused to provide his shield number to § 87(2)(b) [REDACTED].	C . § 87(2)(g) [REDACTED]
D . POM Paul Bentz	Discourtesy: Police Officer Paul Bentz spoke discourteously to § 87(2)(b) [REDACTED].	D . § 87(2)(g) [REDACTED]
E . LT Tamara Mclamb	Abuse of Authority: Lieutenant Tamara McLamb forcibly removed § 87(2)(b) [REDACTED] to the hospital.	E . § 87(2)(g) [REDACTED]
F . POM Paul Bentz	Untruthful Statement: Police Officer Paul Bentz provided a misleading official statement to the CCRB.	F . § 87(2)(g) [REDACTED]

Case Summary

On September 26, 2020, § 87(2)(b) filed this complaint via the CCRB’s website.

On October 8, 2019, at approximately 6:02 p.m., PO Paul Bentz and PO Shaikh Islam, of the 108th Precinct, responded to a 911 call for a violent EDP at Queens Boulevard and 32nd Place in Queens. When they arrived, § 87(2)(b) was partially clothed and stood in the middle of Queens Boulevard. PO Bentz and PO Islam approached, and PO Bentz told § 87(2)(b) to get on the ground. PO Bentz then deployed his Taser against § 87(2)(b) (**Allegation A: Force**, § 87(2)(g)). After § 87(2)(b) fell to the ground, PO Bentz handcuffed him and led him to the sidewalk. PO Bentz told § 87(2)(b) “Take a fucking seat” (**Allegation B: Discourtesy**, § 87(2)(g)). PO Bentz failed to provide his shield number to § 87(2)(b) (**Allegation C: Abuse of Authority**, § 87(2)(g)). EMS was called and as officers escorted § 87(2)(b) to the ambulance, he fell or moved onto the sidewalk. PO Bentz then stated, “Come on dude, what the fuck?” (**Allegation D: Discourtesy**, § 87(2)(g)). § 87(2)(b) was forcibly removed to § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g)). PO Bentz provided a misleading statement to the CCRB (**Allegation F: Untruthful Statement**, § 87(2)(g)). No arrests or summonses resulted from this incident.

Ten body-worn camera videos were obtained of this incident (BR 01-10).

Findings and Recommendations

Allegation (A) Force: Police Officer Paul Bentz used a Taser against § 87(2)(b)

It is undisputed that PO Bentz deployed his Taser and struck § 87(2)(b). PO Bentz’s BWC footage (BR 06), beginning at the 00:25 mark in the video player, showed PO Bentz approach § 87(2)(b) who stood in the middle of Queens Boulevard. § 87(2)(b) was not wearing a shirt, socks, or shoes, and solely had a garment draped around his hips, worn in a similar manner to a skirt. At the 00:29 mark, PO Bentz pointed his Taser at § 87(2)(b) and repeatedly told him to get on the ground. § 87(2)(b) asked several times if he was under arrest or being detained. PO Bentz did not answer, and repeatedly commanded § 87(2)(b) to get on the ground. Lt. Tamara McLamb and PO Cydni Darrell, of the 108th Precinct, arrived. PO Bentz’s partner, PO Islam, was also present. Lt. McLamb and PO Bentz repeatedly told § 87(2)(b) to move onto the sidewalk. § 87(2)(b) replied no and repeatedly asked if he was being detained and what the charges were. § 87(2)(b) stood approximately six feet away from PO Bentz. § 87(2)(b) gestured with his hands as he spoke with the officers and periodically took several steps backwards. Vehicular traffic continued to pass by and at some points, vehicles were within one or two feet of § 87(2)(b). Beginning at the 00:58 mark, PO Bentz warned § 87(2)(b) six times that he would be Tased if he did not comply. Additionally, § 87(2)(b) repeatedly mentioned “a guy over there” and pointed in various directions but did not appear to be referring to the officers. At the 01:14 mark, § 87(2)(b) walked toward PO Bentz and stood within a few feet of him, then stepped back. At that point, traffic had stopped moving forward. In total, the four officers issued approximately 22 verbal commands for § 87(2)(b) to get down on the ground or move onto the sidewalk and including PO Bentz’s threats to use his Taser. A laser warning—a red laser dot—was visible on § 87(2)(b) s chest. § 87(2)(b) did not use any profanity, make any threatening statements, and did not appear to attempt to physically harm himself or others. At the 01:24 mark, PO Bentz deployed his Taser, in probe mode, at § 87(2)(b) and § 87(2)(b) fell onto the ground. It was not clear where the darts made contact. At the 01:33 mark, PO Islam handcuffed § 87(2)(b). Officers lifted § 87(2)(b) into an upright position and led him to the sidewalk. Seven or eight passersby stood on the sidewalk as the officers approached with § 87(2)(b) none of whom said or did anything throughout the interaction. Lt. McLamb did not instruct PO Bentz to deploy his Taser.

§ 87(2)(b) testified (BR 11) that he took the subway to Long Island City, to acquire shoes from a nearby YMCA, as his shoes had fallen apart earlier that day. As § 87(2)(b) crossed Queens Boulevard, he got caught in traffic and stopped in the middle of the street. He waited for traffic to pass so that he could continue crossing. He was not under the influence. Three or four officers, identified as PO Bentz, PO Islam, Lt. McLamb, and PO Darrell, then quickly approached. PO Bentz told him to get on the ground. § 87(2)(b) did not move and replied that he was just trying to cross the street and asked what he did. He had not previously interacted with any of the officers. § 87(2)(b) did not make any statements about harming himself or anyone else. He did not reach for anything. Approximately 10 seconds after the officers initially approached, PO Bentz deployed his Taser against § 87(2)(b). A Taser prong was lodged in the right side of his chest. § 87(2)(b) felt a great deal of pain and immediately fell onto the ground. When he fell, the right side of his head hit the ground. § 87(2)(b) sustained pain in his chest from the Taser prong and bruising on his right side, from when he fell on the ground. § 87(2)(b) subsequently had headaches and mind fog, which were caused by hitting his head on the ground. During his CCRB interview in October 2020, § 87(2)(b) provided his approximate height as 5'9" and weight as 200 pounds.

§ 87(2)(b), § 87(2)(a)

§ 87(2)(g)

§ 87(2)(b) The 911 call specified that § 87(2)(b) threw foldable lawn chairs at vehicles on Queens Boulevard. When PO Bentz initially observed § 87(2)(b) it was rush hour and he stood in the middle of Queens Boulevard, which had four eastbound and four westbound lanes of traffic. PO Bentz did not observe § 87(2)(b) throw a chair. No motorists informed the officers that a chair was thrown at their vehicle. PO Bentz did not speak with the 911 caller or any witnesses. PO Bentz did not see any chairs in the vicinity. PO Bentz, PO Islam, Lt. McLamb, and PO Darrell issued repeated verbal commands for § 87(2)(b) to step onto the sidewalk, but he did not comply. § 87(2)(b) was agitated and was acting bizarrely and irrationally, insofar as he yelled and cursed at the officers, moved his arms around, paced back and forth, and was standing in the middle of Queens Boulevard. § 87(2)(b) kept walking toward and away from the officers, which PO Bentz interpreted as a threat, because civilians who approach officers typically want to get into an altercation. PO Bentz did not observe § 87(2)(b) commit any crimes or violations, but in throwing chairs at vehicles, he may have committed criminal mischief and/or reckless endangerment. Based upon § 87(2)(b)'s behavior, he may have been under the influence. There was nothing specific that PO Bentz suspected, but he knew that something seemed "off" about § 87(2)(b). PO Bentz's intention was to safely get § 87(2)(b) out of the street and into an ambulance, so that he could be assessed by § 87(2)(b). After approximately five to 10 minutes of issuing verbal commands, PO Bentz unholstered and pointed his Taser at § 87(2)(b). A few seconds later, PO Bentz deployed his Taser once in probe mode, from approximately 10-15 feet away. PO Bentz utilized a Taser because it was the safest and quickest way to get § 87(2)(b) out of the street. If the officers had attempted to physically apprehend § 87(2)(b) this may have led to additional injuries. § 87(2)(b) or the officers could have fallen and gotten hurt, and PO Bentz did not know if vehicles were going to start moving again. § 87(2)(b)

Event #D19100821432 was a 10-54 call for an ambulance/violent EDP at Queens Boulevard and 32nd Place (BR 14).

Medical records from § 87(2)(b) (BR 15) detail that § 87(2)(b) informed hospital staff that he got into an altercation with kids in a vehicle and swung a chair at the vehicle. § 87(2)(b) self-extricated the Taser barbs. § 87(2)(b)

TRIs, prepared by Lt. McLamb, document that PO Bentz deployed his Taser to overcome resistance or aggression (BR 16). Two darts penetrated § 87(2)(b)'s skin, in his chest and thigh. The Taser was effective and after the Taser use, § 87(2)(b) stopped resisting. Drug use was suspected. According to the AIDED report (BR 17), prepared by PO Michael Harold, of the 108th Precinct, § 87(2)(b) was emotionally disturbed and placed himself in a dangerous situation. § 87(2)(b) did not attempt to physically harm himself or others, did not physically or verbally threaten others, and did not speak of harming himself or others.

§ 87(2)(b)

Officers must use only the reasonable force necessary to gain control or custody of a subject. In determining whether the use of force is reasonable, the following factors should be considered: “the nature and severity of the crime/circumstances, actions taken by the subject, duration of the action, 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, number of subjects in comparison to the number of MOS, size, age, and condition of the subject in comparison to the MOS, subject’s violent history, if known, presence of hostile crowd or agitators, subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.” NYPD Patrol Guide, Procedure 221-01 (BR 20).

When assessing whether the use of a Taser, or Conducted Electrical Weapon (CEW), is reasonable, the totality of the circumstances should be considered. The use of a CEW is considered a significant intermediate use of force and should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present. Active resisting includes physically evasive movements to defeat a member of the service’s attempt at control, including verbally signaling an intention to avoid or prevent being taken into or retained in custody. Active aggression is 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. It is prohibited to use a CEW in situations that do not require the use of physical force. NYPD Patrol Guide, Procedure 221-08 (BR 21).

In cases involving an emotionally disturbed person (EDP), the safety and well-being of all persons involved is paramount. If such person is deemed dangerous to himself or others, force may be used when it is reasonable to prevent serious physical injury or death. Officers must use only the reasonable force necessary to gain control or custody of a subject. When there is time to de-escalate, use all time necessary to ensure the safety of all individuals concerned. NYPD Patrol Guide, Procedure 221-13 (BR 22).

§ 87(2)(g)

§ 87(2)(g)

The Patrol Guide is clear in its mandate that in cases involving emotionally disturbed persons, the safety and well-being of all persons is paramount, and that all uses of force must be reasonable under the circumstances. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation (B) Discourtesy: Police Officer Paul Bentz spoke discourteously to § 87(2)(b)

Allegation (D) Discourtesy: Police Officer Paul Bentz spoke discourteously to § 87(2)(b)

In PO Bentz’s BWC footage (BR 06), at the 01:33 mark in the video player, PO Islam handcuffed § 87(2)(b). Officers lifted § 87(2)(b) into an upright position and led him to the sidewalk. At the 02:01 mark, PO Bentz and several officers repeatedly told § 87(2)(b) to sit on the sidewalk. At the 02:15 mark, PO Bentz told § 87(2)(b) “Take a fucking seat.” At that point, PO Bentz, PO Islam, Lt. McLamb, PO Darrell, PO Harold, and PO Alex McClellan, of the 108th Precinct, were present. In Lt. McLamb’s BWC (BR 01), at the 03:17 mark, PO Bentz is clearly depicted as the officer saying, “Take a fucking seat.” In PO Harold’s BWC footage (BR 08), at the 14:58 mark, as officers led § 87(2)(b) to the ambulance, he sat or fell onto the sidewalk and stated that he was not moving. PO Bentz then stated, “Come on dude, what the fuck,” which is depicted in PO Bentz’s BWC footage, at the 16:22 mark. At that point, PO Bentz stood within a few feet of § 87(2)(b). In addition to PO Bentz, PO Islam, Lt. McLamb, PO Darrell, PO Harold, and PO McClellan, the following officers were also present: PO Cedric Frisby, PO Brian Merle, PO Matthew Rousseau, and PO Disrol Harry, all of the 108th Precinct. Two EMTs were also present.

§ 87(2)(b), § 87(2)(a)

PO Bentz testified that after he deployed his Taser, he and the other officers led § 87(2)(b) to the sidewalk. PO Bentz told § 87(2)(b) to sit down, to calm him down and ensure that he was comfortable. § 87(2)(b) was still very agitated and tried to move around. PO Bentz did not recall stating, “Take a fucking seat.” Upon viewing his BWC footage, PO Bentz stated that he did not think that he was the officer who stated, “Take a fucking seat,” and was not sure said it. PO Bentz did not recall whether § 87(2)(b) fell or moved onto the sidewalk as he walked to the ambulance. PO Bentz did not recall stating, “Come on dude, what the fuck?” Upon viewing Lt. McLamb’s BWC footage (CCRB re-interview, BR 29), PO Bentz testified that he was not sure whether he was the officer who stated, “Take a fucking seat.” After viewing the footage again, PO Bentz confirmed that the video showed him making the remark. PO Bentz testified that he made the statement to de-escalate and express the severity of the situation. In his initial interview, upon viewing his BWC footage, PO Bentz stated that he was not sure whether he was the officer who stated, “Come on dude, what the fuck?”. PO Bentz was unable to identify who made that statement. Given that PO Bentz did not acknowledge making the statement, he did not provide an explanation for doing so.

The NYPD is committed to accomplishing its mission of protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect. Officers must “maintain a higher standard of integrity than is generally expected of others.” NYPD Patrol Guide, Procedure 200-02 (BR 23). The NYPD’s disciplinary decisions “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.” NYPD Disciplinary Case No. 76927/04 (2004) (BR 24).

In his re-interview, PO Bentz ultimately acknowledged that he told § 87(2)(b) “Take a fucking seat” and that he used profanity to de-escalate the situation and to express the severity of the situation. PO Bentz acknowledged hearing an officer in the BWC footage say, “Come on dude, what the fuck,” but testified that he was not sure whether the voice was his own. § 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

Allegation (C) Abuse of Authority: Police Officer Paul Bentz refused to provide his shield number to § 87(2)(b)

In PO Bentz's BWC footage (BR 06), at the 03:13 mark in the video player, § 87(2)(b) asked PO Bentz for his name, which he provided. § 87(2)(b) then asked PO Bentz for his shield number and he replied, "It's right here if you want to read it." PO Bentz did not verbally provide his shield number. At that point, § 87(2)(b) was handcuffed and stood on the sidewalk, with PO Bentz and PO Islam each holding one of § 87(2)(b)'s arms PO Bentz stood less than a foot away from § 87(2)(b). At the 11:15 mark, § 87(2)(b) asked PO McClellan, for his name. He replied, "McClellan, you can call me Mac." Video footage, which captures the entirety of this interaction, does not depict § 87(2)(b) asking any other officer for their names or shield numbers.

§ 87(2)(b) testified that after he was struck with a Taser, at least two additional officers arrived. § 87(2)(b) asked all the officers who were present for their names and shield numbers. Solely one officer, identified as PO McClellan, provided his name. § 87(2)(b) did not recall how many officers he asked for identifying information. Aside from PO McClellan, § 87(2)(b) did not recall whether any other officer provided their name or shield number. § 87(2)(b)

PO Bentz testified that he did not think § 87(2)(b) asked him for his name or shield number. If § 87(2)(b) had asked for his name or shield number, he would have provided it. In PO Bentz's understanding, if an individual asks for his name or shield number, he must verbally provide that information. Upon viewing his BWC footage, PO Bentz stated that he was not sure why he did not provide his shield number to § 87(2)(b). PO Bentz further explained that § 87(2)(b) was very agitated and that he started to get upset because § 87(2)(b) was not listening.

When officers interact with a member of the public, they must "courteously and clearly state [their] rank, name, shield number, and command, or otherwise provide them" to anyone who requests that information. NYPD Patrol Guide, Procedure 203-09 (BR 25).

§ 87(2)(g)

Allegation (E) Abuse of Authority: Lieutenant Tamara McLamb forcibly removed § 87(2)(b) to the hospital.

It is undisputed that § 87(2)(b) was removed to § 87(2)(b) Hospital. The investigation solely pleaded the allegation against Lt. McLamb, as she was the ranking supervisor on scene.

§ 87(2)(b) testified that prior to being approached by officers, he was crossing Queens Boulevard and got caught in traffic. Officers, including PO Bentz, quickly approached and told him to get on the ground. Approximately 10 seconds later, PO Bentz deployed his Taser against § 87(2)(b). After PO Bentz deployed his Taser, § 87(2)(b) repeatedly told officers that he did not want to go to the hospital. § 87(2)(b) was brought to an ambulance and removed to § 87(2)(b) Hospital against his will. § 87(2)(a), § 87(2)(b)

PO Bentz testified that throughout the incident, § 87(2)(b) was agitated and was acting bizarrely and irrationally, insofar as he yelled and cursed at the officers, paced back and forth, and stood in the middle of Queens Boulevard. PO Bentz and PO Islam issued repeated commands for § 87(2)(b) to step onto the sidewalk, but he did not comply. PO Bentz's intention, prior to deploying his Taser, was to get § 87(2)(b) safely into an ambulance so that he could be assessed by EMTs.

§ 87(2)(b)

Lt. McLamb was not interviewed, as it was determined that her statement was not necessary to reach a disposition.

Officers must take into protective custody and remove to the hospital individuals who appear to be mentally ill or temporarily deranged and are conducting themselves in a manner that an officer reasonably believes is likely to result in serious injury to themselves or others. NYPD Patrol Guide, Procedure 221-13 (BR 22). Any person who has been struck by a conducted electrical weapon must be examined at a medical facility. Officers must request FDNY Emergency Medical Service, as any dart that has penetrated an individual's skin must only be removed by medical personnel. NYPD Patrol Guide, Procedure 221-08 (BR 21).

§ 87(2)(g)

Allegation (F) Untruthful Statement: Police Officer Paul Bentz provided a misleading official statement to the CCRB.

§ 87(2)(g)

There were portions of PO Bentz's CCRB testimony that consisted of untruthful statements at issue here. The first group of statements regard the statement, "Take a fucking seat."

Between 24:53 and 26:50 in PO Bentz's first interview, prior to being shown BWC, PO Bentz was asked whether he told § 87(2)(b) "Take a fucking seat." PO Bentz stated, "I don't recall that, no."

Between 35:25 and 35:55 in PO Bentz's first interview, PO Bentz watched his BWC footage (02:10 to 02:18). Between 35:56 and 36:44 in the interview, the following verbatim exchange then occurred:

Inv. Strauss: So, hearing that it appears that an officer says, "Take a fucking seat," are you able to identify if that's yourself, officer?

PO Bentz: Uh, I don't think that's myself, no.

PO Bentz then stated that he was unable to identify whose voice it was, and he was not sure which officers were present at that point.

Between 03:29 and 04:57 in PO Bentz's second interview, PO Bentz watched Lt. McLamb's BWC footage (02:49 to 03:17). This BWC video showed a different angle of the incident and visually depicted PO Bentz interacting with § 87(2)(b). Between 04:58 and 08:54 in the interview, the following verbatim exchange occurred:

Inv. Strauss: After viewing this body-worn camera video, does it refresh your recollection as to whether you made the statement, "Take a fucking seat" to § 87(2)(b)

PO Bentz: Uh, I mean it could've been me, I'm not positive, honestly.

Lt. McLamb's BWC footage was played again (03:06 to 03:17). The following verbatim exchange then occurred:

Inv. Strauss: So, after viewing that again officer, are you able to say whether you were the

officer that made that statement?

PO Bentz: Uh, it very well could have been.

Inv. Strauss: Can you tell me a little bit more about what happened when that statement was being made?

PO Bentz: He just wasn't listening to us, we were just trying to get him to sit down. So, if I did curse, it's just trying to get him to know the severity of the situation, to get him to sit down.

Inv. Strauss: So, when you say, 'It very well could have been,' are you saying that it is you who made that statement or you're still not sure?

PO Bentz: It looks, from the video it looks like it is.

PO Bentz was asked why he previously testified that he did not think he made the statement, though the video showed that he did, and he stated:

PO Bentz: Okay yeah, I guess this is from a different camera angle, and you couldn't tell if it was me from mine. I didn't watch my lieutenant's camera.

PO Bentz stated he still did not independently recall telling § 87(2)(b) "Taking a fucking seat."

The second group of untruthful statements regard the § 87(2)(g) "Come on dude, what the fuck."

Between 29:34 and 30:32 in PO Bentz's first interview, prior to being shown BWC, PO Bentz was asked whether he stated, "Come on dude, what the fuck." PO Bentz stated, "I don't recall that."

Between 39:27 and 40:00 in PO Bentz's first interview, PO Bentz watched his BWC footage (16:01 to 16:29). Between 40:01 and 41:17 in the interview, the following verbatim exchange occurred:

Inv. Strauss: It sounds like you make the statement, "Come on dude, what the fuck." Are you able to say why you said that?

PO Bentz: Um, no—

Counsel Schillinger: Are we sure that's his voice?

PO Bentz: Yeah, I don't know if that's me.

PO Bentz's BWC footage was played again (16:17 to 16:24). The following verbatim exchange then occurred:

Inv. Strauss: Is that your voice, officer?

PO Bentz: Honestly, I'm not sure.

PO Bentz was unable to identify which officer made that statement.

There was no BWC footage visually depicting PO Bentz stating, "Come on dude, what the fuck."

A misleading statement is a statement intended to misdirect the fact finder and materially alter the narrative by intentionally omitting material fact(s) or altering a member's prior statement when an officer confronted with independent evidence indicating that an event did not occur as initially described. A material fact is a significant 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. NYPD Patrol Guide, Procedure 203-08 (BR 30).

PO Bentz initially testified, after viewing his BWC footage, that he could not identify whether he stated, "Take a fucking seat" or "Come on dude, what the fuck." Upon being re-interviewed and watching Lt. McLamb's BWC footage, PO Bentz ultimately amended his testimony and acknowledged that he told § 87(2)(b) "Take a fucking seat." § 87(2)(g)

§ 87(2)(g)

In both instances where PO Bentz's profane remarks were captured on his BWC footage, the audio was clear, and the statements were distinctly audible. § 87(2)(g)

[REDACTED]

Civilian and Officer CCRB Histories

- This is the first complaint to which § 87(2)(b) has been a party (BR 26).
- PO Bentz has been a member of service for four years and has been a subject in two CCRB complaints and five allegations, none of which were substantiated. PO Bentz's CCRB history does not reflect any apparent pattern pertinent to this investigation.
- Lt. McLamb has been a member of service for 12 years and has been a subject in three CCRB complaints and four allegations, none of which were substantiated. Lt. McLamb's CCRB history does not reflect any apparent pattern pertinent to this investigation.

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 pain and suffering, loss of enjoyment of life, loss of liberty, economic loss, and physical injuries and seeking \$3,000,000.00 as redress (BR 27). A 50-H hearing was held on § 87(2)(b) and can be found at BR 12.
- § 87(2)(b)

Squad No.: 6

Investigator:	<u> Laura Strauss </u>	<u> Inv. Laura Strauss </u>	<u> 8/11/2021 </u>
	Signature	Print Title & Name	Date

Squad Leader:	<u> Jessica Peña </u>	<u> IM Jessica Peña </u>	<u> 8/11/2021 </u>
	Signature	Print Title & Name	Date

Reviewer:	<u> </u>	<u> </u>	<u> </u>
	Signature	Print Title & Name	Date