

201508161
Patrick Burnett

PO Burnett and other officers stopped two individuals who had gotten into a fight. One woman claimed that in the course of the incident, PO Burnett had punched her. PO Burnett denied punching the woman, but had sustained a fracture of the fifth metacarpal of his hand (known as a “boxer’s fracture”) an injury caused by punching a person or object.

The NYPD did not punish PO Burnett for the false statement and the CCRB allegations are redacted in a later letter from the district attorney.

Subsequently, the NYPD substantiated allegations against PO Burnett for incomplete, inaccurate, or discrepant reporting in three separate incidents occurring in March 2019, May 2019, and December 2020. The NYPD issued verbal instructions in response to the March 2019 and December 2020 incidents and took no action in response to the May 2019 incident.

Interview Details

Complainant/Victim:

- [REDACTED] is a [REDACTED] year old black female, standing 5'5" tall, weighing 124 pounds, with black hair and brown eyes.

CCRB Testimony

On October 7, 2015, [REDACTED] was interviewed at the CCRB.

On September 19, 2015, at approximately 4:31 a.m., [REDACTED] was driving in the car with her aunt, [REDACTED] and her cousins, [REDACTED] and [REDACTED] to drop them off. They had previously been out celebrating [REDACTED] birthday at a hookah lounge. [REDACTED] and her aunt needed to use the bathroom. In her rush to urinate, [REDACTED] ran a red light. To [REDACTED] knowledge, her vehicle was in good working order and running the red light was the only traffic infraction she committed. [REDACTED] had previously had ½ cup of cranberry juice and Hennessy, but stated this was hours prior, when it had still be daylight outside at around 2:00 p.m. [REDACTED] was not sure at what intersection she ran the red light, but stated it was whatever intersection was listed on the police documents. Approximately two seconds after [REDACTED] ran the red light, she pulled over and stopped the door. [REDACTED] and her aunt [REDACTED] opened the door so that they could get out and urinate. As [REDACTED] was getting out of her car, she looked to the left and saw four police officers, PO1-PO4. The officers did not use sirens or lights and [REDACTED] did not notice them until she looked over and saw them. The officers asked [REDACTED] "Did you realize you almost killed us?" [REDACTED] replied that she did not, but she knew she had run the light because she needed to use the bathroom. [REDACTED] continued talking with the officers for approximately 10 minutes, she did not remember how they replied to her. Sometime during this time, [REDACTED] and her Aunt [REDACTED] urinated. [REDACTED] noted that her aunt urinated before her. One of the officers, PO1, gave [REDACTED] a breathalyzer test. The breathalyzer test was negative.

While [REDACTED] was speaking with the officers, her Aunt [REDACTED] and [REDACTED] began arguing amongst themselves. [REDACTED] could not recall what they were arguing about. [REDACTED] was considered about getting into trouble and knew that yelling in front of the police could only lead to one thing, so she smacked [REDACTED] on the back of the head. [REDACTED] then hit [REDACTED] back. One of the officers, PO2, then told [REDACTED] she needed to calm down because she was yelling at [REDACTED] that she needed to calm down. PO2 then handcuffed [REDACTED] and dragged her by her wrists to a marked four door police car. After PO2 handcuffed [REDACTED] she asked him, "What the fuck are you doing? What did I do? For what?" PO2 replied to [REDACTED] "Calm down, get in the backseat, you'll be alright, faggot." [REDACTED] did not say anything in response to this. [REDACTED] had earlier described herself as being dragged, but later stated that she walked to the car. [REDACTED] could not remember where in relation to her car the police car was parked or if it was the car the officers had originally been in. At certain point during the incident, additional officers arrived; [REDACTED] estimated that it was no more than eight in addition to the four that she had originally seen. [REDACTED] also believed there was a "paddy wagon" on scene.

PO2 placed [REDACTED] in the backseat of the car and got into the backseat with her. When [REDACTED] was originally placed in the car with PO2, the car was stationary. PO2 called [REDACTED] a "stupid black bitch." PO2 called [REDACTED] this a few times, also calling her a "dirty black bitch." PO2 then punched [REDACTED] in the face. [REDACTED] started yelling for her aunt, saying, "What the fuck is wrong with you? What are you doing to me? Help!" Her aunt could not hear her. Two other officers, PO3 and PO4, also got into the car, in the front seats. [REDACTED] could not see what these officers looked like, but believed one was a tall white male and one may have been PO1. She thought the tall white male was in the driver's seat. The officers tried to pull PO2 off of [REDACTED] [REDACTED] called the officers "faggots." PO2 stopped hitting her when the other officers got into the car, but once the officers began driving the car, PO2 resumed hitting [REDACTED]. As the car pulled off, [REDACTED] heard her aunt calling out and saying, "What are you doing to her!" PO2 grabbed [REDACTED] with his left hand and dragged her head down onto his legs. With his left hand, open palm, he was grabbing around the back of [REDACTED] neck and choking her. [REDACTED] noted that PO2 had very large hands and with his hand wrapped around her neck, it reached towards the front her neck. With his other hand, he continued punching her in face. [REDACTED] was not sure how long this went on for; she noted that to her it felt like it was going on forever. [REDACTED] estimated that PO2

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punched her in the face a total of eight to ten times, all of the punches were to her face and eye. After the sixth hit, [REDACTED] bit PO2 on his wrist, she could not recall which wrist she bit. PO2 started screaming at her, "Oh you stupid black bitch, you stupid black bitch, you like this, you like this." [REDACTED] continued biting his wrist and would not let go of it. She got his blood in her mouth. [REDACTED] stated that she has OCD so she knew not swallow the blood. PO3 and PO4 tried to drag [REDACTED] off of PO2 and she was dragged out of the car. [REDACTED] believed she was dragged out of the police car at the precinct and was then placed into an ambulance that was already there. PO2 dragged [REDACTED] out of the car, other officers helped him but [REDACTED] could not see out of her eyes so could not see any of them. She noted that all the actions were a group effort, not performed by any singular officer. Shackles were placed on [REDACTED] legs; her feet were cut up as a result of the shackles. They threw [REDACTED] onto a bed inside of the ambulance; she did not recall ever being placed on a stretcher.

[REDACTED] could not see once she was placed in the ambulance because her eye was all swollen. She believed the EMS workers were black because she "knows black voices." The EMS workers called her an "ugly bitch." The EMS workers wrapped her in a blanket. [REDACTED] kept spinning around in the blanket, she estimated she did seven 360 turns. She thought it took about twelve people, a combination of EMS and police officers, to get her to stop. They were also trying to get the spit mask on her, but were unable to. [REDACTED] was transported to [REDACTED] Hospital. Once at the hospital, people kept sticking her with needles and [REDACTED] spit on many of the nurses, spitting the blood that was in her mouth on them. [REDACTED] was taken to [REDACTED] Hospital. The hospital gave her hot packs for her eye. Initially stated that she did not know if an officer stayed with her while she was at the hospital, but then stated that there was "one cool officer" who stayed with her. She did not know what he looked like or what his name is. [REDACTED] believed she was at the hospital until the next day.

[REDACTED] was upset because at a certain point her wig was taken from her, which led her to feel ugly and be called names by other inmates, including being called "Mr.," "Sir," "Man," and "Fucked up, yo boy, you see her." While at the precinct stationhouse, [REDACTED] had to deal with racial slurs from the other inmates, in particular a Russian male told her that he was going to come to her house and "fuck her grandmother." Since the incident, [REDACTED] has become jumpy every time she hears sirens. She likes to listen to trap music which has a lot of sirens in it and makes her jump, she is incredibly paranoid, she wants to beat everybody up, she has to see a psychiatrist and therapist, and has to go to anger management. As a result of the incident, [REDACTED] eye has been damaged. She need a patch when she drives and stated that her eye will never be the same.

PO1: male, Indian, 5'5"-5'8", black hair, mustache and maybe a beard, uniformed.

PO2: male, white, bald, mustache, uniformed.

PO3: male, white, tall, uniformed.

[REDACTED] could not recall what any other officers looked like.

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Victim:

- [REDACTED] is a [REDACTED] year old black female, standing 5'0" tall.

CCRB Testimony

On October 21, 2015, [REDACTED] was interviewed inside of [REDACTED].

On September 19, 2015, at approximately 4:31 a.m., [REDACTED] was in the car with her cousin, [REDACTED] her mother, [REDACTED] and her sister, [REDACTED]. They had just left a birthday party for [REDACTED] [REDACTED] had to use the bathroom very badly and due to this urgency, [REDACTED] ran a red light. [REDACTED] did not know at what intersection they ran the red light. To [REDACTED] knowledge, [REDACTED] car was in good working order, they were driving the speed limit, and running the red light was the only traffic violation she made. Neither [REDACTED] nor [REDACTED] had been drinking that night.

After running the red light, they made the next immediate left, driving for approximately one block, going into the block so that [REDACTED] could use a tree to urinate. [REDACTED] stated that they were aware the officers were following them, the officers had lights and sirens engaged. By the time that the officers' car pulled up behind [REDACTED] car, [REDACTED] had already exited the vehicle, she was standing on the driver's side of the car, by the back passenger's door. [REDACTED] was also outside of the car; [REDACTED] explained that she thought [REDACTED] was worried about her backseat because it is fabric. Three officers, PO1-PO3, got out of their vehicle and approached them. One of the officers, PO1, told her, "You need to get the fuck back in the car." [REDACTED] explained to PO1 that her mother was in the backseat, was a little older, and needed to use the bathroom so all they wanted to do was use a tree. PO1 again told [REDACTED] that she needed to get back in the car and she again explained the bathroom situation. [REDACTED] described the officers as making fun of the situation a little, so she believed everything was okay. [REDACTED] also began speaking with the officers, identifying herself as the driver and explaining that she wanted to check on her aunt. The officers went over to where [REDACTED] was standing, on the driver's side of the vehicle in front of the driver's door. [REDACTED] got off the car as well, [REDACTED] explained that at first her mother was a little afraid, but then got out for a little. [REDACTED] believed that PO1, upon seeing [REDACTED] who is in her 50s, calmed down a little and understood the situation. [REDACTED] was then not feeling well and got back inside the car, where she remained inside. [REDACTED] never exited the vehicle.

The officers asked for [REDACTED] license, [REDACTED] explained that [REDACTED] only had the temporary license card because her wallet had been stolen a couple days before. The officers took problem with the temporary license. The officers were asking [REDACTED] where they had been coming from, what they had been doing, and PO2 gave [REDACTED] a breathalyzer test three times, which was negative each time. During the breathalyzer test, PO2 also looked in the car with his flashlight, checking to see if there was alcohol in the car. PO2 commented to them that they did not look intoxicated and did not smell alcohol on them. [REDACTED] estimated that this entire interaction, the talking and the breathalyzer went on for five to seven minutes. PO1 told them that they just needed to confirm [REDACTED] license, and would then release them. Two of the officers wished [REDACTED] a happy birthday and apologized for the inconvenience and told the girls that everything seemed to be fine. [REDACTED] offered to give the officers [REDACTED] social security card as an extra form of ID. The officer told them that they could not run that, but they could all come to the precinct, where they would run it to confirm [REDACTED] was who she said she was, and then they could all go home.

Approximately five minutes after the incident began, a second police car pulled up at the location. There were about three to four officers in this car. These officers got out of their car and looked around, then got back into their car and left before the incident concluded.

While [REDACTED] was giving the officers the social security card, she and [REDACTED] began to bicker amongst themselves. They were arguing because [REDACTED] had taken issue with the fact that [REDACTED] had told [REDACTED] "Shut up." [REDACTED] estimated that they were arguing for approximately two minutes. They were standing close to each other during this time, each in front of their respective doors. The argument was only verbal; they were yelling at each other, but there was no physical contact between the two of them. [REDACTED] believed the officers may have thought that the fight was going to get physical, because PO2 then pinned [REDACTED] against the

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car, turning her around by her shoulders, with her face against the car. [REDACTED] slipped down from his grasp and turned her body around, facing forward and told PO2 that she had not done anything wrong and to not place her hands behind her back. PO2 then turned her back around, putting a hand on her waist and back, again with her face on the car. [REDACTED] again managed to turn and told PO2 to please not touch her, she knew her rights, and they were just having a discussion. PO2 kept telling [REDACTED] to calm down, this was the only thing that PO2 said to her. While [REDACTED] was having this interaction with PO2, she looked to the left and saw PO1 and PO3 pick up [REDACTED] she estimated they picked [REDACTED] up about a foot in the air. [REDACTED] was trying to get down, her feet were dangling and she was kicking. The officers walked for about two steps like this and then dragged [REDACTED] to the police car. [REDACTED] described the officers as dragging [REDACTED] each had their hands underneath her armpits, with her legs from the knee to the foot being dragged. While the officers were dragging her, they called her a “nigger” a few times, told her she was “dirty,” and called her a “bitch.” [REDACTED] did not know which of the two officers said what, but heard two different voices. The officers slammed [REDACTED] into the car, into the area near the back tire/trunk area and then was placed in the back seat of the car. [REDACTED] was not handcuffed during this time and did not see any injuries to her. [REDACTED] did not see which officers got into the back seat with her. When PO2 saw [REDACTED] being placed in the car, he exchanged words with one of the other officers and walked away from [REDACTED]. She called out to him, asking what precinct they were from and where [REDACTED] was going. PO2 did not turn around and continued toward the car. As the car pulled off, approximately five seconds after [REDACTED] was placed in it, [REDACTED] heard her screaming, “Someone help me, someone help me!” [REDACTED] noted that when the car pulled off, she saw four officers inside of it, even though they had originally only been stopped by three and saw PO2 in the front passenger’s seat. She believed the fourth officers had come from the second car that had pulled up and left during the incident. [REDACTED] got in [REDACTED] car and attempted to follow the officers’ car.

The next morning, when [REDACTED] saw her, [REDACTED] eye was swollen to the size of a baby’s fist. [REDACTED] explained that she had called the police precinct on the night of the incident to try to find out what had happened and was informed that [REDACTED] was at the hospital, but was not allowed to see her. The following day, [REDACTED] sent [REDACTED] photos of her eye that a nurse had taken. [REDACTED] did not see the officers take any actions that would have resulted in the injury to [REDACTED] eye. [REDACTED] also stated that [REDACTED] had cuts to her legs and ankles, which she believed were a result of the dragging. [REDACTED] also stated that [REDACTED] could not speak well the next day because there was damage to the nerves in her mouth.

PO1: male, white, mid to late 30s, 5’5”-5’6”, medium build, short dark brown hair, uniformed.

PO2: male, Asian, late 20s – mid 30s, 5’0”-5’1”, black hair, uniformed.

PO3: male, white, 5’5”-5’6”, a little skinner than PO1, light/dark brown hair, uniformed.

PO4: male, Hispanic, uniformed.

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Subject Officer: PO PATRICK BURNETT

- PO Burnett is a [REDACTED] year old white male, standing 6'1" tall, weighing 220 pounds, with brown hair and green eyes.
- On September 19, 2015, PO Burnett was on duty from 11:15 p.m. until 7:50 a.m. the following day, with overtime until 5:00 p.m., working as the robbery auto with PO Colon, dressed in uniform, and assigned to a marked vehicle, number [REDACTED] in which he was the front passenger.

Memo Book

PO Burnett noted the following entries in his memo book: At 4:05 a.m., 1 car stop front of [REDACTED] for disobey steady red light. Motorist almost hit RMP. Upon stop motorist was acting erratic and refusing to comply with police orders. Motorist had a fist fight with one of her passengers and had to be restrained. Upon check motorist had open warrant. At 4:15 a.m., during transport to 79 PCT, deft. did bite my left forearm and during struggle A/O fractured left hand. At 4:31 a.m., 1 under. At 5:00 a.m., 61 to [REDACTED] Hospital. At 8:00 a.m., returned to 79 PCT.

CCRB Testimony

On December 10, 2015, PO Burnett was interviewed at the CCRB.

On September 19, 2015, at approximately 4:05 a.m., PO Burnett and his partner, PO Colon, were driving through the intersection of [REDACTED] when he observed the defendant, known to the investigation as [REDACTED] run a red light. [REDACTED] was driving on [REDACTED]. The officers were in the middle of the intersection, driving down [REDACTED] and [REDACTED] almost hit their RMP. PO Burnett estimated that [REDACTED] came within a few feet of their vehicle and the red light had been a steady red light. PO Burnett noted that he knew the light had not just switched because the officers had been proceeding through a steady green light on their side of the intersection. PO Colon also noticed [REDACTED] run the red light, the officer did not have any conversation about the infraction. The officers engaged their lights, PO Burnett was not sure if they engaged sirens as well, and went to pull [REDACTED] over. They were pulling her over due to the traffic light violation. PO Burnett explained that [REDACTED] pulled over right away, however he believed that she was pulling over anyway, regardless of the police lights. When the officers turned the corner on to [REDACTED], [REDACTED] was already pulled over, PO Burnett did not think she had even noticed the police previously. The officers pulled up behind [REDACTED] car, which was parked in front of [REDACTED].

PO Colon and PO Burnett exited their vehicle, PO Colon approached the driver's side of [REDACTED] car and PO Burnett approached the passenger's side. In addition to [REDACTED] there were other individuals in the car. PO Burnett was not sure how many people were in the car, but recalled that there were individuals in the back seat. Upon approaching the car, PO Burnett stood on the passenger's side, watching the other passengers in the car while PO Colon spoke to [REDACTED]. None of the passengers were talking to PO Burnett during this time and he did not speak to any of them. PO Burnett was not sure what PO Colon's conversation with [REDACTED] consisted of. None of the car's occupants gave PO Burnett an explanation for why they had run the red light and PO Colon did not communicate to him that [REDACTED] had provided any kind of reason for this. It was noted to PO Burnett that his memo book entry described [REDACTED] as "erratic and refusing to comply." PO Burnett stated that this referred to [REDACTED] not wanting to get out of the car for PO Colon. PO Burnett had heard PO Colon ask [REDACTED] to exit the car previous to this, PO Burnett estimated that PO Colon asked her to do this a couple of minutes after the initial stop. PO Burnett did not know why PO Colon wanted [REDACTED] to step out of the car. PO Burnett stated that usually individuals are asked to step out of their vehicle if the officers feel that they are intoxicated. PO Burnett believed that this was what was going on during [REDACTED] incident. PO Burnett did not notice anything that made him believe [REDACTED] was intoxicated and PO Colon did not communicate anything to him, either during the incident or at a later point, that he had believed [REDACTED] to be intoxicated. Prior to [REDACTED] exiting her vehicle, PO Colon had obtained her ID. The ID [REDACTED] gave PO Colon was not a driver's license, it was a benefit card. PO Burnett did not know why [REDACTED] presented PO Colon with a benefit card instead of a driver's license and PO Colon did not inform him of any details about this. According to PO Burnett, a benefit card is a valid

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form of ID to present in terms of identifying oneself, but is not a valid form of ID during a car stop because a driver needs to have a driver's license. Benefit cards have photographs on them. PO Colon had to ask [REDACTED] to exit the vehicle twice before she complied. [REDACTED] then exited the car and began yelling at one of the passengers in car. PO Burnett explained that this was the behavior that he had been referring to in his memo book as "erratic." Besides yelling at the passenger, there was nothing else that [REDACTED] was doing that led PO Burnett to describe her as erratic. Once [REDACTED] began screaming, PO Burnett came around to the driver's side of the vehicle. When PO Burnett reached the driver's side, [REDACTED] was still screaming. PO Burnett did not see PO Colon do anything to investigate the possibility that [REDACTED] was intoxicated, he did not see PO Colon perform a field sobriety test. PO Burnett does not carry a breathalyzer on himself or in his car, and PO Colon does not carry a breathalyzer. PO Burnett was not aware of [REDACTED] being breathalyzed at any point during the incident. During this time, all the other occupants of [REDACTED] car were inside of her vehicle and were all yelling. PO Burnett did not recall what they were yelling. When PO Burnett came over to the driver's side of the vehicle, PO Colon gave him [REDACTED] benefit card and PO Burnett went back to their vehicle to run a warrant check on [REDACTED].

PO Burnett estimated he was in the car running the warrant check for two minutes. From this warrant check, PO Burnett became aware that [REDACTED] had an open warrant. Prior to realizing [REDACTED] had this open warrant, the intention in pulling her over had been to issue her a ticket for running the red light. While PO Burnett was running the warrant check, he became aware that a "fist fight" had broken out between [REDACTED] and a passenger from her car. PO Burnett was not sure if this passenger had gotten out of the front or back seat of [REDACTED] car, he had not seen the passenger exit the vehicle. When PO Burnett first saw the passenger and became aware of the fight, [REDACTED] and the passenger were on the ground fighting, PO Burnett could not recall if they were in the street or sidewalk. They were fighting on ground on the driver's side of the car, PO Burnett could not recall how far from the car they were. Once he witnessed them fighting, PO Burnett exited the vehicle. As he was approaching the fight, PO Burnett informed PO Colon that [REDACTED] had a warrant, telling him, "She has a warrant, she's going." PO Burnett and PO Colon broke up the fight, pulling [REDACTED] off of the other individual. PO Burnett and PO Colon each grabbed one of [REDACTED] arms, PO Burnett could not recall which arm he grabbed. PO Burnett grabbed [REDACTED] arm by her wrist, he never grabbed any other part of her arm. No officer was restraining the other individual. PO Burnett explained that no one was restraining the other individual because [REDACTED] was the "aggressor" and had been "winning the fight," [REDACTED] was on top of the other individual. PO Burnett did not observe any injuries on [REDACTED] or the other individual. None of the other passengers were outside of the car. [REDACTED] was also the only one restrained because she was going to be placed under arrest, PO Burnett explained that due to [REDACTED] open warrant, regardless of the fight she had gotten into, she was going to be arrested.

At some point during the incident, one of the passengers, PO Burnett was not sure which one, had to use the bathroom. This was the only person who mentioned needing to use the bathroom. PO Burnett did not know if this passenger used the bathroom and did not see anyone urinate in the street. PO Burnett was shown [REDACTED] criminal court complaint, which he provided a statement for, which describes [REDACTED] as urinating in the street. PO Burnett stated that this "might have" happened, but he "did not remember too much of that, but yea she [REDACTED] could have urinated in the street." PO Burnett stated that this probably occurred when he went back to the car to run the warrant check. He did not see the urination occur, but thought that [REDACTED] went off to the side at some point.

Once [REDACTED] was pulled up out of the fight, she was not resisting but was yelling at the individual she had been fighting with. PO Burnett could not remember what she was yelling. The individual that [REDACTED] was yelling at was yelling back at her. PO Burnett did not place any radio calls in relation to this stop and no other officers came to the scene at any time during the stop. No supervisor ever came to the scene. PO Burnett handcuffed [REDACTED] right after the officers had pulled her out of the fight. PO Burnett described [REDACTED] reaction to being handcuffed as "fine," she was still yelling at the other individual but was "not really concerned" with the officers. [REDACTED] was placed in the back seat of the RMP. [REDACTED] was compliant with being placed in the RMP, she walked to the vehicle on her own accord. It was never necessary for [REDACTED] to be lifted up, pulled

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along, or dragged to the RMP. PO Burnett was not issuing [REDACTED] any commands and [REDACTED] was not saying anything to him, but was still yelling at the other individual. [REDACTED] continued yelling even when she had been placed inside of the RMP, trying to yell out of the window. There were no problems placing [REDACTED] in the RMP, she did not resist in any way and it was never necessary for her to pushed up against the car, nor was she ever pushed up against the car. PO Burnett sat in the back seat next to [REDACTED] PO Burnett got into the back seat because the vehicle did not have a partition and it is procedure to sit in the back seat when there is not one. PO Burnett was sitting behind the driver's seat and [REDACTED] was sitting to his right.

After they pulled away from the scene, [REDACTED] focus shifted to PO Burnett. She began yelling at him, saying "Why the fuck are you arresting me?" PO Burnett did not respond to [REDACTED] in any way and did not issue her any instructions. PO Burnett noted that [REDACTED] was not doing anything that necessitated him issuing her instructions. He did not call [REDACTED] a "stupid black bitch" or a "dirty black bitch," and did not refer to her as a "nigger" or "faggot," and did not hear any other officers say this. Besides the yelling, [REDACTED] was not doing anything that would make PO Burnett fear for his safety, was not resisting in any way, and was not moving her body around. Approximately a minute after pulling away from the scene, [REDACTED] bit PO Burnett on his right forearm. Prior to when [REDACTED] bit him, PO Burnett had not had any physical contact with [REDACTED] Leading up to the bit, [REDACTED] had not done anything that signaled to PO Burnett what was going to happen, he stated "next thing I know, there's a mouth on my arm." [REDACTED] was biting PO Burnett's arm fairly strongly, it was causing a substantial amount of pain, broke the skin, and there was blood draw. Once [REDACTED] started biting him, PO Burnett began doing "everything in his power" to get her off. Besides biting his forearm, [REDACTED] was not doing anything else to get at PO Burnett. He pushed her with an open hand on her head, which was at first not effective in getting her off of him. [REDACTED] would not get off his arm in response to this motion. PO Burnett did not remember if [REDACTED] head was up high or down near his lap area during this time. PO Burnett did not make any movements towards [REDACTED] head not with an open palm and did not ever punch her at any time. PO Burnett did not ever come in contact with [REDACTED] neck and never grabbed her head, and never wrapped his hand around her head, neck, or any other part of her body. PO Burnett told PO Colon, "She's biting me." In response to this, PO Colon stopped the car short. PO Burnett believed the motion of the car stopping short dislodged [REDACTED] from his arm because they both moved forward from this abrupt stop. PO Burnett fell forward, he did not quite fall off the seat but fell forward into the front seat of the car. PO Burnett was not sure if [REDACTED] also fell forward, neither of them fell off the seats. PO Burnett was not sure of his hands went into any specific direction at this point. [REDACTED] stopped biting him at the point in which the car stopped short. Besides pushing her with an open hand and [REDACTED] falling off from the motion of the car, PO Burnett did not have to make any other movements or have any other physical contact with [REDACTED] to get her off. PO Burnett did not recall ever striking [REDACTED] to get her off of him. PO Burnett estimated that [REDACTED] was biting him for a minute. During this minute, besides pushing on her head, PO Burnett was not doing anything else, his hand never went in any other direction or made contact with any other part of [REDACTED] body. PO Colon did not intervene with the struggle between PO Burnett and [REDACTED] At some point during this time, PO Burnett broke his left hand. PO Burnett was not sure how his hand was broken, he believed during the struggle it "could have hit something." PO Burnett was not sure if he hit it on something on the car. He did not recall a point at which he felt a substantial amount of pain to his hand, he did not feel pain until after the incident was concluded and he was back at the stationhouse. After [REDACTED] stopped biting him, the officers continued driving to the stationhouse. [REDACTED] tried to bite PO Burnett again on his right forearm, but at this point he was "on guard" and stopped her. He held [REDACTED] back with his right hand, pushing her away on the shoulder closest to him. [REDACTED] was trying to push back in response to this and then spit in PO Burnett's face. PO Burnett commented that he got blood all over his face as a result of this and believed that [REDACTED] had spit his own blood on him. Besides pushing her shoulder, PO Burnett did not have to do anything else to keep [REDACTED] away from him and did not push any other part of her body. PO Burnett did not come in contact with her head or her neck during this time.

Once at the precinct stationhouse, the officers then brought [REDACTED] to the front desk. Po Burnett did not recall whether he or PO Colon removed [REDACTED] from the vehicle. While they were bringing her into the

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stationhouse, [REDACTED] was spitting at them. At the front desk, PO Burnett realized there was something wrong with his hand, he noticed a huge lump on the side of his hand. PO Burnett stated that his fifth metacarpal had been injured. [REDACTED] was taken to the cell area by other officers, PO Burnett did not know who. PO Burnett did not see any injuries on [REDACTED] and she was not complaining to him of any injuries, and he did not know if she complained to anyone else of injuries. PO Burnett was aware that [REDACTED] was taken to the hospital later, he stated that he guess the desk informed him of this. He did not know why [REDACTED] was taken to the hospital but thought it might have been because of the way she was acting, she was "acting crazy," screaming at the stationhouse. PO Burnett and [REDACTED] went to different hospitals, he did not remember which hospital she went to. PO Burnett was not sure if there were problems transporting [REDACTED] to the hospital and was not sure if she was body bagged or spit masked.

PO Burnett did [REDACTED] arrest processing, but did not see her during this time. He noted that "they" (he believed the desk sergeant said this) did not want him and [REDACTED] interacting. He did not remember who the desk sergeant was. PO Burnett was shown [REDACTED] arrest photo and it was noted that her eye is substantially swollen. PO Burnett did not ever observe any injury similar to this on [REDACTED] or any swelling on her face, and [REDACTED] did not complain of an injury to her eye. During the incident, PO Burnett did not see anything that would have caused an injury like the one in the photo. When PO Burnett was pushing on [REDACTED] head, he was coming in contact with her face but was not sure what specific parts of her face.

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Subject Officer: PO CARLOS COLON

- PO Colon is a [REDACTED] year old Hispanic male, standing 5'7" tall, weighing 185 pounds, with black hair and brown eyes.
- On September 19, 2015, PO Colon was on duty from 11:15 p.m. until 7:50 a.m. the following day as the robbery auto with PO Burnett, dressed in uniform, and using a marked vehicle, number [REDACTED] in which he was the driver.

Memo Book

PO Colon noted the following entries in his memo book: At 4:05 a.m., car stop in front of [REDACTED] initiated intersection of [REDACTED] Ave/[REDACTED] Ave, motorists southbound [REDACTED] disobeyed steady red light, nearly colliding with RMP driving eastbound on [REDACTED]. Pulled over black dodge NY plate [REDACTED] in front of [REDACTED]. During stop, observed deft [REDACTED] physically fight with other occupant of motor vehicle. During transport after lawful arrest in RMP, perp did bite PO Burnett's right forearm, refusing to let go, causing bleeding. PO Burnett was in backseat behind operator (PO Colon) during transport securing prisoner. At 4:31 a.m., one under.

CCRB Testimony

On December 10, 2015, PO Colon was interviewed at the CCRB.

On September 19, 2015, at approximately 4:05 a.m., PO Colon was driving down [REDACTED] with his partner, PO Burnett. At the intersection of [REDACTED] the officers proceeded straight through the intersection, there was a steady green light, when PO Colon saw a car coming towards him in the corner of his eye. The car almost hit the officers' car, coming towards PO Colon's left side and coming close enough that he had to swerve out of the way, and kept going, southbound on [REDACTED]. PO Burnett noticed this as well, PO Colon heard him say something about the car and PO Colon commented to him, "Let's pull them over." PO Colon made a "sort of a U-turn," turned on his lights, and followed the car, with the intention of pulling it over for disobeying the steady red light. PO Colon was not sure if his sirens were on. Approximately a block away, the officers pulled the vehicle over in front of [REDACTED]. PO Colon pulled up behind the vehicle. PO Colon's intention was to obtain the driver's license and issue a summons for the red light violation. PO Colon and PO Burnett exited their vehicle and PO Colon approached the driver's side of the car. PO Burnett approached the passenger's side. PO Colon asked the driver, known to the investigation as [REDACTED] for her driver's license. [REDACTED] told PO Colon that she did not have her driver's license. He asked her for another form of identification and she provided him with a benefit card. A benefit card is acceptable as form of ID, but is not acceptable for proof of driving. A warrant check can be conducted from a benefit card, all that is needed is a name and date of birth, and from that information it can also be looked up whether a person has a valid license. PO Colon gave the benefit card to PO Burnett so that he could run a warrant check with it. [REDACTED] was very angry at PO Colon for pulling her over, she was yelling and cursing at him. He tried to explain to her why he had pulled her over, explaining about the red light and that she had almost caused an accident. PO Colon stated that [REDACTED] was very aware that she had run a red light, he did not remember what she said about it. Given that [REDACTED] had run a red light that had been steady for quite some time and was agitated, PO Colon decided to ask [REDACTED] to exit her car so that he could perform a field sobriety test and see if [REDACTED] smelled like alcohol.

[REDACTED] did not smell like alcohol, was steady on her feet, and her eyes were not bloodshot. PO Colon does not carry a breathalyzer on him and does not know if PO Burnett carries a breathalyzer. [REDACTED] was still upset about being pulled over. PO Colon tried to explain why she had been pulled over. PO Colon did not recall how many passengers were in the vehicle, but the car was full with passengers in the back seat. [REDACTED] and the passengers informed him that they had been at a birthday party and that the passenger had been drinking and was intoxicated. One of the passengers of the car, who had been sitting in the driver's side rear passenger seat, got out of the vehicle and said that she needed to use the bathroom. PO Colon did not remember this passenger actually going to the bathroom. He did not remember if anyone else was talking about using the bathroom. PO Colon did not remember if anyone urinated in the street. They were standing outside waiting for PO Burnett to return from the

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running the warrant check, when [REDACTED] got into an argument with the passenger that had exited the car. When the argument first began, the two of them were standing next to [REDACTED] car, on the driver's side. PO Colon did not recall what the argument between them was about, but eventually, the altercation became physical. PO Colon estimated they were verbally arguing for a minute before the fight became physical. [REDACTED] and the passenger began hitting each other, PO Colon did not remember who hit whom first, what parts of their body they were hitting, or whether they were hitting each other with an open or closed palm. [REDACTED] and the passenger fell to the ground during the fight, PO Colon was issuing them verbal commands to stop. PO Burnett came out and informed PO Colon that [REDACTED] was going to be arrested for an open warrant, PO Colon did not know if he came out in response to the fighting or because he had finished the warrant check. PO Burnett did not inform PO Colon of any problems with [REDACTED] having a valid license. The officers broke up the fight, which was occurring on or near the sidewalk. They separated [REDACTED] and the passenger and picked [REDACTED] up by her arms, PO Colon did not remember where on her arm they grabbed her, but noted that [REDACTED] "seemed like the aggressor" in the fight. [REDACTED] was handcuffed, she was compliant in being handcuffed, and continued screaming at the passenger. The passenger did not need to be restrained at all. PO Colon did not remember if any other officers came to the scene during the incident. PO Colon did not remember if he placed any radio calls and did not know if PO Burnett placed any calls. [REDACTED] was being arrested due to the open warrant and possibly disorderly conduct, PO Colon noted he did not process the arrest so he was not sure. [REDACTED] car was legally parked, so the officers left it where it was.

Mr. Roberts was brought to the officers' vehicle, which she was compliant with. [REDACTED] was not ever lifted upwards, dragged, pushed or placed against the car. [REDACTED] was still angry at the passenger she had fought with, still saying things to her. PO Colon did not remember if he was issuing instructions to her and did not refer to [REDACTED] as a "stupid black bitch," a "dirty black bitch," or a "nigger," and never heard another officer say this. [REDACTED] was placed in the backseat of the officers' vehicle, on the passenger's side. PO Burnett also got into the backseat, driver's side, which is procedure when transporting a prisoner in a vehicle without a partition. Besides being handcuffed, [REDACTED] was not restrained in any other way and there was no barrier between her and PO Burnett. There was no one in the passenger's front seat. Inside the car, [REDACTED] was still screaming, PO Colon did not remember what she was saying. Less than a minute after PO Colon was driving to the stationhouse, he heard PO Burnett yelling, "She's biting me, she's biting me." PO Colon stopped short on [REDACTED], around the vicinity of [REDACTED], and looked over his right shoulder, and saw [REDACTED] biting PO Burnett's arm, PO Colon did not remember which arm she was biting. [REDACTED] was biting him on his forearm, she looked like she was bent down. PO Burnett was struggling to get her off. It looked like PO Burnett was trying to push [REDACTED] off of him, pushing her with an open hand. Prior to this, PO Colon did not see PO Burnett have any physical contact with [REDACTED]. Besides the pushing, PO Colon was not sure if he saw PO Burnett make any other arm movements that came in contact with her head or neck. PO Colon did not ever see PO Burnett strike [REDACTED] with a closed fist. He did not hear or see anything that was similar to punching. [REDACTED] did not ever complain of being punched or PO Burnett having his hand on her neck or having trouble breathing.

PO Colon decided it was best to get back to the stationhouse as soon as possible and continued driving. PO Colon estimated that PO Burnett and [REDACTED] were struggling from when he stopped till they got back to the precinct, which was roughly a distance of two blocks. PO Burnett did not tell PO Colon any details of the struggle or how he had managed to get her off of him. PO Colon could hear [REDACTED] screaming during the struggle, but did not know what she was saying. By the time the officers reached the stationhouse, PO Burnett had managed to get [REDACTED] off of him. PO Burnett's forearm had a bite mark on it that appeared to have broken the skin, PO Colon did not remember if there was any blood. PO Colon did not know how PO Burnett's hand came to be injured and stated that PO Burnett was not sure how it occurred, except during the struggle. [REDACTED] was acting "crazy," screaming and kicking the back of the seat. Besides the bite mark, [REDACTED] did not injure any other officer. The officers got her out of the RMP and brought her inside the stationhouse. [REDACTED] was still screaming but walked on her own accord to the stationhouse. [REDACTED] was then lodged in the prisoner's cell, PO Colon did not lodge her and did not know who did. That was the end of PO Colon's interaction with her, the last time he saw her was at the front desk, after which he remained inside the precinct for the remainder of his tour. PO Colon noticed some swelling on

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██████████ face, he did not remember exactly where. ██████████ was not complaining of any injuries to PO Colon and he did not know if she complain to anyone else. Later, PO Colon was informed that ██████████ was taken to the hospital. He did not have any knowledge of ██████████ ever being body bagged or spit masked. He did not know what hospital she was taken to and did not recall who informed him of this, or had any knowledge of what she was treated for. EMS was called for PO Burnett's injury shortly after.

PO Colon viewed ██████████ arrest photograph. He did not observe any injury similar to what was displayed in the photo. He stated the swelling he had referred to had just seemed to be on the side of her face. He did not see anything during the struggle that would have caused an injury like that and was not informed of anything by PO Burnett that would have caused that.

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rebecca Jacobson	Team: Squad #14	CCRB Case #: 201508161	<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, 09/19/2015 4:31 AM	Location of Incident: [REDACTED]	Precinct: 79	18 Mo. SOL 3/19/2017	EO SOL 3/19/2017	
Date/Time CV Reported Sat, 09/19/2015 5:50 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 09/25/2015 10:49 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 Patrick Burnett	30205	§ 87(2)(b)	079 PCT
2. An officer			079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Carlos Colon	07495	§ 87(2)(b)	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A . An officer	Discourtesy: An officer spoke discourteously to § 87(2)(b) and § 87(2)(b).	A . § 87(2)(g)
B . POM Patrick Burnett	Off. Language: PO Patrick Burnett made remarks to § 87(2)(b) based upon her perceived sexual orientation.	B . § 87(2)(g)
C . POM Patrick Burnett	Off. Language: PO Patrick Burnett made remarks to § 87(2)(b) based upon her race.	C . § 87(2)(g)
D . POM Patrick Burnett	Off. Language: PO Patrick Burnett made remarks to § 87(2)(b) based upon her gender.	D . § 87(2)(g)
E . POM Patrick Burnett	Force: PO Patrick Burnett used physical force against § 87(2)(b).	E . § 87(2)(g)
F . POM Patrick Burnett	Force: PO Patrick Burnett used a chokehold against § 87(2)(b).	F . § 87(2)(g)
G . POM Patrick Burnett	Force: PO Patrick Burnett restricted § 87(2)(b)' breathing.	G . § 87(2)(g)
H . POM Patrick Burnett	Other: There is evidence suggesting Patrick Burnett provided a false official statement in violation of PG 203-08	H . § 87(2)(g)

Case Summary

On September 19, 2015, Sgt. Alan Myrthil filed this complaint via phone with IAB on behalf of § 87(2)(b) because she sustained an injury while in police custody. On September 25, 2015, IAB forwarded this complaint to the CCRB via log number 2015-28231.

On September 19, 2015, at approximately 4:31 a.m., § 87(2)(b) was driving when she was stopped § 87(2)(b) in Brooklyn by PO Patrick Burnett and PO Carlos Colon, of the 79th Precinct, after she ran a red traffic light. An officer allegedly used the word “fuck” while addressing § 87(2)(b) and her cousin, § 87(2)(b) (**Allegation A**). During the course of the car stop, § 87(2)(b) was determined to have an open warrant and was arrested. While being arrested, officers allegedly told § 87(2)(b) “Calm down, get in the backseat, you’ll be all right, faggot.” (**Allegation B**). PO Burnett got into the backseat with § 87(2)(b) and allegedly called her a “stupid black bitch” and a “dirty black bitch,” (**Allegations C and D**) and then punched § 87(2)(b) in the face (**Allegation E**). PO Burnett allegedly grabbed the back of § 87(2)(b)’s neck and choked her (**Allegation F and G**), while continuing to punch her (**Allegation E, cont.**), at which point § 87(2)(b) bit PO Burnett’s arm. In response, PO Burnett allegedly screamed, “Oh you stupid black bitch, you stupid black bitch.” (**Allegations C and D, con’t.**)

There was no video footage for this case.

The case was submitted for panel review one week after the 90-day benchmark. Delays were caused by attempts to contact § 87(2)(b) who did not file the initial complaint, but eventually cooperated, and to interview PO Colon, who had to be rescheduled after he failed to appear for his first interview.

Mediation, Civil and Criminal Histories

This case was unsuitable for mediation given § 87(2)(b)’s arrest (BR 01). On December 28, 2015, a notice of claim request was submitted and will be added to the case file upon receipt. § 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b)’s first CCRB complaint (BR 03).
- PO Burnett has been a member of the NYPD for 12 years, has had three previous allegations against him involving one case. Case 200604629 contained an allegation that he used offensive language; § 87(2)(g) Furthermore, no determination of fact was made in that case because it was closed as complainant uncooperative.

Potential Issues

Two additional civilians were present at the beginning of the incident: § 87(2)(b) and § 87(2)(b) and § 87(2)(b) did not want the CCRB to interview § 87(2)(b) who is § 87(2)(b) old, and independent attempts to locate contact information for her through LexisNexis and CLEAR were unsuccessful. § 87(2)(b) provided a phone number for § 87(2)(b) but it was a non-working number, and independent attempts to locate other contact information for her through LexisNexis and CLEAR were unsuccessful. As of December 30, 2015, neither § 87(2)(b) nor § 87(2)(b) was incarcerated. Ultimately, it was unlikely that their testimony would have altered the recommended dispositions, given that § 87(2)(b) and § 87(2)(b) stayed in the civilian vehicle while the allegations occurred after § 87(2)(b) had been taken to the police car

and then after the police car had pulled away from the scene.

Findings and Recommendations

Explanation of Subject Officer Identification

§ 87(2)(b) alleged that an officer, upon approaching the vehicle, cursed at her and § 87(2)(b) did not allege that any officer used profanity. § 87(2)(b) described the officer who cursed as a uniformed white male in his mid- to late-30s, 5'5"-5'6", with a medium build, short dark § 87(2)(b) hair. This description was almost identical to her description of another officer on scene, and it matches neither of the only two officers on scene. PO Burnett is § 87(2)(b) old white male, 6'1" tall, 230 pounds, with receding § 87(2)(b) hair (BR 04). PO Colon is a § 87(2)(b) old Hispanic male, 5'7" tall, 185 pounds, and bald (BR 05). Without more accurate or reliable descriptions, the investigation could identify the subject of this allegation. Accordingly, **Allegation A** is pleaded against "an officer" from the 79th Precinct.

§ 87(2)(b) alleged that an officer used offensive language during the incident. § 87(2)(b) recalled hearing two voices making offensive comments, but did not know which officer said what, whereas § 87(2)(b) attributed all the comments to one officer. The investigation determined that only PO Colon and PO Burnett were present. The descriptions provided by § 87(2)(b) and § 87(2)(b) of the officer who used offensive language were not consistent with each other and did not match the pedigree information of either PO Colon or PO Burnett. However, § 87(2)(b) said the officer who used offensive language was the same officer who was in the backseat with her and punched her, and PO Burnett identified himself as the officer who rode in the backseat and physically struggled with § 87(2)(b). Accordingly, **Allegations B, C, D, E, F, and G** have been pleaded against him.

Allegations not pleaded

- **Vehicle stop:** It is undisputed that § 87(2)(b) ran a red light, and she was charged with this offense. As such, no vehicle search was pleaded.
- **Physical force:** § 87(2)(b) stated that officers dragged § 87(2)(b) and slammed her into the trunk area of their vehicle. Although § 87(2)(b) originally described herself as being dragged to the car, she did not describe it to the degree of severity that § 87(2)(b) did and later described herself as walking to the police vehicle. § 87(2)(b) did not allege that officers slammed her into the vehicle. Thus, neither action has been pleaded.

Allegation A – Discourtesy: An officer spoke discourteously to § 87(2)(b) and § 87(2)(b)

In § 87(2)(b) CCRB testimony, she alleged that when the officers first approached the vehicle, she and § 87(2)(b) were standing outside the vehicle and an officer said to them, "You need to get the fuck back in the car." § 87(2)(b) did not corroborate this or allege that any profanity was used.

§ 87(2)(g) The officers both said that when they approached, § 87(2)(b) and the other passengers were inside the vehicle. PO Colon said that at one point, he had to ask § 87(2)(b) to exit, not enter the vehicle, and PO Burnett denied speaking to them at this point. Both officers said it was § 87(2)(b) who was cursing during the incident.

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation B – Offensive Language: PO Patrick Burnett made remarks to § 87(2)(b) based upon her perceived sexual orientation.

Allegation C – Offensive Language: PO Patrick Burnett made remarks to § 87(2)(b) based upon her race.

Allegation D – Offensive Language: PO Patrick Burnett made remarks to § 87(2)(b) based upon her gender.

§ 87(2)(b) alleged that an officer, identified as PO Burnett, told her, “Calm down, get in the backseat, you’ll be all right, faggot.” § 87(2)(b) described PO Burnett as making the initial statement to her after she was handcuffed, while being placed into the police vehicle. § 87(2)(b) also alleged that after PO Burnett got into the backseat of the car with her, a point at which § 87(2)(b) would not have been within earshot, he called her a “stupid black bitch” a few times and called her a “dirty black bitch.” § 87(2)(b) also stated that after she bit PO Burnett, he said to her, “Oh you stupid black bitch, you stupid black bitch, you like this, you like this.”

According to § 87(2)(b) was referred to as a “nigger” a few times, and an officer called her “dirty” and called her a “bitch.” (BR 06-07). § 87(2)(b) said she heard the offensive remarks as § 87(2)(b) was being taken to the police car.

PO Burnett and PO Colon denied making any of these statements or hearing any other officer say them (BR 08-09).

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Force: PO Patrick Burnett used physical force against § 87(2)(b)

Allegation F – Force: PO Patrick Burnett used a chokehold against § 87(2)(b)

Allegation G – Force: PO Patrick Burnett restricted § 87(2)(b) breathing

§ 87(2)(b) alleged that after placing her in the backseat of the police car, PO Burnett got into the car with her and punched her in the face. § 87(2)(b) began yelling, “What the fuck is wrong with you? What are you doing to me? Help!” § 87(2)(b) stated that other officers got into the front seat and tried to pull PO Burnett off of her. However, § 87(2)(b) also stated that PO Burnett stopped hitting her when the other officers got into the car, but then when they began driving, he resumed punching her. PO Burnett grabbed § 87(2)(b) with his left hand and dragged her head down onto his legs, with his left hand wrapped around the back of neck and choking her. § 87(2)(b) explained that PO Burnett’s hand was so large that with it wrapped around the back of her neck, it reached the front of her neck. With his other hand, PO Burnett continued punching her in the face. § 87(2)(b) estimated that PO Burnett punched her eight to ten times, on her face and eye. After the sixth hit, § 87(2)(b) bit PO Burnett on his wrist, she could not recall which wrist she bit. § 87(2)(b) continued biting PO Burnett’s wrist, she was conscious of getting his blood in her mouth during the bite, until other officers dragged her off of him when they arrived at the stationhouse.

§ 87(2)(b)’s arrest photograph shows her right eye swollen shut and significant swelling to the right side of her face (BR 10). Both PO Colon and PO Burnett was shown § 87(2)(b)’s arrest photograph. PO Burnett denied observing any injuries or swelling on § 87(2)(b) similar to what was shown in her arrest photograph and denied seeing anything during the incident that would have caused an injury similar to that. PO Colon noticed some swelling on § 87(2)(b)’s face when she was brought into the stationhouse. Upon viewing her photo, he stated that the swelling he had referred to had just seemed to be on the side of her face. He did not observe any injuries on § 87(2)(b) similar to what was displayed in the photo and did not see anything during the struggle that would have caused an injury like that. § 87(2)(b)’s medical records from § 87(2)(b) describe her patient complaint as “irrational behavior and facial trauma status post fighting with NYPD” and her chief complaint as “my eye is swollen” with the mechanism of injury listed as “fight/brawl.” § 87(2)(b) was diagnosed with minor swelling to her right eye. A CT scan of her facial bones was performed and revealed no acute fractures of the facial bones or of the orbits. Her medical records also describe § 87(2)(b) as being brought to the hospital in a body bag due to irrational behavior, as well as yelling, spitting, and kicking. The medical records note that she could not be changed into a hospital gown because she had to be kept in the body bag for safety.

As all of PO Burnett’s alleged actions took place within the police vehicle, § 87(2)(b) did not witness any of it. However, § 87(2)(b) stated that when § 87(2)(b) was placed in the police vehicle, she did not see any injuries to her and as the police car took off, § 87(2)(b) heard § 87(2)(b) was screaming “Someone help me, someone help me.” The next morning when § 87(2)(b) saw § 87(2)(b) her eye was swollen to the size of a baby’s fist.

PO Burnett and PO Colon both stated that prior to arresting § 87(2)(b) she was involved with a physical altercation with § 87(2)(b). PO Burnett made the decision to arrest § 87(2)(b) after running a warrant check which revealed she had an open warrant. PO Burnett and PO Colon broke up the fight between the two. PO Burnett stated that § 87(2)(b) was still yelling at § 87(2)(b) after the fight had been broken up and continued yelling even when she was placed inside of the police vehicle, trying to yell out of the window. After the car pulled away from the scene, § 87(2)(b)’s focus shifted to PO Burnett and she asked him, “Why the fuck are you arresting me?” Approximately a minute after pulling away from the scene, § 87(2)(b) bit PO Burnett on his right forearm. Prior to the biting, PO Burnett had not had any physical contact with § 87(2)(b). Biting caused PO Burnett’s skin to break and drew blood. PO Burnett pushed § 87(2)(b) on her head with an open palm. PO Burnett denied making any movement

towards § 87(2)(b)'s head with anything other than an open palm and denied punching her at any time. He did not ever come into contact with her neck and denied wrapping his hand around her neck, head, or any other part of her body. PO Burnett told PO Colon, "She's biting me." PO Colon then stopped the car short. This motion dislodged § 87(2)(b) from PO Burnett's arm as they both fell forward from the abrupt stop.

PO Burnett's left hand was fractured as a result of this incident. PO Burnett refused to sign a HIPAA form for his medical records, but during his interview stated that his fifth metacarpal was fractured. The fifth metacarpal is commonly referred to as a "Boxer's fracture" and the injury is consistent with the action of punching a firm object using a closed fist (BR 11-12). PO Burnett provided no explanation for how his hand came to be injured during the incident, stating that during the struggle it "could have hit something." He was not sure if he hit it on something in the car and did not recall feeling any pain to his hand until the incident concluded and he was back at the stationhouse.

PO Colon was driving for less than a minute when he heard PO Burnett yelling, "She's biting me, she's biting me." PO Colon stopped short on Tompkins Avenue and DeKalb Avenue, turned around, and saw § 87(2)(b) biting PO Burnett on his forearm, he could not remember which arm it was. To me PO Colon, it looked like PO Burnett was trying to push § 87(2)(b) off, pushing her with an open hand. Prior to this, PO Colon did not see PO Burnett have any physical contact with § 87(2)(b). PO Colon did not see PO Burnett strike § 87(2)(b) with a closed fist or make a motion similar to punching and did not see PO Burnett make any other arm movements, besides the open palm pushing, which came in contact with § 87(2)(b)'s head or neck. PO Colon decided that it was best to get back to the stationhouse as soon as possible and continued driving. He believed that PO Burnett and § 87(2)(b) continued struggling until they got to the stationhouse, a distance of approximately two blocks. By the time they reached the stationhouse, PO Burnett had managed to get § 87(2)(b) off of him. PO Burnett did not tell PO Colon any details of how he managed to get § 87(2)(b) off of him and did not know how PO Burnett's hand came to be injured.

§ 87(2)(g)

PO Burnett offered no other explanation for his injury, and both officers denied observing any injuries to § 87(2)(b) or an explanation for how she sustained the injuries displayed in her arrest photograph, while her medical records attribute her injuries to a physical altercation with the NYPD.

§ 87(2)(g)

According to Patrol Guide section 203-11, officers may only use the minimum force necessary to overcome a suspect's resistance (BR 13).

§ 87(2)(g)

§ 87(2)(g)

Allegation H – Other: There is evidence suggesting PO Patrick Burnett provided a false official statement in violation of PG 203-08.

The CCRB recommends that the NYPD conduct further investigation as there is evidence to suggest that PO Burnett provided a false official statement. The evidence is as follows:

During PO Burnett's CCRB interview on December 10, 2015, he denied ever punching § 87(2)(b). PO Burnett stated that the only physical contact he had with § 87(2)(b) was pushing her with an open palm and denied knowing how he came to fracture his hand or knowing how § 87(2)(b) sustained injuries to her face. During the CCRB interview, Inv. Jacobson and PO Burnett had the following exchange.

[25:40]

Inv. Jacobson: So, besides pushing her head with an open hand and her falling off through the motion of the car, did you have to do any other movements, any other physical contact with her to get her off?

PO Burnett: No

Inv. Jacobson: How was your hand injured during this time?

PO Burnett: I'm not sure, it got broken at some point.

[27:21]

Inv. Jacobson: ...any movement towards her head with not an open palm?

PO Burnett: No.

Inv. Jacobson: Did you ever punch her at any time?

PO Burnett: No.

According to Patrol Guide Procedure 203-08, the intentional making of a false official statement is prohibited and will be subject to disciplinary action (BR 14). The statement must have been proven to be made, material, and intentionally false (Dep't of Correction v. Centeno, OATH Index No. 2031/04 (2005)) (BR 15).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Squad: 14

Investigator: _____
Signature Print Date

Pod Leader: _____
Title/Signature Print Date

Attorney: _____
Title/Signature Print Date



Eric Gonzalez
District Attorney

**DISTRICT ATTORNEY
KINGS COUNTY**

350 JAY STREET
BROOKLYN, NY 11201-2908
(718) 250-2000
WWW.BROOKLYNDA.ORG

[INSERT NAME]
Assistant District Attorney

[INSERT DATE]

[INSERT D/C INFO]

Re: [INSERT CASE NAME]
Kings County Dkt./Ind. No. [#####]

In connection with the above-named case, the People voluntarily provide the following information regarding:

MOS NAME: PATRICK BURNETT

MOS TAX: [REDACTED]

in satisfaction (to the extent applicable) of their constitutional, statutory, and ethical obligations. Further, the People reserve the right to move in limine to preclude reference to this information, or otherwise to object to its use and/or introduction into evidence.

Disclosure # 1:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 07/06/2018, AGAINST MOS BURNETT: ALLEGATIONS (CCRB CASE NO. 201805726):

1. MOS BURNETT, WHILE ASSIGNED TO THE 79TH PRECINCT, FAILED TO PROVIDE MEDICAL TREATMENT FOR AN INDIVIDUAL KNOWN TO THE DEPARTMENT
2. MOS BURNETT, WHILE ASSIGNED TO THE 79TH PRECINCT, REFUSED TO PROVIDE MEDICAL TREATMENT FOR SAID INDIVIDUAL AT THE 79TH PRECINCT STATIONHOUSE.

CASE STATUS: CLOSED ON 01/03/2020

PENALTY: SCHEDULE B COMMAND DISCIPLINE, WARNED AND ADMONISHED

Disclosure # 2:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 03/27/2019, AGAINST MOS BURNETT:

1. 1INVOICE DISCREPANCY - LAB - CONTROLLED SUBSTANCE
2. REPORT INCOMPLETE/INACCURATE - PROPERTY CLERK INVOICE

CASE STATUS: CLOSED ON 06/26/2019

ACTION TAKEN: VERBAL INSTRUCTIONS

Disclosure # 3:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 05/24/2019, AGAINST MOS BURNETT:

1. INVOICE DISCREPANCY - LAB - MARIJUANA
2. REPORT INCOMPLETE/INACCURATE - PROPERTY CLERK INVOICE

CASE STATUS: CLOSED ON 08/28/2019

ACTION TAKEN: NO ACTION TAKEN

Disclosure # 4:

THE NYPD SUBSTANTIATED THE FOLLOWING ALLEGATIONS, DATED 12/03/2020, AGAINST MOS BURNETT:

1. 1INVOICE DISCREPANCY - BANK DROP - SHORTAGE (NOT COUNTERFEIT)
2. REPORT INCOMPLETE/INACCURATE - PROPERTY CLERK INVOICE

CASE STATUS: CLOSED ON 02/09/2021

ACTION TAKEN: VERBAL INSTRUCTIONS

BASED UPON CCRB DOCUMENTS UP TO DATE THROUGH FEBRUARY 1, 2021, THE PEOPLE ARE AWARE OF THE FOLLOWING CCRB SUBSTANTIATED AND/OR PENDING ALLEGATIONS AGAINST THIS OFFICER:

Disclosure # 5:

CCRB CASE: 201508161

REPORT DATE: 09/25/2015

[REDACTED]
[REDACTED]
[REDACTED]

Disclosure # 6:

CCRB CASE: 201805726

REPORT DATE: 07/16/2018

INCIDENT DATE: 07/06/2018

CCRB SUBSTANTIATED ALLEGATIONS:

1. ABUSE - REFUSAL TO OBTAIN MEDICAL TREATMENT
2. ABUSE - REFUSAL TO OBTAIN MEDICAL TREATMENT

NYPD DISPOSITION: COMMAND DISCIPLINE - B

Eric Gonzalez
District Attorney
Kings County