

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Julia Vittore	Team: Squad #15	CCRB Case #: 202205318	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 01/27/2022 8:10 AM, Sunday, 04/03/2022 8:00 AM, Monday, 07/11/2022 7:20 AM, Friday, 08/12/2022 3:50 AM, Friday, 08/19/2022 7:00 A	Location of Incident: § 87(2)(b) § 87(2)(b)	Precinct: 52	18 Mo. SOL 7/27/2023	EO SOL 7/27/2023	
Date/Time CV Reported Fri, 08/12/2022 2:34 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Fri, 08/12/2022 2:34 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Michael Agunzo	18509	962913	WARRSEC

Officer(s)	Allegation	Investigator Recommendation
A. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo entered § 87(2)(b) on January 27, 2022.	§ 87(2)(b)
B. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo searched § 87(2)(b) on January 27, 2022.	§ 87(2)(b)
C. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo entered § 87(2)(b) on April 3, 2022.	§ 87(2)(b)
D. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo searched § 87(2)(b) on April 3, 2022.	§ 87(2)(b)
E. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo entered § 87(2)(b) on July 11, 2022.	§ 87(2)(b)
F. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo entered § 87(2)(b) on August 12, 2022.	§ 87(2)(b)
G. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo searched § 87(2)(b) on August 12, 2022.	§ 87(2)(b)
H. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo entered § 87(2)(b) on August 19, 2022.	§ 87(2)(b)
I. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo searched § 87(2)(b) on August 19, 2022.	§ 87(2)(b)
J. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo entered § 87(2)(b) § 87(2)(b) on September 20, 2022.	§ 87(2)(b)
K. PO Michael Agunzo	Abuse: Police Officer Michael Agunzo searched § 87(2)(b) § 87(2)(b) on September 20, 2022.	§ 87(2)(b)

## Case Summary

On August 12, 2022, § 87(2)(b) filed this complaint with the CCRB via telephone.

On January 27, 2022, at approximately 8:10 a.m., Police Officer Michael Agunzo of the Warrant Squad entered and searched § 87(2)(b) apartment located at § 87(2)(b) § 87(2)(b) in the Bronx (**Allegation A: Abuse of Authority – Entry of Premises,** § 87(2)(g) **Allegation B: Abuse of Authority – Search of Premises,** § 87(2)(g) Police Officer Agunzo was attempting to apprehend § 87(2)(b) the father of § 87(2)(b) child, on a bench warrant and an I-card, but § 87(2)(b) was not present. Police Officer Agunzo returned and entered and searched on April 3, 2022, at approximately 8:00 a.m. (**Allegation C: Abuse of Authority – Entry of Premises,** § 87(2)(g) **Allegation D: Abuse of Authority – Search of Premises,** § 87(2)(g) July 11, 2022, at approximately 7:20 a.m. (**Allegation E: Abuse of Authority – Entry of Premises,** § 87(2)(g) August 12, 2022, at approximately 3:50 a.m. (**Allegation F: Abuse of Authority – Entry of Premises,** § 87(2)(g) **Allegation G: Abuse of Authority – Search of Premises,** § 87(2)(g) and August 19, 2022, at approximately 7:00 a.m. (**Allegation H: Abuse of Authority – Entry of Premises,** § 87(2)(g) **Allegation I: Abuse of Authority – Search of Premises,** § 87(2)(g) On September 20, 2022, at approximately 11:00 a.m., Police Officer Agunzo entered and searched § 87(2)(b) § 87(2)(b) and arrested § 87(2)(b) (**Allegation J: Abuse of Authority – Entry of Premises,** § 87(2)(g) **Allegation K: Abuse of Authority – Search of Premises,** § 87(2)(g) The investigation did not receive body worn camera video of the incident.

## Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Michael Agunzo entered** § 87(2)(b) **on January 27, 2022;**  
**Allegation (B) Abuse of Authority: Police Officer Michael Agunzo searched** § 87(2)(b) **on January 27, 2022.**

On August 24, 2022, § 87(2)(b) was interviewed by the CCRB (Board Review 01 and 02). On January 19, 2023, Police Officer Agunzo was interviewed by the CCRB (Board Review 03 and 04). On March 29, 2023, the investigation called § 87(2)(b) (Board Review 05). On March 30, 2023, the investigation called § 87(2)(b) (Board Review 06). On April 3, 2023, Police Officer Agunzo was interviewed by the CCRB (Board Review 07 and 08).

It is undisputed that Police Officer Agunzo entered and searched § 87(2)(b) § 87(2)(b) on January 27, 2022.

§ 87(2)(b) stated that § 87(2)(b) § 87(2)(b) in the Bronx is a two-bedroom apartment where she resides with her two-month-old daughter and five-year-old son. § 87(2)(b) has never resided with them at the apartment. The front door of the apartment is unlocked using a key fob.

On January 27, 2022, at approximately 8:30 a.m. Police Officer Agunzo and two additional male officers rang the doorbell of § 87(2)(b) apartment. When § 87(2)(b) answered the door, Police Officer Agunzo flashed a piece of paper at her and told her that they had a warrant and were looking for § 87(2)(b) § 87(2)(b) is the father of § 87(2)(b) daughter. The paper had a small picture of § 87(2)(b) on it, but § 87(2)(b) did not get a good enough look at it to determine what it was. § 87(2)(b) responded that § 87(2)(b) is her daughter's

father, but he does not live with her, and he is not currently in the apartment. Police Officer Agunzo informed § 87(2)(b) that her address was provided to him by § 87(2)(b) ex-girlfriend who had filed a complaint against him and asked if he and the other officers could look around. § 87(2)(b) responded “sure” and allowed the officers to enter her apartment. Police Officer Agunzo did not inform § 87(2)(b) that she could deny officers consent to enter her apartment. One of the officers remained at the door while Police Officer Agunzo and the other officer looked around the apartment. Police Officer Agunzo entered § 87(2)(b) bedroom and looked inside her bedroom closet. Police Officer Agunzo wrote his name, phone number and command down on a piece of paper. He told § 87(2)(b) to give it to § 87(2)(b) and let him know that he was looking for him and to turn himself in. Police Officer Agunzo then instructed § 87(2)(b) to call § 87(2)(b) and inform him that he was looking for him.

Police Officer Agunzo stated that on January 27, 2022, at approximately 8:30 a.m., he and Sergeant Michael Farrell went to § 87(2)(b) to conduct an apprehension attempt for § 87(2)(b). Prior to this date, Police Officer Agunzo performed a TLO database search of § 87(2)(b) which indicated that § 87(2)(b) § 87(2)(b) was his current mailing address. Police Officer Agunzo explained during his interview that the TLO database is used to identify an individual’s mailing address, or the address associated with any public benefits they receive. § 87(2)(b) also had an active arrest warrant at this time, as well as an active probable cause I-Card. Police Officer Agunzo did not recall the specific addresses listed for § 87(2)(b) on the warrant and I-Card, however, he did recall that the address on the warrant was not § 87(2)(b) § 87(2)(b). Police Officer Agunzo further stated that, in general, if he is able to establish reasonable suspicion that the suspect is at a particular address at the time the apprehension attempt is made, he can enter the residence without consent, even if the address on the warrant does not match the address where the apprehension attempt takes place. When Police Officer Agunzo and Sergeant Farrell arrived at § 87(2)(b) Police Officer Agunzo spoke to three security guards stationed at the front desk about § 87(2)(b). Two of the security guards he spoke with were Black females, and the other was a Black male, approximately 6’1” and “well-built.” One of the female security guards also spoke with an accent. Police Officer Agunzo did not recall whether she spoke with a Caribbean accent. The building employees informed Police Officer Agunzo that § 87(2)(b) has two children with § 87(2)(b) and that he takes the children to school. They further stated that § 87(2)(b) frequently comes and goes, and will stay for several hours at a time, as well as overnight. They did not say how many nights a week he stays at the apartment on average, or whether he was currently inside the apartment. Police Officer Agunzo did not speak to any other building employees or residents.

After speaking with building security, Police Officer Agunzo and Sergeant Farrell knocked on the door of § 87(2)(b) apartment. § 87(2)(b) answered the door and Police Officer Agunzo showed her the warrant for § 87(2)(b) and asked if he was inside the apartment. § 87(2)(b) told Police Officer Agunzo that § 87(2)(b) was not there and that they could come in to verify that he was in fact not inside the apartment. Police Officer Agunzo and Sergeant Farrell subsequently entered the apartment. Police Officer Agunzo did not inform § 87(2)(b) that she could deny officers consent to enter. Police Officer Agunzo initially explained that they did not require her consent to enter and that he could have entered with the warrant and the confirmation from building security that that § 87(2)(b) occasionally stays there. Later in the interview, Police Officer Agunzo stated that if he had not obtained consent to enter from § 87(2)(b) he would most likely not have entered the apartment due to the discrepancy between the address on the warrant and the address identified by the TLO search results, in addition to the fact that he had not established reasonable suspicion that § 87(2)(b) was currently at the address prior to the visit. Upon entering the apartment, Police Officer Agunzo briefly looked inside the children’s bedroom and the bedroom closet. He observed a three-year-old child and a five-year-old child asleep inside,

and there was third child on the couch in the living room. Police Officer Agunzo then looked inside § 87(2)(b) bedroom and observed a Chick-fil-A uniform with a name tag that said § 87(2)(b) on it laid out on § 87(2)(b) bed. He also observed multiple pairs of size 14 men's sneakers by the front door. He did not state how he came to know what size the sneakers were. Police Officer Agunzo did not recall what the sneakers looked like. He asked § 87(2)(b) if the sneakers belonged to § 87(2)(b) and if not, who they belonged to. § 87(2)(b) responded that the sneakers did not belong to § 87(2)(b). Police Officer Agunzo did not look under any furniture and did not recall touching or moving any of the personal property inside the apartment during the search. Sergeant Farrell walked around the apartment with Police Officer Agunzo but did not participate in the search. § 87(2)(b) called § 87(2)(b) on her cell phone and Police Officer Agunzo spoke to § 87(2)(b) over the phone. § 87(2)(b) told Police Officer Agunzo that he is not going to do his job for him and to come find him on the streets. § 87(2)(b) advised officers to check for § 87(2)(b) at his other child's mother's address in Belmar. § 87(2)(b) also informed Police Officer Agunzo that § 87(2)(b) drove a white Honda Accord registered in her name, which he uses to pick their children up and take them to school. She did not explicitly state whether § 87(2)(b) is the only person that used the vehicle. Police Officer Agunzo then gave § 87(2)(b) his business card and advised her to contact him with any additional information. He also left his business card at the front desk on his way out.

The investigation obtained the DD5 entries prepared by Police Officer Agunzo for the investigation into § 87(2)(b) pursuant to a complaint filed by his girlfriend, § 87(2)(b) on January 24, 2022 (Board Review 09). § 87(2)(b) stated in the complaint that § 87(2)(b) drives a white Honda Accord. The Warrant/I-Card search report § 87(2)(b) indicated that a probable cause I-Card was generated pursuant to the complaint on January 26, 2022, and listed § 87(2)(b) as § 87(2)(b) address (Board Review 10). The I-Card was cancelled on September 20, 2022. The search report also indicated that § 87(2)(b) had an active bench warrant issued on § 87(2)(b) which lists his address as § 87(2)(b) in the Bronx (Board Review 11). The bench warrant was cancelled on § 87(2)(b). On January 27, 2022, prior to conducting an apprehension attempt for § 87(2)(b) at § 87(2)(b) in the Bronx, Police Officer Agunzo made a DD5 entry at 8:00 a.m. indicating that he conducted a TLO search for § 87(2)(b) which identified his mailing address as § 87(2)(b).

According to People v. Cabral, 147 Misc. 2d 1000 (Board Review 12), when an officer possesses an arrest warrant that contains an address based on information given by a defendant several months earlier, the officer cannot assume that the defendant still lives at that address based solely on that information. Thus, officers must verify that the subject of a warrant resides at a particular location on the day of the warrant's execution. This will be especially true when there is a significant passage of time between the initial arrest and the issuance of the warrant. In addition to verifying the address, the officer will need to conduct a limited inquiry upon which he can base a reasonable belief that the suspect is inside the apartment at the time the officer plans to execute the warrant.

According to New York City Administrative Code §14-173 Board Review (13), when an officer is seeking consent to enter and search a residence, they are required to articulate using plain and simple language delivered in a non-threatening manner, that the occupant of the residence in question is being asked to voluntarily, knowingly, and intelligently consent to the search, and explain that the search will not be conducted if the occupant(s) refuses to consent to the search.

Police Office Agunzo stated that he entered § 87(2)(b) residence without obtaining informed consent by neglecting to inform § 87(2)(b) that she could legally deny officers consent to enter. According to the precedent set in People v. Cabral, due to the fact that the active

bench warrant for § 87(2)(b) did not list § 87(2)(b) as his address, Police Officer Agunzo would have had to establish that § 87(2)(b) was § 87(2)(b) current residence prior to entering and searching the apartment, in addition to establishing reasonable suspicion that he was present inside the residence at the time of entry. Although it was reported to Police Officer Agunzo by § 87(2)(b) several days prior to the apprehension attempt that § 87(2)(b) resided at § 87(2)(b) and a TLO database check indicated that § 87(2)(b) mail was also being sent to the address, § 87(2)(g)

Further, his conversation with building staff prior to entering the apartment tended to indicate that § 87(2)(b) was not a permanent resident, but rather that he was a frequent visitor. § 87(2)(g)

**Allegation (C) Abuse of Authority: Police Officer Michael Agunzo entered § 87(2)(b)**

**§ 87(2)(b) on April 3, 2022;**

**Allegation (D) Abuse of Authority: Police Officer Michael Agunzo searched § 87(2)(b)**

**§ 87(2)(b) on April 3, 2022.**

It is undisputed that Police Officer Agunzo entered § 87(2)(b) § 87(2)(b) on April 3, 2022.

§ 87(2)(b) stated that on an unknown date in mid to late March of 2022 between 6:00 and 7:00 a.m., Police Officer Agunzo came to her apartment with two male officers. Officers rang the doorbell and § 87(2)(b) answered the door. Police Officer Agunzo stated that he was there looking for § 87(2)(b). § 87(2)(b) told him that § 87(2)(b) was not there. Police Officer Agunzo subsequently entered the apartment with the other two officers. Police Officer Agunzo did not ask § 87(2)(b) for permission to enter her apartment and § 87(2)(b) did not grant him consent to enter. Police Officer Agunzo did not inform § 87(2)(b) that she could deny them consent to enter. § 87(2)(b) did not explicitly deny the officers consent to search the apartment. An officer blocked the front door while Police Officer Agunzo and the other officer searched the apartment. Police Officer Agunzo went inside § 87(2)(b) bedroom and looked under the bed and inside the closet. § 87(2)(b) asked Police Officer Agunzo why he came to her apartment looking for § 87(2)(b) because he was not there, he did not reside at the address, and he had not been at the apartment since the last time Police Officer Agunzo came to her apartment in January. Police Officer Agunzo asked § 87(2)(b) about a workout bench in the apartment. § 87(2)(b) told him that it belonged to her brother who was in the process of moving, but she felt as though Police Officer Agunzo did not believe her. Police Officer Agunzo also asked her about a pair of men's sneakers in the apartment. Police Officer Agunzo and the other officers subsequently left § 87(2)(b) apartment.

Police Officer Agunzo stated that after receiving the information from § 87(2)(b) confirming that § 87(2)(b) drives a white Honda Accord registered in her name, he put a VOIL alert on the vehicle. The VOIL alert system notifies officers in real time each time the license plate on the vehicle is read by law enforcement and will send them a picture of the vehicle and the location where the picture was taken. It also alerts officers every time the license plate is read going over a bridge. Following the apprehension attempt on January 27, 2022, Police Officer Agunzo received VOIL alerts for § 87(2)(b) vehicle that showed the vehicle going back and forth between § 87(2)(b) address at § 87(2)(b) and § 87(2)(b) address, located at § 87(2)(b) in the Bronx. Police Officer Agunzo stated that following the

initial apprehension attempt, he would receive calls from building security three to four times a week notifying him when § 87(2)(b) was at the building. Police Officer Agunzo used tip-offs from building staff in combination with the VOIL alerts to determine when to conduct subsequent apprehension attempts and did not rely on VOIL alerts alone.

Police Officer Agunzo stated that after the January apprehension attempt, he went to § 87(2)(b) residence located at § 87(2)(b) in the Bronx. He did not recall the exact date of this conversation, but that it was sometime after speaking with § 87(2)(b) and before the subsequent visit to § 87(2)(b) residence. During this visit, Police Officer Agunzo spoke with § 87(2)(b) and her mother. § 87(2)(b) informed Police Officer Agunzo that § 87(2)(b) “still deals with his baby mama” and that he stays with both of them, going between their respective residences. She did not mention whether § 87(2)(b) had his own permanent address at the time.

Police Officer Agunzo stated that on an unknown date in mid to late March 2022 at approximately 2:00 a.m., he received a call from a front desk employee at § 87(2)(b) informing him that § 87(2)(b) had entered the building. Police Officer Agunzo did not recall who from the building he spoke with. At approximately 6:30 a.m., Police Officer Agunzo, Police Officer Matthew Caulfield and Police Officer Giovanni Messina went to § 87(2)(b) Police Officer Agunzo spoke with the same front desk employee who called him. The employee confirmed that § 87(2)(b) entered the building around 2:00 a.m. and that they had not seen him leave. Police Officer Agunzo and the aforementioned officers subsequently went to § 87(2)(b) apartment and Police Officer Agunzo knocked on the door. § 87(2)(b) answered the door and Police Officer Agunzo showed her the warrant for § 87(2)(b). He then informed her that he was notified by front desk staff that § 87(2)(b) was inside the apartment and that he would need to enter and search the apartment at this time. § 87(2)(b) became upset and told Police Officer Agunzo that § 87(2)(b) was not there. Police Officer Agunzo reiterated that she had to let them in so he could verify that § 87(2)(b) was not inside due to the warrant and the report from building staff that § 87(2)(b) was currently inside. Police Officer Agunzo did not inform § 87(2)(b) that she could deny officers consent to enter and search her apartment. § 87(2)(b) responded, “Go ahead then, go ahead!”, at which point, Police Officer Agunzo and Police Officer Messina entered the apartment and Police Officer Caulfield waited at the door. Police Officer Agunzo approached the doorway to § 87(2)(b) bedroom. § 87(2)(b) told him that he was not permitted to enter her bedroom and started yelling at officers to get out of her apartment. Police Officer Agunzo and Police Officer Messina did not enter her bedroom, and subsequently left the apartment with Police Officer Caulfield. Police Officer Agunzo did not recall having a conversation with § 87(2)(b) about a workout bench inside the apartment on this date. Police Officer Agunzo did not see § 87(2)(b) inside the apartment.

On the date of his CCRB interview, Police Officer Agunzo did not have access to all his DD5 entries from the investigation, with the exception of the entry made for the January 27, 2022 apprehension attempt. For this reason, the interview was conducted based on the dates provided by § 87(2)(b). Although § 87(2)(b) identified one of the incident dates as sometime in mid to late March of 2022, there were no DD5 entries documenting an apprehension attempt at § 87(2)(b) in March 2022. However, the investigation was able to identify an apprehension attempt made on April 3, 2022.

The DD5 (Board Review 09) entry made by Police Officer Agunzo on January 31, 2022, indicates that he created a VOIL alert for § 87(2)(b) vehicle, identified as a Honda Accord with license plate number § 87(2)(b). On March 20, 2022, at approximately 7:30 a.m., Police Officer Agunzo made a DD5 entry indicating that he conducted surveillance on § 87(2)(b) at § 87(2)(b).



§ 87(2)(b) with negative results. The April 3, 2022, entry indicates that Police Officer Agunzo conducted an apprehension attempt for § 87(2)(b) at § 87(2)(b) at approximately 8:00 a.m. The entry states that § 87(2)(b) informed Police Officer Agunzo that § 87(2)(b) moved out of her apartment several months prior and currently resides at § 87(2)(b) in the Bronx.

Although Police Officer Agunzo stated that he observed a Chick-fil-A uniform and men's sneakers during the January 27, 2022, apprehension attempt, he did not receive any VOIL alerts linking § 87(2)(b) to the address prior to April 3, 2022. Therefore, Police Officer Agunzo incorrectly stated that he received VOIL alerts linking § 87(2)(b) to § 87(2)(b) prior to the April 3, 2022. He was also incorrect in stating that he spoke with § 87(2)(b) between January 27, and April 3, 2022. Additionally, there are no entries in the DD5 leading up to the April 3, 2022 apprehension attempt indicating that Police Officer Agunzo received calls from building security three to four times a week notifying him when § 87(2)(b) was at the building, or that he used tip-offs from building staff in combination with the VOIL alerts to determine when to conduct subsequent apprehension attempts. Further, the DD5 entry for the April 3, 2022, apprehension attempt does not indicate that the building staff provided a tip to Police Officer Agunzo that § 87(2)(b) was at § 87(2)(b) apartment on that day. Thus, Police Officer Agunzo not only lacked sufficient evidence that § 87(2)(b) was in fact residing at § 87(2)(b) § 87(2)(b) on this date, but he also lacked reasonable suspicion that § 87(2)(b) was inside the apartment at the time of entry. The investigation also determined that Police Officer Agunzo's observation of the Chick-fil-A uniform with a nametag that said § 87(2)(b) on it, as well as the presence of men's sneakers in the apartment, do not alone prove that § 87(2)(b) resided at § 87(2)(b) apartment. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation (E) Abuse of Authority: Police Officer Michael Agunzo entered § 87(2)(b) § 87(2)(b) on July 11, 2022.**

Police Officer Agunzo stated that on July 11, 2022, at approximately 7:20 a.m., he went to § 87(2)(b) to conduct an apprehension attempt for § 87(2)(b). Upon arriving at the aforementioned location, a male building employee informed Police Officer Agunzo that he saw § 87(2)(b) enter the building and that he was currently inside § 87(2)(b) apartment. Police Officer Agunzo did not recall the employee's name and described him as a Black male in his forties or fifties, bald, tall and "decently built." Police Officer Agunzo knocked on § 87(2)(b) apartment door and heard noise inside. No one came to the door, so the building employee opened the apartment door and Police Officer Agunzo entered the apartment. Upon entering, he observed an iPad playing children's content. Police Officer Agunzo briefly looked around the apartment and determined that there was no one home. Police Officer Agunzo did not conduct a search and only observed what was in plain view. He did not touch or move anything inside the apartment or look under any furniture. After determining that no one was home, Police Officer Agunzo exited the apartment.

§ 87(2)(b) did not make any allegations in regard to the July 11, 2022 apprehension attempt.

§ 87(2)(b) was identified by § 87(2)(b) the Director of Residential Programs for § 87(2)(b) as the male employee Police Officer Agunzo interacted with based on the physical description and date provided. § 87(2)(b) is the property manager at § 87(2)(b). He did

not report providing Police Officer Agunzo with any tips in regard to the whereabouts of § 87(2)(b) or interacting with him at all on July 11, 2022 (Board Review 06).

On April 17, 2022, Police Officer Agunzo made a DD5 (Board Review 09) entry documenting a VOIL alert on § 87(2)(b) vehicle, however, the entry did not indicate the specific location of the alert. On May 19, 2022, the DD5 entries indicate that Police Officer Agunzo conducted an additional TLO inquiry for § 87(2)(b) which indicated that his current mailing address was § 87(2)(b). The DD5 entry made on May 25, 2022, documents an apprehension attempt conducted for § 87(2)(b) at § 87(2)(b). Police Officer Agunzo did not enter the apartment on that date or speak to the resident, however, he did speak to the superintendent and a neighbor who stated that they had never seen § 87(2)(b) before. On June 8, 2022, Police Officer Agunzo conducted a second apprehension attempt for § 87(2)(b) at § 87(2)(b). Police Officer Agunzo noted in the DD5 entry for this date that § 87(2)(b) and her mother answered the door and showed him around the apartment. Police Officer Agunzo further stated that he did not observe any evidence that § 87(2)(b) resided at the apartment. On July 11, 2022, Police Officer Agunzo made a DD5 entry documenting an apprehension attempt for § 87(2)(b) at § 87(2)(b) in which he stated that the apartment door was opened for him, and he visually inspected the apartment. He further stated that the building manager informed him that § 87(2)(b) is in and out every night.

Since the previous apprehension attempt conducted on April 3, 2022, Police Officer Agunzo conducted a second TLO inquiry for § 87(2)(b) which indicated that his address was changed to § 87(2)(b). Additionally, although Police Officer Agunzo stated that he had a conversation with a male building employee who stated that he saw § 87(2)(b) enter the building and confirmed that he was currently inside § 87(2)(b) apartment prior to the entry, this conversation was not reflected in the DD5 entry documenting the apprehension attempt, and § 87(2)(b) did not report taking such action on this date or any other dates, and stated that he was not familiar with § 87(2)(b). This discrepancy is the second time that the tip Police Officer Agunzo reported receiving from building staff was apparently incorrect and not supported by his DD5 entry documenting the apprehension attempt. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (F) Abuse of Authority: Police Officer Michael Agunzo entered § 87(2)(b) on August 12, 2022;**  
**Allegation (G) Abuse of Authority: Police Officer Michael Agunzo searched § 87(2)(b) on August 12, 2022.**

It is undisputed that Police Officer Agunzo entered § 87(2)(b) § 87(2)(b) on August 12, 2022.

§ 87(2)(b) stated that on August 12, 2022, at approximately 4:20 a.m. she was awoken by the sound of a key fob unlocking the front door of her apartment. She did not hear the doorbell ring or a knock on the door prior to her apartment door being opened from the outside. From her bed § 87(2)(b) saw Police Officer Agunzo and a male officer inside her apartment and two additional male officers holding the front door open with their feet. Police Officer Agunzo walked toward her bedroom. She told him that § 87(2)(b) was not there and to get out of her apartment.



§ 87(2)(b) asked Police Officer Agunzo who gave him permission to enter her apartment. Police Officer Agunzo responded that an employee at the front desk gave him the key to her apartment. He then told her he was looking for § 87(2)(b) and asked where he was. § 87(2)(b) told him again that § 87(2)(b) was not there and asked him to leave. Police Officer Agunzo left with the other officers. They were inside the apartment for approximately five minutes. § 87(2)(b) did not observe Police Officer Agunzo search her apartment. § 87(2)(b) was not shown a warrant or any paperwork. Police Officer Agunzo did not inform § 87(2)(b) that she could deny him consent to enter her apartment. § 87(2)(b) further stated that prior to this interaction, § 87(2)(b) had not been at the apartment at all. § 87(2)(b) spoke to the front desk employee later that morning at approximately 7:00 a.m. She was unable to recall his name, but described him as African American, in his fifties, tall, bald with a salt and pepper beard. She recorded their conversation on her cellphone. During this conversation he told her that he gave officers the key to her apartment because they had shown him a paper and stated that they had a warrant. He gave them the key because he was at the front desk alone and was unable to escort them to § 87(2)(b) apartment.

§ 87(2)(b) identified himself to the investigation as the male property manager of § 87(2)(b). On August 12, 2022, at approximately 3:50 a.m., § 87(2)(b) was covering the front desk at § 87(2)(b) when Police Officer Agunzo arrived with approximately four other officers. Police Officer Agunzo identified himself as a police officer and showed § 87(2)(b) a warrant for a male individual. The warrant had a name on it and no photo. § 87(2)(b) was not familiar with the individual and did not recall his name. Police Officer Agunzo then informed him that § 87(2)(b) was his last known address and asked if he had keys to the unit associated with the individual in question. § 87(2)(b) told Police Officer Agunzo that he did have keys to the apartment and provided him with the master key for the building, which opens the front door of any apartment in the building. Police Officer Agunzo did not mention having received a tip from a female building employee that § 87(2)(b) was currently in the building. § 87(2)(b) then escorted Police Officer Agunzo to the apartment in question. He did not recall the apartment number or the name of the tenant. He further stated that the tenant who resided in the apartment was a “light skinned” female. Police Officer Agunzo knocked on the front door of the apartment, at which point § 87(2)(b) returned to the front desk. Approximately five minutes later, Police Officer Agunzo and the other officers returned to the building lobby, returned the key and left. § 87(2)(b) had no further interaction with Police Officer Agunzo on this date or on any other date. The female tenant came down to the lobby to complain following the incident and took issue with the fact that officers were given the key to her apartment. § 87(2)(b) was not present for and had no knowledge of the call Police Officer Agunzo reported receiving a call from a Black female security guard the morning of the incident informing him that § 87(2)(b) recently entered the building and that she did not see him leave. § 87(2)(b) recalled speaking with other building employees following the incident, who informed him that § 87(2)(b) has been at the apartment a couple of times in the recent past.

Police Officer Agunzo stated that on August 12, 2022, Police Officer Agunzo received a call at approximately 4:20 a.m. from the Black female security guard with an accent. She informed him that § 87(2)(b) recently entered § 87(2)(b) and had not left the building. Police Officer Agunzo, Police Officer Caulfield and Police Officer Messina arrived at § 87(2)(b) within 25 minutes of receiving the call and spoke to the same woman, who confirmed in person what she had said over the phone. When he arrived at the building, he went to § 87(2)(b) with building security. Police Officer Agunzo knocked on the door. He could hear a man’s voice speaking inside the apartment. Police Officer Agunzo did not report recognizing the voice as § 87(2)(b). No one answered the door and Police Officer Agunzo stated that at this point, he would have been justified in breaking the door down and entering without consent based on the tip from

the security guard that § 87(2)(b) was inside, in addition to the fact that he could hear a man's voice inside the apartment. Building security opened the front door of the apartment. As Police Officer Agunzo, Police Officer Caulfield and Police Officer Messina entered the apartment, Police Officer Agunzo announced that they were the police entering with a warrant. Upon entering, Police Officer Agunzo observed a male child on the couch in the living room playing something on an iPad that was the source of the noise Police Officer Agunzo heard through the door. § 87(2)(b) was in the bedroom and told officers she was not dressed and to get out. Police Officer Agunzo stayed out of § 87(2)(b) bedroom until she was dressed. Once § 87(2)(b) was dressed, Police Officer Agunzo searched her bedroom for approximately eight seconds. During this time, he opened the closet and looked inside a couple bags that were inside the closet and moved some of the other items inside the closet. Police Officer Agunzo and the other officers subsequently left the apartment. Police Officer Agunzo suspected in hindsight that the male voice he heard through the door was likely § 87(2)(b) and that he may have been hiding under the bed since that is where he was found hiding when he was arrested on September 20, 2022. He further stated that, at the time of the incident, he thought the voice he heard through the door came from the iPad since he did not locate § 87(2)(b) inside the apartment.

§ 87(2)(b) provided an audio recording of the conversation with the male building employee following the incident (Board Review 14). The building employee identifies himself to § 87(2)(b) as the property manager and informs her that is just covering a shift at the front desk since they are short staffed. § 87(2)(b) can be heard speaking with a male individual who tells her that that officers informed him that they needed to go upstairs to make sure that § 87(2)(b) was not inside § 87(2)(b) apartment and asked if he had keys to the unit. The male building employee further stated he then provided officers with the key. § 87(2)(b) tells the front desk employee that § 87(2)(b) does not reside at her apartment, he is not on the lease and only makes occasional visits to the apartment for his children.

On July 17, 2022, Police Officer Agunzo made a DD5 entry (Board Review 09) documenting a conversation he had with § 87(2)(b) during which she stated that § 87(2)(b) was currently residing at § 87(2)(b). Police Officer Agunzo made a DD5 entry documenting an apprehension attempt for § 87(2)(b) at § 87(2)(b) on August 12, 2022, at approximately 3:50 a.m. The entry states that building management offered to open § 87(2)(b) apartment door and § 87(2)(b) was ultimately not located inside.

Neither § 87(2)(b) statement nor the DD5 indicate that Police Officer Agunzo received a tip that § 87(2)(b) was inside § 87(2)(b) apartment prior to entering and conducting a search of the residence. This is the third time Police Officer Agunzo entered § 87(2)(b) apartment based on inaccurate tips from building staff reporting that § 87(2)(b) was in the apartment at the time of entry. Other than § 87(2)(b) statement, Police Officer Agunzo had no additional evidence that § 87(2)(b) in fact resided at § 87(2)(b) apartment on this date and did not conduct any additional TLO inquiries or receive any VOIL alerts. § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

**Allegation (H) Abuse of Authority: Police Officer Michael Agunzo entered § 87(2)(b) § 87(2)(b) on August 19, 2022;**

**Allegation (I) Abuse of Authority: Police Officer Michael Agunzo searched § 87(2)(b) on August 19, 2022.**

It is undisputed that Police Officer Agunzo entered § 87(2)(b) § 87(2)(b) on August 12, 2022.

§ 87(2)(b) stated that on August 15<sup>th</sup> or 16<sup>th</sup> of 2022, at approximately 6:00 a.m., Police Officer Agunzo, and two male officers knocked on the door of her apartment. She looked through the peephole in the front door and saw that it was Police Officer Agunzo. She did not answer the door, got back into bed and fell asleep. She awoke approximately five minutes later and saw Police Officer Agunzo and the other officers in her apartment. One of the officers stood at the door while Police Officer Agunzo and the remaining officer looked around the apartment. § 87(2)(b) got out of bed and spoke with Police Officer Agunzo at the door of her bedroom. During this conversation she said to Police Officer Agunzo, “I don’t understand why they keep giving you a key because I did not give you permission to enter my apartment,” and asked him to leave. She did not ask him how they gained entry because she assumed they used the key fob from the front desk to let themselves in like they had previously done. Police Officer Agunzo ignored her request, and she then asked him to leave her bedroom because her daughter was sleeping inside, and she did not want him to wake her. She then asked to see a copy of the warrant. Police Officer Agunzo showed her a piece of paper with § 87(2)(b) photo on it in the top left-hand corner. Police Officer Agunzo subsequently looked inside § 87(2)(b) bedroom, under her bed and in the bedroom closet. § 87(2)(b) was standing in the living room with Police Officer Agunzo she observed one of the other officers enter the bedroom where her son and § 87(2)(b) § 87(2)(b) thirteen-year-old son with another woman, were sleeping. § 87(2)(b) told Police Officer Agunzo that § 87(2)(b) was not there and did not reside at the apartment. The officers were leaving when Police Officer Agunzo started asking § 87(2)(b) about a pair of what he thought were size thirteen men’s shoes on her shoe rack. § 87(2)(b) responded that the shoes belonged to § 87(2)(b) Police Officer Agunzo told her that the boy does not wear a size thirteen shoe, to which § 87(2)(b) responded that the shoe was a size 10 and showed him the tag in the shoe. § 87(2)(b) said to Police Officer Agunzo, “You keep coming here looking for § 87(2)(b) and he is not here when you come because this is not his apartment, and he is not on the lease.” Police Officer Agunzo responded that § 87(2)(b) had been pulled over and provided his address to officers as § 87(2)(b) § 87(2)(b) Police Officer Agunzo subsequently exited the apartment with the other officers. They were in the apartment for approximately five minutes. § 87(2)(b) stated that she did not have any further interaction with the officers after this incident. Police Officer Agunzo did not inform § 87(2)(b) that she could deny officers consent to enter and search the apartment. § 87(2)(b) did not observe the officers touch any of the personal effects inside the apartment.

Police Officer Agunzo stated that on August 19, 2022, at approximately 4:20 a.m., he received a call from a female front desk employee with a Caribbean accent from § 87(2)(b) informing him that § 87(2)(b) entered the building. Police Officer Agunzo further stated that he regularly communicated with two building employees, a male, and a female with a Caribbean accent, who would call to inform him when § 87(2)(b) was at the building. He did not know either of the individuals’ names. Police Officer Agunzo arrived at § 87(2)(b) at approximately 7:00 a.m. with Police Officer Messina and Police Officer Caulfield. When he arrived, he spoke with the female front desk employee who confirmed that she saw § 87(2)(b) enter the building. She informed Police Officer Agunzo that there is a side entrance to the building that § 87(2)(b) could have left out of, but she did not see him leave out of the front entrance

since she had alerted Police Officer Agunzo to his arrival earlier that morning.

Police Officer Agunzo knocked on the front door of § 87(2)(b) apartment. He heard what he believed to be sound from the TV inside and announced his presence to the occupants by stating, “NYPD Warrant Squad, please come to the door.” No one answered the door, which raised a red flag for Police Officer Agunzo since, in the past, § 87(2)(b) had answered the door. The aforementioned front desk employee then opened the front door of § 87(2)(b) apartment. Police Officer Agunzo was shown the 2021 bench warrant for § 87(2)(b) and confirmed that it is the bench warrant he was referring to. When asked if there was an investigation into the address listed on the bench warrant, § 87(2)(b) in the Bronx, Police Officer Agunzo stated that he did not go to the address listed on the bench warrant due to the fact that the case was several years old. He further stated that when he ran a TLO database search, it determined that § 87(2)(b) had not received mail to that location in several years. § 87(2)(b) also had an active I-Card generated within the seven months listing his address as § 87(2)(b). Police Officer Agunzo further stated that he conducted a TLO database search, which determined that § 87(2)(b) mail was being sent to § 87(2)(b) apartment at the time of the incident. In addition to the TLO search and recent I-Cards linking § 87(2)(b) to § 87(2)(b) residence, the frequent tip-offs from building staff as well as the VOIL alerts on § 87(2)(b) vehicle, led him to conduct apprehension attempts for § 87(2)(b) at § 87(2)(b) residence. When asked why he did not obtain a search warrant for § 87(2)(b) after determining that the address listed on the bench warrant was not § 87(2)(b) current address, Police Officer Agunzo stated that the active bench warrant for § 87(2)(b) allows him to enter and search, as well as to arrest § 87(2)(b) at any location where he is believed to be present at the time of entry, and for this reason, he would not require a search warrant to enter and search § 87(2)(b) in order to apprehend § 87(2)(b).

Police Officer Agunzo entered the apartment with one of the other officers and the other remained at the door. He announced their presence to the occupants upon entering. Inside the apartment he observed a four-year-old and six-year-old playing on iPads on the living room couch. § 87(2)(b) was inside her bedroom when officers entered the apartment and initially did not seem bothered by their presence in her apartment. Police Officer Agunzo had a conversation with § 87(2)(b) about the pair of size 13 Nike Jordan sneakers and bench press with 250 lbs. of weight on it he observed inside the apartment. During this conversation, § 87(2)(b) told Police Officer Agunzo that the sneakers belonged to § 87(2)(b) son, but she did not provide his name. Police Officer Agunzo did not recall seeing an older child or any child above five feet tall during any of the apprehension attempts made at § 87(2)(b) apartment. When asked about whether there was a conversation between himself and § 87(2)(b) about the bench warrant, Police Officer Agunzo recalled § 87(2)(b) asking to see the bench warrant. Police Officer Agunzo showed § 87(2)(b) the bench warrant for § 87(2)(b) on his department cellphone. He further stated that the digital copy of the bench warrant when viewed on the department cell phone displays the individual’s arrest photo displays in the top left-hand corner of the document, which is different than the digitized hard copy of the warrant (Board Review 11). When Police Officer Agunzo approached her bedroom door, she became angry told officers to get out. Police Officer Agunzo wanted to avoid escalating the situation, so he provided § 87(2)(b) with his business card and he and the other officers left the apartment. Police Officer Agunzo and the other officer that entered the apartment only observed what was in plain view and did not conduct a search of the apartment, and neither he, nor the other officers on scene, entered § 87(2)(b) bedroom at any point.

Police Officer Agunzo made a DD5 (Board Review 09) entry documenting an apprehension attempt made for § 87(2)(b) at § 87(2)(b) on August 19, 2022, at approximately 7:00 a.m.

There are no entries made prior to the August 19, 2022, indicating that § 87(2)(b) was pulled over by officers and provided his address at § 87(2)(b) § 87(2)(b).

According to NY CLS CPL § 120.80 (Board Review 15), in order to effect a warrant of arrest, an officer may enter any premises in which he reasonably believes the defendant to be present; provided, however, that where the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant, the officer shall, before such entry, give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice will:

- Result in the defendant escaping or attempting to escape; or
- Endanger the life or safety of the officer or another person; or
- Result in the destruction, damaging or sequestration of material evidence.

According to Steagald v. United States, 451 U.S. 204 (Board Review 16), under the Fourth Amendment, a search warrant must be obtained, absent exigent circumstances or consent, for a law enforcement officer to legally search for the subject of an arrest warrant in the home of a third party.

Absent the exigent circumstances which would allow an officer to enter the residence of a third party to execute an arrest warrant outlined in NY CLS CPL § 120.80 (Board Review 15), Police Officer Agunzo would have been required to obtain consent from § 87(2)(b) to enter, or a search warrant for her residence, per the precedent set in Steagald v. United States (Board Review 16). Further, § 87(2)(b) last TLO inquiry conducted on May 25, 2022, indicated that § 87(2)(b) changed his mailing address to § 87(2)(b) § 87(2)(b) and no subsequent efforts were documented in the DD5 to indicate that Police Officer Agunzo took any further investigative actions to verify that § 87(2)(b) was in fact § 87(2)(b) permanent residence prior to conducting the August 19, 2022, apprehension attempt. Further, the DD5 entry made for the August 19, 2022, apprehension attempt did not indicate that Police Officer Agunzo received a tip from building staff prior to arriving. Even if Police Officer Agunzo had received a tip from building staff, according to his statement, he received the tip at 4:20 a.m. and did not arrive at the incident location until 7:00 a.m., at which point the employee at the front desk was unable to confirm that § 87(2)(b) was still inside § 87(2)(b) apartment. This is the fourth time that Police Officer Agunzo has reported entering § 87(2)(b) apartment based on incorrect tips from building staff. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (J) Abuse of Authority: Police Officer Michael Agunzo entered § 87(2)(b) § 87(2)(b) on September 20, 2022;**

**Allegation (K) Abuse of Authority: Police Officer Michael Agunzo searched § 87(2)(b) § 87(2)(b) on September 20, 2022.**

Police Officer Agunzo stated that he received a call from the Black female front desk employee with a Caribbean accent at approximately 11:00 a.m. on September 20, 2022, informing him that § 87(2)(b) arrived an hour prior and that she did not see him leave. Police Officer Agunzo told her to watch the door and make sure he does not leave. Police Officer Agunzo stated that he was

informed by the same employee prior to the August 19, 2022, apprehension attempt that the building has a side entrance that residents can use to enter and exit the building. Police Officer Agunzo and Police Officer Caulfield arrived at § 87(2)(b) at approximately 11:25 a.m. and spoke with the female front desk employee who confirmed that § 87(2)(b) had not left the building. Police Officer Agunzo subsequently knocked on the door of § 87(2)(b) and announced that the police were there with a warrant. Police Officer Agunzo heard rustling inside the apartment, but no one answered the door. He then called his supervisor, Sergeant Farrell and requested authorization to execute the warrant. Sergeant Farrell approved the execution of the warrant and instructed Police Officer Agunzo to wait for him and back-up officers to arrive on scene prior to entering. While Police Officer Agunzo waited for back-up, § 87(2)(b) arrived home. § 87(2)(b) was extremely hostile and told Police Officer Agunzo, “You’re not fucking coming in. I’m tired of your shit, I’m going to sue you. My mom’s coming with my sister, we’re going to fuck you up!” § 87(2)(b) then tried to enter her apartment and Police Officer Agunzo explained to her that he was waiting for his supervisor to execute a warrant and that the location was secured, and she would not be permitted to enter until after the warrant has been executed. § 87(2)(b) grabbed Police Officer Agunzo and shoved him. Police Officer Agunzo then called the 52<sup>nd</sup> Precinct for back-up because his sergeant and the backup officers from his command were stuck in traffic. § 87(2)(b) then attempted to jam the front door of her apartment open. Police Officer Agunzo ordered her to step back while she continued to try to push him out of the way to get inside, at which point two officers from the 52<sup>nd</sup> Precinct arrived on scene. Police Officer Agunzo did not recall who from the 52<sup>nd</sup> Precinct responded. The aforementioned building employee came upstairs and opened the front door of the apartment for officers. § 87(2)(b) said to Police Officer Agunzo, “I don’t care, look! He’s not here!” § 87(2)(b) never at any point during the encounter denied Police Officer Agunzo consent to enter her apartment. Police Officer Agunzo did not recall asking for consent to enter the apartment and did not recall informing § 87(2)(b) that she could deny officers consent to enter. Police Officer Agunzo stated that he most likely did not ask § 87(2)(b) for consent to enter because he was going to enter whether she was present or not, after receiving approval from Sergeant Farrell to execute the warrant. Police Officer Agunzo and Police Officer Caulfield entered § 87(2)(b) apartment. § 87(2)(b) remained outside the apartment. Police Officer Agunzo and Police Officer Caulfield conducted a search of the apartment for approximately two minutes. They entered § 87(2)(b) bedroom and Police Officer Caulfield looked under her bed and observed § 87(2)(b) underneath it. § 87(2)(b) was subsequently placed under arrest. Police Officer Agunzo and Police Officer Caulfield escorted § 87(2)(b) to their RMP and transported him to the 54<sup>th</sup> Precinct stationhouse. Police Officer Agunzo did not ask § 87(2)(b) for consent to search her apartment and did not inform her that she could deny officers consent to search. Police Officer Agunzo further stated that he did not need § 87(2)(b) consent to search her apartment for reasons previously stated regarding the entry.

§ 87(2)(b) Director for Residential Programs at § 87(2)(b) identified § 87(2)(b) as the employee described by Police Officer Agunzo (Board Review 17). The investigation contacted § 87(2)(b) who stated that she did not recall the incident and was not familiar with Police Officer Agunzo. She further stated that it is possible she interacted with officers, but she does not recall conferring with Police Officer Agunzo in regard to § 87(2)(b) or § 87(2)(b) and she did not recall letting Police Officer Agunzo or any other officers into § 87(2)(b) apartment, nor does she recall interacting with any officers during the given time period.

Police Officer Agunzo made a DD5 entry (Board Review 09) on August 25, 2022, indicating that he received two VOIL alerts for § 87(2)(b) vehicle at § 87(2)(b) the prior two nights. On September 14, 2022, Police Officer Agunzo made a DD5 entry documenting a call he received from front desk security at § 87(2)(b) reporting that § 87(2)(b) was in and



out of the location multiple times that day with his children. On September 20, 2022, Police Officer Agunzo made a DD5 entry documenting an apprehension attempt for § 87(2)(b) at § 87(2)(b). He reported that on the aforementioned date at approximately 11:00 a.m. he received a call from an employee at the front desk informing him that § 87(2)(b) just entered the building. The entry further stated that when Police Officer Agunzo arrived at § 87(2)(b) apartment, he heard noise coming from inside. § 87(2)(b) arrived home and verified that § 87(2)(b) was inside the apartment, but refused to open the door for officers. The front desk employee opened the door after being shown the bench warrant for § 87(2)(b). § 87(2)(b) was found hiding under the bed and was subsequently arrested.

The decision was made to plead this allegation against Police Officer Agunzo, as opposed to Sergeant Farrell due to the fact that, although Sergeant Farrell approved the entry via phone call, he also instructed Police Officer Agunzo to wait until he arrived on scene before going inside the residence. Since Police Officer Agunzo did not follow orders to wait to enter the apartment until Sergeant Farrell arrived on scene, the allegation was ultimately pleaded against him and not his supervisor.

In his statement on the complaint, Police Officer Agunzo based his reasonable suspicion for entering the apartment without § 87(2)(b) informed consent on the fact that he had a warrant for § 87(2)(b) arrest and had received a tip from a female building employee that he was inside the apartment. This contradicts § 87(2)(b) statement in which she said that she was not familiar with Police Officer Agunzo and did not recall conferring with him at any point about the whereabouts of § 87(2)(b) or interacting with police at any other point. Additionally, Police Officer Agunzo contradicted the DD5 entry documenting the apprehension attempt in his CCRB statement in which he reported that § 87(2)(b) told him that § 87(2)(b) was not present inside the apartment when she arrived home and that she never at any point denied him consent to enter. Since Police Officer Agunzo's statement and DD5 entry are in direct contradiction, the investigation did not credit his statement made in his CCRB interview or the DD5 entry he made in regard to the nature of the entry.

Absent the exigent circumstances which would allow an officer to enter the residence of a third party to execute an arrest warrant outlined in NY CLS CPL § 120.80 (Board Review 15), Police Officer Agunzo would have been required to obtain consent from § 87(2)(b) to enter, or a search warrant for her residence per the precedent set in Steagald v. United States (Board Review 16). Further, even if Police Officer Agunzo's account of events is in fact true, the alleged tips received from building staff on prior dates have proven to be inaccurate on four separate occasions.

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been a party (Board Review 18).

- Police Officer Agunzo has been a member of service for six years and has been a subject in three CCRB complaints and seven allegations, none of which were substantiated. § 87(2)(g)

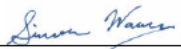
### Mediation, Civil, and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- A FOIL request was submitted to the New York City Comptroller's Office on April 21, 2023. The results will be attached to the case file upon receipt (Board Review 19).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 15

Investigator:	<u>Julia Vittore</u>	<u>Inv. Julia Vittore</u>	<u>05/08/2023</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u>IM Simon Wang</u>	<u>05/08/23</u>
	Signature	Print Title & Name	Date

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