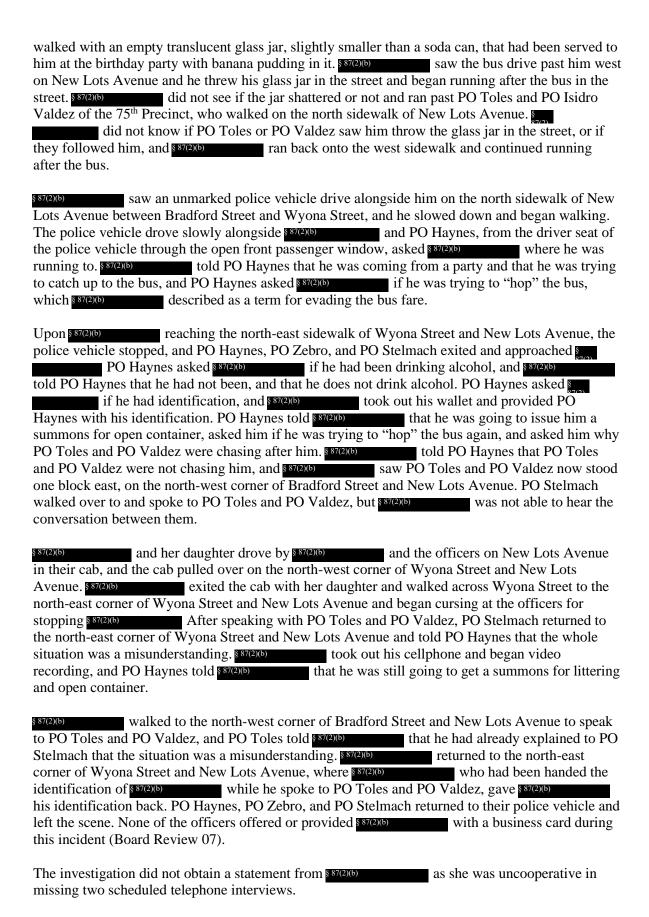
## CCRB INVESTIGATIVE RECOMMENDATION

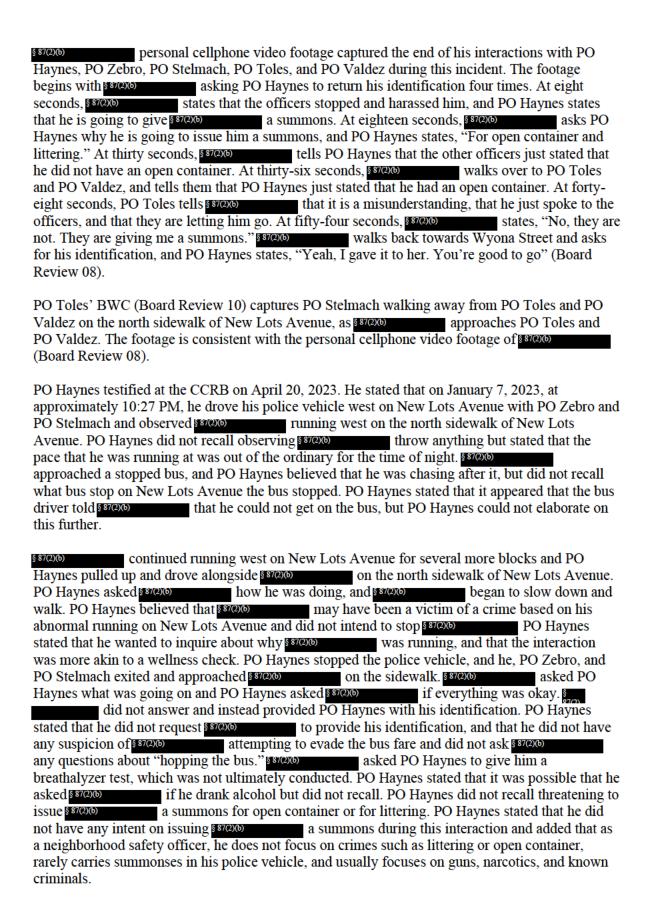
Investigator:		Team:	CCRB Case #:	_ j	Force		Discourt.		U.S.
Nick Kuczek		Squad #08	202300350	<b>2</b>	Abuse		O.L.		Injury
Incident Date(s)		Location of Incident:			18 N	Io. SC	OL	P	Precinct:
Saturday, 01/07/2023 10:27 PM		Outside of 463 New Lo	ots Avenue		7/	7/2024	4		75
Date/Time CV Reported		CV Reported At:	How CV Reported	: 1	Date/Tim	e Rece	eived at CC	RB	
Fri, 01/13/2023 12:27 PM		CCRB	Phone	]	Fri, 01/13	3/2023	12:27 PM		
Complainant/Victim	Type	Home Addre	ess						
Witness(es)		Home Addre	ess						
Subject Officer(s)	Shield	TaxID	Command						
1. PO Lester Haynes	07304	954922	075 PCT						
2. PO James Zebro	02610	965910	075 PCT						
3. PO Christopher Stelmach	19816	966870	075 PCT						
Witness Officer(s)	Shield N	o Tax No	Cmd Name						
1. PO Brandon Toles	14657	974596	075 PCT						
2. PO Isidro Valdez	03718	974615	075 PCT						
Officer(s)	Allegatio	o <b>n</b>			Inv	estiga	tor Recor	nme	ndation
A . PO Lester Haynes	Abuse: P	Police Officer Lester Hay	nes questioned \$87(2)	)(Ь)					
B . PO Lester Haynes	Abuse: P	Police Officer Lester Hay	nes stopped § 87(2)(b)	I					
C . PO James Zebro	Abuse: P	Police Officer James Zeb	ro stopped § 87(2)(b)						
D . PO Christopher Stelmach	Abuse: Police Officer Christopher Stelmach stopped \$87(2)(6)								
E . PO Lester Haynes	Abuse: Police Officer Lester Haynes improperly used their body-worn camera.								
F . PO James Zebro	Abuse: Police Officer James Zebro improperly used their body-worn camera.								
G . PO Christopher Stelmach		Police Officer Christophe y-worn camera.	er Stelmach imprope	erly u	sed				
H . PO Lester Haynes	Abuse: P	Police Officer Lester Hay s to <sup>§ 87(2)(6)</sup>	ones threatened to is	sue					
I . PO Lester Haynes		Police Officer Lester Hay s to §87(2)(b)	nes threatened to is	sue					
J . PO Lester Haynes	Abuse: P § 87(2)(b)	Police Officer Lester Hay with a busine		le					
K . PO Christopher Stelmach	Abuse: P	Police Officer Christophe with a busine		prov	vide				
L . PO James Zebro	Abuse: P	vith a business card.	ro failed to provide	§ 87(2)(t	b)				

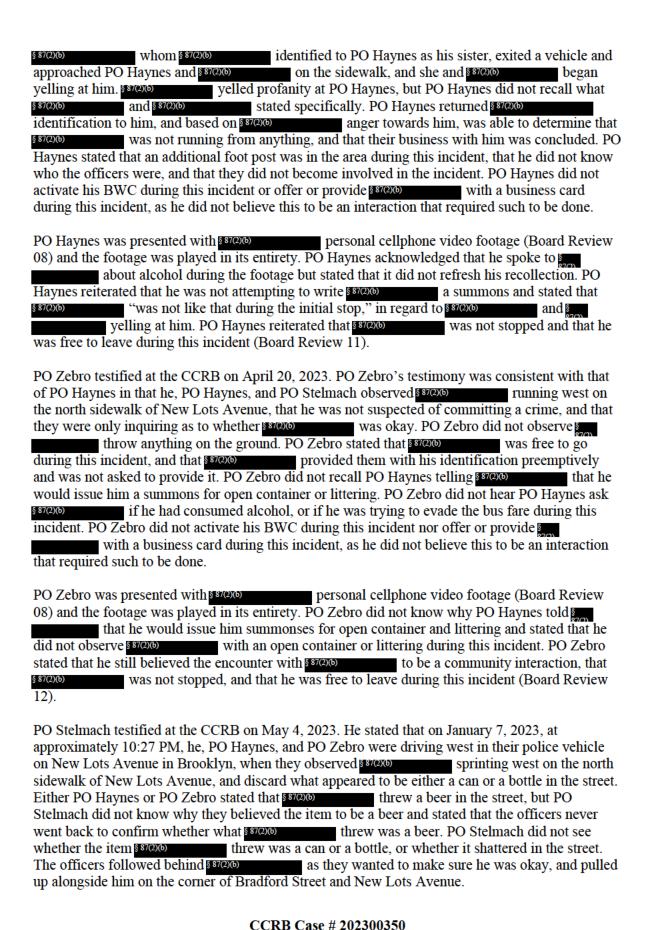
## **Case Summary**

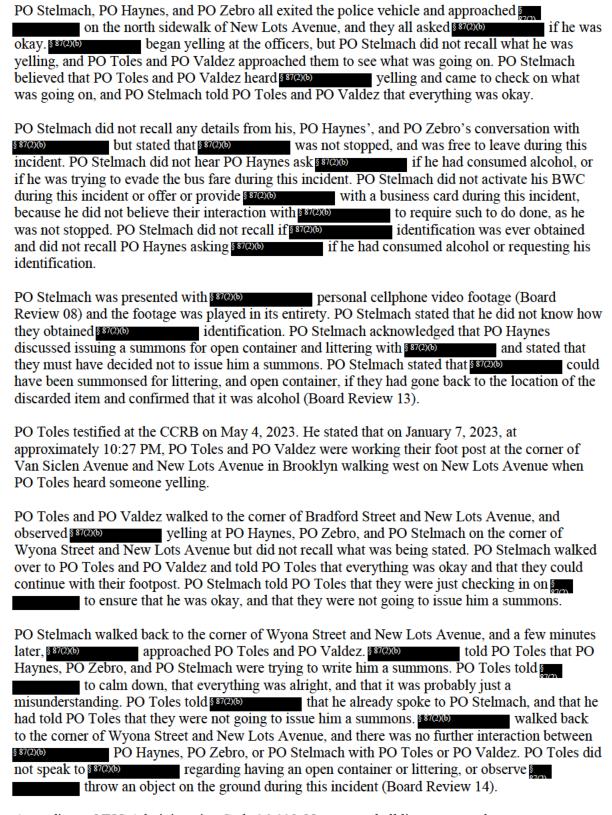
filed this complaint with the CCRB via telephone on January 13, 2023.
Ieft a birthday party at the stown in Brooklyn. Stown walked west on New Lots Avenue with an empty glass pudding jar in his hand. Stown saw his bus drive by him westbound on New Lots Avenue, threw his glass pudding jar in the street, and ran after the bus. PO Lester Haynes, PO James Zebro, and PO Christopher Stelmach of the 75th Precinct drove west on New Lots Avenue alongside and PO Haynes allegedly asked stown if he was trying to evade the bus fare. The officers stopped and exited their vehicle, approached stown at the corner of New Lots Avenue and Wyona Street without activating their Body-worn cameras, and PO Ross allegedly asked stown if he had identification, and if he had consumed alcohol (Allegation A – Abuse of Authority: stown (Allegations E, F, and G – Abuse of Authority: stown and for open container (Allegation I – Abuse of Authority: stown and FO Haynes, PO Zebro, and PO Stelmach returned to their police vehicle and left the scene without offering stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown a business card (Allegations J, K, and L – Abuse of Authority: stown and
was not arrested or summonsed as a result of this incident.
The investigation obtained Body-worn camera footage (BWC) from PO Brandon Toles of the 75 <sup>th</sup> Precinct (Board Review 10), and the personal cellphone video footage of (Board Review 08, 09).
Findings and Recommendations
Findings and Recommendations  Allegation (A) Abuse of Authority: Police Officer Lester Haynes questioned
Allegation (A) Abuse of Authority: Police Officer Lester Haynes questioned  Allegation (B) Abuse of Authority: Police Officer Lester Haynes stopped  Allegation (C) Abuse of Authority: Police Officer James Zebro stopped  Allegation (D) Abuse of Authority: Police Officer Christopher Stelmach stopped  Allegation (E) Abuse of Authority: Police Officer Lester Haynes improperly used their body-
Allegation (A) Abuse of Authority: Police Officer Lester Haynes questioned  Allegation (B) Abuse of Authority: Police Officer Lester Haynes stopped  Allegation (C) Abuse of Authority: Police Officer James Zebro stopped  Allegation (D) Abuse of Authority: Police Officer Christopher Stelmach stopped  Allegation (E) Abuse of Authority: Police Officer Lester Haynes improperly used their bodyworn camera.  Allegation (F) Abuse of Authority: Police Officer James Zebro improperly used their body-
Allegation (A) Abuse of Authority: Police Officer Lester Haynes questioned  **STO(0)  Allegation (B) Abuse of Authority: Police Officer Lester Haynes stopped  **STO(0)  Allegation (C) Abuse of Authority: Police Officer James Zebro stopped  **STO(0)  Allegation (D) Abuse of Authority: Police Officer Christopher Stelmach stopped  **STO(0)  Allegation (E) Abuse of Authority: Police Officer Lester Haynes improperly used their bodyworn camera.  Allegation (F) Abuse of Authority: Police Officer James Zebro improperly used their bodyworn camera.  Allegation (G) Abuse of Authority: Police Officer Christopher Stelmach improperly used
Allegation (A) Abuse of Authority: Police Officer Lester Haynes questioned  **STO(0)**  Allegation (B) Abuse of Authority: Police Officer Lester Haynes stopped  **STO(0)**  Allegation (C) Abuse of Authority: Police Officer James Zebro stopped  **STO(0)**  Allegation (D) Abuse of Authority: Police Officer Christopher Stelmach stopped  **STO(0)**  Allegation (E) Abuse of Authority: Police Officer Lester Haynes improperly used their bodyworn camera.  Allegation (F) Abuse of Authority: Police Officer James Zebro improperly used their bodyworn camera.  Allegation (G) Abuse of Authority: Police Officer Christopher Stelmach improperly used their bodyworn camera.  Allegation (H) Abuse of Authority: Police Officer Lester Haynes threatened to issue summons
Allegation (A) Abuse of Authority: Police Officer Lester Haynes questioned  Allegation (B) Abuse of Authority: Police Officer Lester Haynes stopped  Allegation (C) Abuse of Authority: Police Officer James Zebro stopped  Allegation (D) Abuse of Authority: Police Officer Christopher Stelmach stopped  Allegation (E) Abuse of Authority: Police Officer Lester Haynes improperly used their bodyworn camera.  Allegation (F) Abuse of Authority: Police Officer James Zebro improperly used their bodyworn camera.  Allegation (G) Abuse of Authority: Police Officer Christopher Stelmach improperly used their body-worn camera.

CCRB Case # 202300350









According to NYC Administrative Code 16-118, No person shall litter, sweep, throw or cast, or direct, suffer or permit any servant, agent, employee, or other person under his or her control, to

litter, sweep, throw or cast any ashes, garbage, paper, dust or other rubbish and refuse of any kind whatsoever, in or upon any street or public place, vacant lot, air shaft, areaway, backyard court, park, or alley (Board Review 15).

According to *People v. De Bour*, 40 N.Y.2d 210, police officers are authorized to conduct a forcible stop and detention of a person when they entertain a reasonable suspicion that that particular person has committed, is committing, or is about to commit a felony or misdemeanor (Board Review 19).

According to NYPD Patrol Guide Procedure 212-123, Uniformed members of service assigned Body-worn cameras (BWC) are required to activate their BWC during any police service, as well as law enforcement or investigative activity conducted in furtherance of official duties. Police action includes responding to calls for service, addressing quality of life conditions, handling pick-up assignments and any self-initiated investigative or enforcement actions such as witness canvasses, vehicle stops and Investigative Encounters (Board Review 18).

According to NYPD Patrol Guide Procedure 212-11, a Terry Stop/level 3 encounter may be conducted only when a police officer has an individualized reasonable suspicion that the person has committed, is committing, or is about to commit a felony or Penal Law misdemeanor (Board Review 20).

alleged that PO Haynes asked him twice if he had been attempting to evade the bus fare and asked him if he had consumed alcohol that night. PO Haynes stated that he did not ask
about evading the bus fare or if he had been consuming alcohol, and PO Zebro and PO
Stelmach both stated that they did not hear PO Haynes ask \$5000 about evading the bus
fare, or if he had been consuming alcohol. STONO
PO Haynes, PO Zebro, and PO Stelmach all stated that their interaction with \$870,000 was a
community interaction, that he was not stopped, and that he was always free to leave. While it is
disputed whether \$87(2)(6) preemptively provided PO Haynes with his identification, or if
was requested to provide it by PO Haynes, the identification remained in PO
Haynes hand during this interaction, and \$87(2)(6) cellphone video footage revealed that
PO Haynes did tell \$87(2)(0) that he was going to be issued summonses for littering and open
container. § \$7(2)(2)
While PO Haynes and PO Zebro
did not recall observing \$87(2)(6) discard any object in the street, PO Stelmach did see
discard either a can or a bottle in the street, and \$87000 acknowledged that he
discarded an empty glass jar in the street. § \$7(2)(g)
DO Haynes DO Zahro and DO Stalmach all stated that they did not activate their DWC because
PO Haynes, PO Zebro, and PO Stelmach all stated that they did not activate their BWC because they did not believe their interaction with [887(2)(b)] to be one that required BWC activization.
§ \$72(g)

Allegation (I) Abuse of Authority: Police Officer Lester Haynes threatened to issue summons
Allegation (J) Abuse of Authority: Police Officer Lester Haynes failed to provide with a business card.  Allegation (K) Abuse of Authority: Police Officer Christopher Stelmach failed to provide
with a business card.
Allegation (L) Abuse of Authority: Police Officer James Zebro failed to provide with a business card.
As discussed above, it is undisputed that PO Haynes, PO Zebro, and PO Stelmach did not verify that the item discarded by was an alcoholic beverage, and that PO Haynes, PO Zebro, and PO Stelmach did not offer or provide with a business card at the conclusion of this incident.
Based on the personal cellphone video of (Board Review 08), it is also undisputed that PO Haynes threatened to issue (87/2)(6) a summons for open container.
According to NYC Administrative Code 10-125, no person shall drink or consume an alcoholic beverage, or possess, with intent to drink or consume, an open container containing an alcoholic beverage in any public place except at a block party, feast or similar function for which a permit has been obtained (Board Review 16).
According to NYC Administrative Code 14-174, officers must offer a business card to any individual at the conclusion of law enforcement activities, such as pedestrian stops and searches, that do not result in an arrest or summons. When an officer does not have business cards on them the officer must provide the individual with a handwritten card that includes their name, rank, and command (Board Review 17).
While street, he stated that the item was an empty pudding jar, that it was not an empty alcoholic beverage, and that he had not consumed any alcohol on the date of the incident. PO Stelmach acknowledged that either PO Haynes or PO Zebro stated that they believed that street three a beer in the street, but that they did not specify why they believed the discarded item to be a beer. Furthermore, PO Stelmach stated that could only have been summonsed for open container if the officers were to return to the scene of the discarded item to confirm it to be an alcoholic beverage, which the officers did not do.
PO Haynes, PO Zebro, and PO Stelmach all stated that they did not offer or provide with a business card because they did not believe their interaction with \$87000 to be one that required a business card to be offered.

## **Civilian and Officer CCRB Histories**

• This is the first	CCRB complaint to whi	has been a party	(Board Review 01).
		ce since July 9, 2013 and has been a ons, none of which were substantiate	
DO Zahas has h		since April 25, 2010 and has been	anhiastin ana
		e since April 25, 2018 and has been a hich was not substantiated. \$870@	subject in one
<ul><li>seven CCRB co</li><li>202102264</li><li>Stelmach. T</li></ul>	omplaints and fifteen allo involved a substantiated	vice since October 24, 2018 and has begations, one of which was substantial allegation of Force – Physical force I Command Discipline B and the NY	ated: against PO
	Mediation, C	Civil, and Criminal Histories	
§ 87(2)(b)	declined to mediate this	s complaint.	
	2023, the New York Cityed in regard to this incid	y Office of the Comptroller has no re ent (Board Review 06).	cord of a Notice of
[§ 87(2)(b)] [§§ 86(1)(3)&(4	)] [§ 87(2)(c)]		
		RPBP History	
• This complaint	did not contain any alle	gations of Racial Profiling/Bias-Base	d Policing.
Squad: 8			
Investigator:	Nicholas Kuczek	Investigator Nicholas Kuczek	01/02/2024
	Signature	Print Title & Name	Date
Squad Leader:	Ethan De Angelo	IM Ethan De Angelo	01/02/2024
	Signature	Print Title & Name	Date

Reviewer:			
	Signature	Print Title & Name	Date