CCRB INVESTIGATIVE RECOMMENDATION

Investigator:	Team:	CCRB Case #:	☑ Force ☐ Discourt. ☐ U.S.
Kelly Lyon	Squad #11	202407994	☑ Abuse ☐ O.L. ☑ Injury

Incident Date(s)	Location of Incident:	18 Mo. SOL	Precinct:
Thursday, 05/23/2024 6:04 PM	Outside of § 87(2)(b) [redacted]	11/23/2025	103

Date/Time CV Reported	CV Reported At:	How CV Reported:	Date/Time Received at CCRB
Mon, 08/12/2024 10:59 AM	CCRB	On-line website	Mon, 08/12/2024 10:59 AM

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

Subject Officer(s)	Shield	TaxID	Command
1. PO Tyler Harper	24952	969772	103 PCT
2. PO Kevin Donato	14493	967851	INT FIO PRG
3. PO Daniel Henao	15119	966616	103 PCT
4. PO Yonatan Schultz	15957	963750	103 PCT
5. PO Domenick Lagomarsine	13783	943457	103 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. DT3 Jeremy Hametz	07438	957655	INT FIO PRG
2. SGT Michael Agunzo	05244	962913	INT FIO PRG
3. PO Vincent Dandraia	27309	957510	103 PCT
4. DTS Daniel Gasperetti	04088	950480	103 PCT
5. PO Joel Bacchus	12429	966451	103 PCT
6. PO Joseph Ledogar	11560	970657	103 PCT
7. PO Adam Ensalata	28692	936552	103 PCT
8. LT Alex Chen	00000	954635	103 PCT
9. PO Juwan Fraser	17696	974856	103 PCT
10. PO Shane Ramlochan	31628	975755	103 PCT
11. DTS Timothy Merrick	05318	952012	103 PCT
12. DTS Nicholas Gullo	03532	952816	103 PCT
13. PO Marissa Doyen	21421	967853	103 PCT
14. PO Jose Colman	29301	965287	103 PCT
15. PO Daniel Demattia	14903	955866	103 PCT
16. PO Patrick Lynch	12700	953023	103 PCT
17. SGT Keerandai Bhawanideenjamna	01223	954549	JAMAICA AVE BID
18. PO Samantha Elbert	26720	973372	JAMAICA AVE BID
19. SGT Benjamin Aboagye	05371	949950	103 PCT
20. PO Nicholas Adamo	08005	975948	103 PCT
21. PO Khrishan Jainaraine	15624	960718	103 PCT
22. PO Ian Woodard	24831	962175	103 PCT
23. PO Patrick Cesare	05402	973995	JAMAICA AVE BID

Witness Officer(s)	Shield No	Tax No	Cmd Name
24. PO Salvatore Turriciano	30292	973815	JAMAICA AVE BID
25. PO David Pustilnik	13140	974442	JAMAICA AVE BID
26. SGT Anthony Coppola	01431	945166	JAMAICA AVE BID
27. PO Zachary Huseinovic	27400	973478	JAMAICA AVE BID

Officer(s)	Allegation	Inv. Div. Recommendation
A . PO Kevin Donato	Force: Police Officer Kevin Donato used physical force against § 87(2)(b)	A . Within NYPD Guidelines
B . PO Tyler Harper	Force: Police Officer Tyler Harper used physical force against § 87(2)(b)	B . Within NYPD Guidelines
C . PO Daniel Henao	Force: Police Officer Daniel Henao used physical force against § 87(2)(b)	C . Within NYPD Guidelines
D . PO Tyler Harper	Abuse: Police Officer Tyler Harper threatened § 87(2)(b) with the use of force.	D . Within NYPD Guidelines
E . PO Yonatan Schultz	Force: Police Officer Yonatan Schultz used physical force against an individual.	E . Within NYPD Guidelines
F . PO Domenick Lagomarsine	Force: Police Officer Domenick Lagomarsine used physical force against an individual.	F . Within NYPD Guidelines
G . PO Tyler Harper	Abuse: Police Officer Tyler Harper arrested § 87(2)(b) unlawfully.	G . Substantiated
H . PO Kevin Donato	Abuse: Police Officer Kevin Donato issued an improper summons to § 87(2)(b)	H . Substantiated

Case Summary

On August 12, 2024, § 87(2)(b) filed this complaint with the CCRB online.

On May 23, 2024, at approximately 6:04 p.m., § 87(2)(b) was with § 87(2)(b) and his child's mother whose name was not provided to the investigation, outside of § 87(2)(b) in Queens. Four officers arrived on scene including PO Kevin Donato of the Field Intelligence Officer Program. PO Donato prevented § 87(2)(b) from leaving by pushing him (**Allegation A: Force, *within NYPD guidelines***). PO Tyler Harper and PO Daniel Henao of the 103rd Precinct arrived on scene as back up and asked § 87(2)(b) for his ID. § 87(2)(b) began to walk away, and PO Harper pushed § 87(2)(b) to face him and then he and PO Henao brought § 87(2)(b) to the ground (**Allegations B** and **C: Force, *within NYPD guidelines***). While on the ground, PO Harper threatened to Tase § 87(2)(b) (**Allegation D: Abuse of Authority, *within NYPD guidelines***). Additional officers arrived on scene as back up including PO Yonatan Schultz and PO Dominick Lagomarsine of the 103rd Precinct who both pushed § 87(2)(b) child's mother (**Allegations E** and **F: Force, *within NYPD guidelines***).

PO Harper unlawfully arrested § 87(2)(b) (**Allegation G: Abuse of Authority, *substantiated***) and PO Donato issued § 87(2)(b) an improper summons (**Allegation H: Abuse of Authority, *substantiated***).

§ 87(2)(b) was arrested (§ 87(2)(b) for obstruction of governmental administration and resisting arrest (**BR 01**). § 87(2)(b) was issued a summons (§ 87(2)(b) for smoking (**BR 02**).

The investigation obtained 34 body-worn camera videos (**BR 03** – **BR 36**) and three cellphone videos (**BR 37**) that were provided by § 87(2)(b)

Findings and Recommendations

Allegation (A) Force: Police Officer Kevin Donato used physical force against § 87(2)(b)
Allegation (B) Force: Police Officer Tyler Harper used physical force against § 87(2)(b)
Allegation (C) Force: Police Officer Daniel Henao used physical force against § 87(2)(b)
Allegation (D) Abuse of Authority: Police Officer Tyler Harper threatened § 87(2)(b) with the use of force.
Allegation (E) Force: Police Officer Yonatan Schultz used physical force against an individual.
Allegation (F) Force: Police Officer Domenick Lagomarsine used physical force against an individual.

§ 87(2)(b) stated (**BR 38**) he was with several unidentified individuals including the mother of his child when four officers arrived in a police vehicle. Three of the officers began chasing an unidentified male. § 87(2)(b) did not see what happened to the male after officers chased him as they were too far away.

§ 87(2)(b) tried to cross the street to go home, however, PO Donato stayed behind and informed § 87(2)(b) that he could not leave. PO Donato stood in front of § 87(2)(b) and pushed him in the chest with one hand causing him to move backward a little. At least 10 officers arrived on scene as back up. § 87(2)(b) went toward the stairs to grab his speaker, or his drink and PO Harper pushed him to turn around and face him. PO Harper and one to two additional male officers pushed § 87(2)(b) onto the ground by making contact with his legs, arms, and neck underneath his chin. PO Harper cut § 87(2)(b) under his chin which caused it to bleed, however, § 87(2)(b) was not sure how he was cut by PO Harper. § 87(2)(b) did not obtain medical attention. § 87(2)(b) was positioned on his back and not resisting or moving. § 87(2)(b) head was on the ground. PO Harper was on top of § 87(2)(b) and pulled out a Taser and pointed it at the vicinity of § 87(2)(b) chest and head for approximately one minute. While this was happening, the mother of § 87(2)(b) child was recording the incident, and an officer pushed her back causing her to move backwards.

§ 87(2)(b) refused to provide his child's mother's name or contact information; however, her statement would not have changed the recommended disposition.

PO Donato's body-worn camera (**BR 06**) opens with PO Donato approaching the front of

§ 87(2)(b) § 87(2)(b) and § 87(2)(b) child's mother are sitting on the steps. Two unidentified males are standing in front of the steps. At 1:00 minute, PO Donato activates his body-worn camera as he attempts to prevent the males who were standing from leaving the location; however, one takes off running and the other walks away. At 1:25 minutes, § 87(2)(b) and § 87(2)(b) child's mother are off the steps and approach PO Donato on the sidewalk and PO Donato tells them that "someone just tossed a gun." At 2:40 minutes, § 87(2) stands close to PO Donato and asks, "I'm being detained?" PO Donato says, "Yes." PO Donato reaches out his right hand and places his fingers on § 87(2)(b) chest. § 87(2)(b) says, "For what?" PO Donato says, "I told you guys, I'll explain it to you." § 87(2)(b) says, "Fuck out of here," and turns to leave. PO Donato prevents § 87(2)(b) from leaving by moving § 87(2)(b) slightly toward a fence with his hand.

PO Harper's body-worn camera (**BR 13**) shows at 1:10 minutes, PO Harper arriving on scene where PO Donato explains to § 87(2)(b) and § 87(2)(b) child's mother, "Because you guys are smoking, loitering on the staircase within 100 feet of the building." At 1:28 minutes, PO Harper begins asking § 87(2)(b) for his ID several times and § 87(2)(b) walks away toward the stairs and PO Harper tells him he is not free to leave. PO Harper grabs § 87(2)(b) arm and back as § 87(2)(b) leans toward the stairs to pick up a speaker. PO Harper and PO Henao turn § 87(2)(b) so that his back is to a fence. § 87(2)(b) appears to tense his arms in front of him and PO Harper's camera falls off from the commotion.

PO Henao's body-worn camera (**BR 08**) is consistent with PO Harper's body-worn camera in that it shows § 87(2)(b) tensing his arms in from of his body from 1:44 minutes to 1:59 minutes when PO Henao's camera falls off as well.

Body-worn camera footage from Lieutenant Alex Chen of the 103rd Precinct (**BR 10**), shows at 1:00 minute, Lieutenant Chen approaching the scene. § 87(2)(b) is on the ground being handcuffed by PO Harper and PO Henao. PO Harper is depicted putting his Taser away as § 87(2) arms are being secured.

Body-worn camera from PO Adam Ensalata of the 103rd Precinct (**BR 11**), shows at 1:10 minutes, PO Enslata going to assist PO Harper and PO Henao who are attempting to gain control of § 87(2)(b) on the ground. § 87(2)(b) arms are in front of his chest until PO Ensalata and PO Henao manage to get his arms behind his back while PO Harper is putting his Taser away.

PO Schultz' body-worn camera (**BR 15**), shows at 1:12 minutes, PO Schultz pushing § 87(2) child's mother while she is walking toward § 87(2)(b) arrest yelling at officers to get off him.

PO Lagomarsine's body-worn camera (**BR 20**) shows at 1:06 minutes, as PO Lagomarsine is approaching the scene, § 87(2)(b) child's mother can be heard screaming at officers to get off § 87(2)(b) At 1:15 minutes, officers are attempting to remove her from immediate vicinity and PO Lagomarsine pushes her in the back causing her to take several steps forward.

PO Harper stated (**BR 39**) that PO Donato explained that the individuals were stopped for smoking and loitering. PO Harper asked § 87(2)(b) three different times for his ID, and he refused by saying, "For what?" and tried to walk away from the officers. PO Harper stopped § 87(2)(b) from walking away and asked one more time for his ID which he refused. PO Harper went to handcuff § 87(2)(b) as he was a flight risk at this point due to walking away, and he resisted by tensing up and grabbing for a fanny pack that he had. PO Harper used a forceful takedown and brought him to the ground. On the ground, § 87(2)(b) was initially on his back then he rolled over onto his stomach where he was actively resisting by flailing his arms to the side of his body. PO Harper took out his Taser and told § 87(2)(b) that if he did not give his hands, he would Tase him. § 87(2)(b) gave his hands at that point and PO Harper was able to handcuff him. PO Harper did not observe any cuts to § 87(2)(b) chin.

PO Henao's statement (**BR 40**) was consistent with PO Harper's. PO Schultz and PO Lagomarsine were not interviewed as their statements would not have changed the recommended disposition.

NYPD Patrol Guide procedure 221-01 (**BR 41**) states that force may be used when it is reasonable to ensure the safety of a member of service or a third person or when it is reasonable to place a person into custody. Any application of force must be reasonable under the circumstance and the following should be considered in determining whether it is reasonable: The nature and severity of the crime/circumstance, actions taken by the subject, duration of the action, immediacy of perceived threat or harm to the subject, MOS, or bystanders, whether the subject is actively resisting custody, whether the subject is attempting to evade arrest by flight, number of subjects in comparison to number of MOS, size, age, and condition of subject compared to that of the MOS, subject's violent history, presence of hostile crowd or agitators, and whether the subject is apparently under the influence of stimulants/narcotics.

NYPD Patrol Guide procedure 221-08 (**BR 42**) states that a conducted electrical weapon (CEW), or Taser, should only be used against persons who are actively resisting, exhibiting active aggression, or to prevent individuals from physically injuring themselves or other persons present.

§ 87(2)(g) it is recommended that **Allegation A** be closed ***within NYPD guidelines***.

§ 87(2)(g) body-worn camera footage shows that § 87(2)(b) walked away from officers, leaned over toward the stairs, then tensed his arms in front of his body when PO Harper and PO Henao attempted to handcuff him and continued holding his arms in front of his body on the ground § 87(2)(g) it is recommended that **Allegations B**, **C**, and **D** be closed ***within NYPD guidelines***.

§ 87(2)(g) the body-worn camera footage shows that she was pushed twice by two different officers and § 87(2)(b) did not distinguish which occurrence he was describing the allegation was pleaded against both PO Schultz and PO Lagomarsine. § 87(2)(g) it is recommended that **Allegations E** and **F** be closed ***within NYPD guidelines***.

Allegation (G) Abuse of Authority: Police Officer Tyler Harper arrested § 87(2)(b) unlawfully.

As discussed above, PO Harper's body-worn camera (**BR 13**) shows from 1:10 minutes to 1:51 minutes, PO Donato explaining that the reason for the stop was loitering and smoking, PO Harper requesting § 87(2)(b) ID multiple times, § 87(2)(b) walking away to grab his belongings, but not leaving the location, and then § 87(2)(b) tensing his arms when PO Harper and PO Henao went to handcuff him.

PO Harper stated (**BR 39**) that § 87(2)(b) was arrested for resisting arrest and obstruction of governmental administration. PO Harper explained that this constituted obstruction of governmental administration because § 87(2)(b) was asked for his ID four different times for a violation, and he did not give it. The violation in this case was smoking and loitering. There were clear signs marked on the building that said no smoking, no loitering. PO Harper was not the arresting officer, so he did not know why § 87(2)(b) was not also charged with smoking or loitering.

At the stationhouse, PO Harper discussed the incident with Det. Jeremy Hametz, of the Field Intelligence Officer (FIO) Program, who did the arrest paperwork. PO Harper explained to Det. Hametz that they asked § 87(2)(b) for his ID multiple times, he failed to provide ID and resisted when they went to put him in handcuffs. PO Harper did not view his body-worn camera with Det. Hametz. Det. Hametz took the arrest because it was the FIO officers' assignment and PO Harper

was just there to assist.

Det. Hametz stated (**BR 43**) that he took the arrest because his team had arrested someone else on scene who had run off upon arrival and was arrested for possession of a gun. PO Harper explained to Det. Hametz what had happened between himself and § 87(2)(b) on scene in which PO Harper had gone to the location to help Det. Hametz' partner who was alone at that point and when they approached § 87(2)(b) he was a little combative and not compliant. PO Harper's body-worn camera showed that § 87(2)(b) was not compliant and more or less admitted to loitering by stating he was sitting on the steps hanging out. Det. Hametz had reviewed PO Harper's body-worn camera on the day of the incident. § 87(2)(b) was arrested because he did not provide ID and was failing to comply with the orders that were being given to him by PO Harper and then for resisting arrest Det. Hametz did not explain whether he was solely basing the charges on what PO Harper told him, the events depicted on PO Harper's body-worn camera, or both.

§ 87(2)(b) arrest report (§ 87(2)(b) which lists obstruction of governmental administration in the second degree and resisting arrest as the charges states that while arresting officer, PO Hametz, was conducting a firearm investigation, he was informed by PO Harper, shield #24952, that defendant did fail to provide identification after loitering at listed location. Furthermore, defendant did tense body and flail arms while attempting to being placed under arrest (**BR 01**).

NYPD Patrol Guide procedure 209-09 (**BR 44**) states that when issuing a summons returnable to the criminal court, officers are to request that violator show proof of identity and residence. Officers are to remove violator to command for investigation if doubt concerning identity exists.

New York Penal Law § 195.05 (**BR 45**) states that a person is guilty of obstructing governmental administration (in the second degree) when they intentionally obstruct, impair or pervert the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service or by means of releasing a dangerous animal under circumstances evincing the actor's intent that the animal obstruct governmental administration.

§ 87(2)(g) it is recommended that **Allegation G** be ***substantiated***.

Allegation (H) Abuse of Authority: Police Officer Kevin Donato issued an improper summons to § 87(2)(b)

was unavailable to the investigation; however, his statement would not have changed the recommended disposition.

PO Donato's body-worn camera (**BR 06**) shows at 2:51 minutes, PO Donato explaining the stop, "Because you guys are smoking, loitering on the staircase within 100 feet of the building." At 3:02 minutes, PO Donato asks § 87(2)(b) if he has an ID on him numerous times. § 87(2)(b) asks what he did, and PO Donato tells him he is smoking. PO Donato repeatedly asks § 87(2)(b) for his ID more than ten times and at 4:12 minutes handcuffs § 87(2)(b)

PO Donato stated (**BR 46**) he asked § 87(2)(b) for his ID more than ten times, and he kept giving excuses about putting his lighter and phone in his pocket. PO Donato asked § 87(2) for his name, and he kept refusing so PO Donato placed him under arrest. § 87(2)(b) was issued a summons from the 103rd Precinct stationhouse for smoking. § 87(2)(b) could have been issued a summons for loitering as well. It was PO Donato's understanding that it is illegal to

smoke within 20 feet of an apartment building. PO Donato believed that if a building posted no smoking signs it is legally binding.

PO Donato provided photos of the signs posted at the building (**BR 47**) however not one of them mentions smoking and primarily prohibit trespassing and loitering.

In § 87(2)(b) summons (§ 87(2)(b) PO Donato lists New York Public Health law § 1399 as the law which was violated and states at the time and place of occurrence, defendant was observed loitering for the purpose of smoking in front of a four building housing complex capable of housing 324 residential units (**BR 02**).

New York Public Health law § 1399-o (**BR 48**) prohibits smoking and vaping in the following outdoor areas: Platforms of train stations. The grounds of a hospital or within 15 feet of the entrance to the hospital grounds. Within 100 feet of an elementary school or secondary school. Within 100 feet of any after-school program. Within 100 feet of a library.

§ 87(2)(g) it is recommended that **Allegation H** be ***substantiated***.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been a party (**BR 49** and **BR 50**).
- PO Donato has been a member of service for five years and named a subject in 11 additional CCRB complaints and 49 allegations, none of which have been substantiated, however, four of these complaints are still active or pending Board review.
- PO Harper has been a member of service for three years and named a subject in nine additional CCRB complaints and 22 allegations, one of which was substantiated.
  - 202300677 involved a substantiated allegation of a discourteous word. The Board recommended Command Discipline A and the NYPD imposed no penalty.
  - Three of these complaints are still active or pending Board Review.
- PO Henao has been a member of service for five years and named a subject in five additional CCRB complaints and six allegations, none of which have been substantiated. 202007260, 202307165, and 202309456 all contained allegations of physical force.
- PO Schultz has been a member of service for seven years and named a subject in three additional CCRB complaints and three allegations, none of which were substantiated.
- PO Lagomarsine has been a member of service for 17 years and named a subject in 13 additional CCRB complaints and 27 allegations, three of which have been substantiated.
  - 201505901 involved a substantiated allegation of a stop. The Board recommended formalized training, and the NYPD concurred.
  - 201606477 involved substantiated allegations of a frisk and vehicle stop. The Board recommended formalized training, and the NYPD concurred.
  - 200715470, 201004351, 201107514, 201214134, and 201406308 contained allegations of physical force.

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On October 2, 2024, a FOIL request was submitted to the New York City Comptroller's Office to inform of any Notice of Claim filed regarding this incident, the results of which will be added to the case file upon receipt (**BR 51**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

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

RPBP History

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad No.: 11

Investigator:	Kelly Lyon	SI Kelly Lyon	10/07/2024
	Signature	Print Title & Name	Date
Squad Leader:	Edwin Pena	IM Edwin Pena	10/08/24
	Signature	Print Title & Name	Date
Reviewer:			
	Signature	Print Title & Name	Date