On July 29, 2019, two teenagers were driving a motorized scooter when they were pulled over for traffic infractions by several officers, including Officer Timothy Burke, who were patrolling the area in an unmarked vehicle. The officers took the two teenagers to the ground, spoke discourteously to them, and used offensive language towards them before arresting them. Back at the stationhouse, Officer Burke and another officer continued to speak to the teenagers discourteously and used offensive language towards them. After one of the teenagers refused to take off his own shoes, Officer Burke leaned down to forcibly remove the shoes himself. The teenager pushed Burke away with his left hand and then PO Burke slapped him on the right side of his face with the shoe. The teenager was slapped again but it was unclear from the video evidence which officer delivered the slap. Thirty seconds later, Officer Burke and another officer pushed the teenager against the bench and used force to restrain his hands behind his back.

During his subsequent CCRB interview, Officer Burke stated that the teenager refused to take off his shoes voluntarily, so he had to remove the shoes for him. Officer Burke claimed that the teenager tried to shove him away which caused him to lose his balance backwards. It was only upon losing his balance, he claimed, that he reached out in front of him to catch his balance and his hand which was still holding the shoe accidentally made contact with the teenager’s face. Upon being shown another officer’s body worn camera footage which clearly showed him hitting the teenager in the face with the shoe, Officer Burke amended his statement to state that he struck the teenager in the face with the shoe as a reflex reaction to being shoved.

The CCRB substantiated allegations that PO Burke used excessive force and provided investigators with a misleading official statement. The NYPD reports the case as pending but PO Burke has left the department.
# CCRB INVESTIGATIVE RECOMMENDATION

**Investigator:**
Edward Tsigel

**Team:**
Squad #4

**CCRB Case #:**
201909958

**Force**
☑️

**Discourteous**
☑️

**U.S.**
☐

**Abuse**
☑️

**O.L.**
☐

**Injury**
☐

### Incident Date(s)
**Mon, 07/29/2019 1:45 AM, Mon, 07/29/2019 2:00 AM**

### Location of Incident:

### Precinct:
52

### 18 Mo. SOL:
01/29/2021

### EO SOL:
9/15/2021

### Date/Time CV Reported
**Thu, 11/07/2019 1:06 PM**

### CV Reported At:
IAB

### How CV Reported:
Phone

### Date/Time Received at CCRB
**Fri, 11/15/2019 9:10 AM**

### Complainant/Victim

### Type

### Home Address

### Subject Officer(s)

<table>
<thead>
<tr>
<th>Shield</th>
<th>TaxID</th>
<th>Command</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. An officer</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. POM Timothy Burke</td>
<td>17244</td>
<td>052 PCT</td>
</tr>
<tr>
<td>3. POM Edgar Rivera</td>
<td>05576</td>
<td>052 PCT</td>
</tr>
<tr>
<td>4. POM James Lindquist</td>
<td>06307</td>
<td>052 PCT</td>
</tr>
</tbody>
</table>

### Witness Officer(s)

<table>
<thead>
<tr>
<th>Shield No</th>
<th>Tax No</th>
<th>Cmd Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. POM Thomas Mullarkey</td>
<td>05409</td>
<td>052 PCT</td>
</tr>
<tr>
<td>2. SGT Craig Basler</td>
<td>00544</td>
<td>052 PCT</td>
</tr>
<tr>
<td>3. SSA Vincenzo Spinola</td>
<td>04384</td>
<td>052 PCT</td>
</tr>
<tr>
<td>4. POM Juan Rivera</td>
<td>02341</td>
<td>052 PCT</td>
</tr>
</tbody>
</table>

### Officer(s)

<table>
<thead>
<tr>
<th>Allegation</th>
<th>Investigator Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. POM Edgar Rivera Abuse of Authority: At § 87(2)(b) [ ] and § 87(2)(b) [ ] in The Bronx, Police Officer Edgar Rivera stopped the vehicle in which § 87(2)(b) [ ] were occupants.</td>
<td>A. § 87(2)(g)</td>
</tr>
<tr>
<td>B. POM Timothy Burke Abuse of Authority: At § 87(2)(b) [ ] in The Bronx, Police Officer Timothy Burke stopped the vehicle in which § 87(2)(b) [ ] were occupants.</td>
<td>B. § 87(2)(g)</td>
</tr>
<tr>
<td>C. POM James Lindquist Abuse of Authority: At § 87(2)(b) [ ] in The Bronx, Police Officer James Lindquist stopped the vehicle in which § 87(2)(b) [ ] were occupants.</td>
<td>C. § 87(2)(g)</td>
</tr>
<tr>
<td>D. POM Edgar Rivera Force: At § 87(2)(b) [ ] in The Bronx, Police Officer Edgar Rivera used physical force against [ ].</td>
<td>D. § 87(2)(g)</td>
</tr>
<tr>
<td>E. POM Timothy Burke Force: At § 87(2)(b) [ ] in The Bronx, Police Officer Timothy Burke used physical force against § 87(2)(b) [ ].</td>
<td>E. § 87(2)(g)</td>
</tr>
<tr>
<td>F. POM James Lindquist Force: At § 87(2)(b) [ ] in The Bronx, Police Officer James Lindquist used physical force against § 87(2)(b) [ ].</td>
<td>F. § 87(2)(g)</td>
</tr>
<tr>
<td>Officer(s)</td>
<td>Allegation</td>
</tr>
<tr>
<td>-----------</td>
<td>---------------------------------------------------------------------------</td>
</tr>
<tr>
<td>G. POM Timothy Burke</td>
<td>Discourtesy: At § 87(2)(b) in The Bronx, Police Officer Timothy Burke spoke discourteously to § 87(2)(b).</td>
</tr>
<tr>
<td>H. POM Timothy Burke</td>
<td>Discourtesy: At § 87(2)(b) in The Bronx, Police Officer Timothy Burke spoke discourteously to § 87(2)(b).</td>
</tr>
<tr>
<td>I. POM Edgar Rivera</td>
<td>Off. Language: At East § 87(2)(b) in The I. Bronx, Police Officer Edgar Rivera made remarks to Ehab Hezam based upon the gender of § 87(2)(b).</td>
</tr>
<tr>
<td>J. POM James Lindquist</td>
<td>Discourtesy: At § 87(2)(b) in The Bronx, Police Officer James Lindquist spoke discourteously to § 87(2)(b).</td>
</tr>
<tr>
<td>K. POM Edgar Rivera</td>
<td>Off. Language: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).</td>
</tr>
<tr>
<td>L. POM Edgar Rivera</td>
<td>Off. Language: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera made remarks to § 87(2)(b) based upon the gender of § 87(2)(b).</td>
</tr>
<tr>
<td>M. POM Timothy Burke</td>
<td>Discourtesy: At the 52nd Precinct stationhouse, Police Officer Timothy Burke spoke discourteously to Ehab Hezam.</td>
</tr>
<tr>
<td>N. POM Timothy Burke</td>
<td>Discourtesy: At the 52nd Precinct stationhouse, Police Officer Timothy Burke spoke discourteously to § 87(2)(b).</td>
</tr>
<tr>
<td>O. POM Timothy Burke</td>
<td>Force: At the 52nd Precinct stationhouse, Police Officer Timothy Burke hit § 87(2)(b) against a wall.</td>
</tr>
<tr>
<td>P. POM Timothy Burke</td>
<td>Force: At the 52nd Precinct stationhouse, Police Officer Timothy Burke struck § 87(2)(b) with a shoe.</td>
</tr>
<tr>
<td>Q. POM Timothy Burke</td>
<td>Force: At the 52nd Precinct stationhouse, Police Officer Timothy Burke used physical force against § 87(2)(b).</td>
</tr>
<tr>
<td>R. POM Edgar Rivera</td>
<td>Force: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera used physical force against § 87(2)(b).</td>
</tr>
<tr>
<td>S. An officer</td>
<td>Abuse of Authority: At the 52nd Precinct stationhouse, an officer threatened § 87(2)(b) with the use of force.</td>
</tr>
<tr>
<td>T. POM Timothy Burke</td>
<td>Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Timothy Burke threatened § 87(2)(b) with the use of force.</td>
</tr>
<tr>
<td>U. POM Timothy Burke</td>
<td>Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Timothy Burke damaged § 87(2)(b) property.</td>
</tr>
<tr>
<td>V. POM Edgar Rivera</td>
<td>Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera refused to provide his shield number to § 87(2)(b).</td>
</tr>
<tr>
<td>W. Z. POM Timothy Burke</td>
<td>Untruthful Statement: Police Officer Timothy Burke provided a misleading official statement to the CCRB.</td>
</tr>
</tbody>
</table>
Case Summary

On November 7, 2019, Police Officer Edgar Rivera stopped the vehicle in which officers were occupants. Police Officer James Olga Bentin and were driving a motorized scooter and were pulled over by Police Officer Edgar Rivera, Police Officer Timothy Burke, and Police Officer James Lindquist, all of the 52nd Precinct, at 40877 2nd Ave. PO Burke provided a misleading official statement to the CCRB (Allegation Z – Untruthful Statement – § 87(2)(b)).

On July 29, 2019, at 1:45 AM, PO Rivera and PO Burke were driving a motorized scooter and were pulled over by Police Officer Edgar Rivera, Police Officer Timothy Burke, and Police Officer James Lindquist, all of the 52nd Precinct, at 40877 2nd Ave. PO Burke allegedly pushed Officer James Olga Bentin and was reassigned to Investigator Edward Tsigel upon Investigator Bentin’s departure from the CCRB.

For discourtesy, failure to properly document this incident, failure to activate their BWCs, and failure to notify supervisors and the IAB regarding the nature of this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: At 40877 2nd Ave. in The Bronx, Police Officer Edgar Rivera stopped the vehicle in which PO Burke and PO Lindquist were occupants.
Allegation (B) Abuse of Authority: At § 87(2)(b) in The Bronx, Police Officer Timothy Burke stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (C) Abuse of Authority: At § 87(2)(b) in The Bronx, Police Officer James Lindquist stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

The investigation did not obtain a statement from § 87(2)(b) because he was unavailable (BR 01).

On July 29, 2019, at approximately 1:45 AM, § 87(2)(b) (BR 02) and § 87(2)(b) were driving a motorized scooter on § 87(2)(b) in The Bronx at approximately 30 miles per hour when they observed PO Rivera, PO Burke, and PO Lindquist following them in an unmarked black sedan. They turned onto § 87(2)(b) and drove on the sidewalk for approximately one minute. The officers then turned on their lights and sirens and pulled § 87(2)(b) and § 87(2)(b) over at the corner of § 87(2)(b) and § 87(2)(b).

PO Rivera (BR 03), PO Burke (BR 04), and PO Lindquist (BR 05) stated that they observed § 87(2)(b) and § 87(2)(b) operate a motorized scooter and commit multiple traffic infractions, including not having a license plate on the scooter, running a red light, speeding at approximately 25 to 40 miles per hour, driving towards incoming traffic on one-way streets, and driving on the sidewalk. The officers made a joint decision to initiate a vehicle stop by turning on their lights and sirens. § 87(2)(b) and § 87(2)(b) did not stop once the officers initiated the vehicle stop and continued driving on the sidewalk for approximately four to ten blocks. All of the officers stated that initially the purpose of the vehicle stop was to address the traffic infractions, but because § 87(2)(b) and § 87(2)(b) fled from the officers and continued to drive on the sidewalk, they were going to be placed under arrest for reckless endangerment.

BWC footage (BR 06-09) does not capture § 87(2)(b) and § 87(2)(b) driving on the motorized scooter.

NYS VTL Section 1225-A (BR 10) states that no person shall drive a motor vehicle on or across a sidewalk except when reasonable and necessary. If it is reasonable and necessary, then the vehicle must be driven at no more than five miles per hour and in such manner as to not interfere with the safety and passage of pedestrians.

NYC DOT Traffic Rules Section 4-06 (BR 11) states that no person shall drive a vehicle at a speed greater than twenty-five miles per hour except where official signs indicate a different maximum speed limit.

§ 87(2)(g)

Allegation (D) Force: At § 87(2)(b) in The Bronx, Police Officer Edgar Rivera used physical force against § 87(2)(b).

Allegation (E) Force: At § 87(2)(b) in The Bronx, Police Officer Timothy Burke used physical force against § 87(2)(b).

Allegation (F) Force: At § 87(2)(b) in The Bronx, Police Officer James Lindquist used physical force against § 87(2)(b).

(BR 02) stated that after he was pulled over, PO Rivera, PO Burke, and PO Lindquist approached him and § 87(2)(b). The officers pushed his motorized scooter to the ground, grabbed him by his arm and back, threw him to the ground, and handcuffed him. § 87(2)(b) was also taken to the ground and handcuffed by an officer. § 87(2)(b) and § 87(2)(b) were arrested and transported to the 52nd Precinct stationhouse.

PO Rivera (BR 03), PO Burke (BR 04) and PO Lindquist (BR 05), all stated that they approached § 87(2)(b) and § 87(2)(b) grabbed them, guided them to the ground, and handcuffed
them because they were under arrest for reckless endangerment. Neither PO Rivera nor PO Lindquist resisted the officers. Due to § 87(2)(b), and § 87(2)(b), fleeing from the officers prior to the vehicle stop, it was necessary for the officers to immediately take them down to prevent the possibility of them fleeing from the officers again.

BWC footage shows that after the officers pull § 87(2)(b) and § 87(2)(b) over, they approach them and immediately take them to the ground. From 00:20 to 00:40 of PO Rivera’s BWC (1) (BR 06), PO Rivera is seen grabbing § 87(2)(b) taking him to the ground, and handcuffing him. From 00:15 to 00:35 of PO Burke’s BWC (BR 07), PO Burke is seen taking § 87(2)(b) to the ground. From 00:15 to 00:35 of PO Lindquist’s BWC (BR 08), PO Lindquist is seen taking § 87(2)(b) to the ground and handcuffing him. Neither PO Rivera nor PO Lindquist resist the officers. It is unclear what actions PO Burke, PO Rivera, and PO Lindquist take to bring § 87(2)(b) and § 87(2)(b) to the ground.

NYPD Patrol Guide Procedure 221-01 (BR 12) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody.

§ 87(2)(g)

Allegation (G) Discourtesy: At § 87(2)(b) in The Bronx, Police Officer Timothy Burke spoke discourteously to § 87(2)(b)

Allegation (H) Discourtesy: At § 87(2)(b) in The Bronx, Police Officer Timothy Burke spoke discourteously to § 87(2)(b)

Allegation (I) Offensive Language: At § 87(2)(b) in The Bronx, Police Officer Edgar Rivera made remarks to § 87(2)(b) based upon the gender of § 87(2)(b)

Allegation (J) Discourtesy: At § 87(2)(b) in The Bronx, Police Officer James Lindquist spoke discourteously to § 87(2)(b)

The above allegations were captured in the BWC videos and were not alleged by § 87(2)(b).

From 0:00 to 10:00 of PO Rivera’s BWC (1) (BR 06), § 87(2)(b) and § 87(2)(b) are handcuffed and placed under arrest. Additional officers are requested and arrive at the scene after approximately five minutes. § 87(2)(b) and § 87(2)(b) are placed into a marked police vehicle and transported to the 52nd Precinct stationhouse. At 0:33 PO Burke says, “You think you’re fucking cool bro.” Between 8:35 and 10:16, PO Rivera calls § 87(2)(b) a “Pussy” multiple times, says “Make me your bitch, keep making me your bitch,” and tells § 87(2)(b) to “Shut up” multiple times.

At 0:30 of PO Burke’s BWC (BR 07), PO Burke whispers “Fucking ass” in the vicinity of § 87(2)(b) and at 1:05, PO Burke calls § 87(2)(b) an “Idiot.”

From 2:05 to 3:40 of PO Lindquist’s BWC (BR 08), PO Burke and PO Lindquist call § 87(2)(b) a “Goofy ass.”

PO Rivera (BR 03), PO Burke (BR 04), and PO Lindquist (BR 05) stated that § 87(2)(b) and § 87(2)(b) made repeated threats towards the officers and told them that they would kill and rape them and their family members. PO Rivera, PO Burke, and PO Lindquist acknowledged making the above statements in the heat of the moment and as a response to the continuous verbal abuse from § 87(2)(b) and § 87(2)(b) during the incident.
Patrol Guide Procedure 200-02 (BR 13) states that the department is committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

Patrol Guide Procedure 203-10 (BR 25), states that members of service are prohibited from using discourteous or disrespectful remarks regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.

§ 87(2)(g)

Allegation (K) Offensive Language: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera made remarks to based upon the gender of § 87(2)(b) based upon the gender of

Allegation (L) Offensive Language: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera made remarks to based upon the gender of § 87(2)(b)

Allegation (M) Discourtesy: At the 52nd Precinct stationhouse, Police Officer Timothy Burke spoke discourteously to § 87(2)(b)

Allegation (N) Discourtesy: At the 52nd Precinct stationhouse, Police Officer Timothy Burke spoke discourteously to and were transported to the 52nd Precinct stationhouse after their arrest. The above allegations were captured in the BWC video and were not alleged by § 87(2)(b)

From 0:00 to 6:25 of PO Rivera’s BWC (2) (BR 09), and § 87(2)(b) are lodged at the front desk of the 52nd Precinct stationhouse. At 6:25 they are brought into the juvenile room and are searched before being put into a cell. Between 0:00 and 8:45, PO Rivera calls § 87(2)(b) a “Pussy” multiple times and uses the word “Fuck” multiple times in statements such as “You ready to fuck me up right?” At 8:45, PO Burke tells § 87(2)(b) to “Shut the fuck up.” Between 8:50 and 10:00, PO Rivera and PO Burke repeatedly use the words “Shit,” “Fuck,” and “Fucking” in statements such as “What the fuck is wrong with you,” and “Don’t fucking move.” PO Rivera (BR 03) and PO Burke (BR 04) acknowledged making the above statements in the heat of the moment and out of frustration due to the verbal abuse from and throughout the night of the incident.

Patrol Guide Procedure 200-02 (BR 13) states that the department is committed to treating every citizen with compassion, courtesy, professionalism, and respect. Officers are expected to maintain a higher standard of integrity than is generally expected of others.

Patrol Guide Procedure 203-10 (BR 25), states that members of service are prohibited from using discourteous or disrespectful remarks regarding another person’s ethnicity, race, religion, gender, gender identity/expression, sexual orientation, or disability.

§ 87(2)(g)

Allegation (O) Force: At the 52nd Precinct stationhouse, Police Officer Timothy Burke hit § 87(2)(b) against a wall.

Allegation (P) Force: At the 52nd Precinct stationhouse, Police Officer Timothy Burke struck § 87(2)(b) with a shoe.

Allegation (Q) Force: At the 52nd Precinct stationhouse, Police Officer Timothy Burke used physical force against § 87(2)(b)

Allegation (R) Force: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera used physical force against

Allegation (S) Abuse of Authority: At the 52nd Precinct stationhouse, an officer threatened § 87(2)(b) with the use of force.

Allegation (T) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Timothy
Burke threatened with the use of force.

Allegation (U) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Timothy Burke damaged property.

PO Rivera (BR 02) stated that once he was brought into the stationhouse an officer handcuffed his right hand to the bench in the room. PO Burke requested that he take off his shoes and he told PO Burke that he had trouble taking off his shoes because his right hand was handcuffed to the bench. PO Burke pushed his shoes into the wall and took off his shoes for him. An unknown male officer pointed his taser at PO Burke and said, “Make any move and I will tase you.” PO Burke took out a three-inch pocketknife and put it against his stomach and then proceeded to cut the strings off his shorts. An officer handcuffed his hands and feet together and placed him in a cell.

PO Rivera (BR 03), PO Burke (BR 04) and PO Lindquist (BR 05) stated that they brought PO Burke into the stationhouse and PO Burke asked to take off his shoes, but they did not remember who specifically. In the room PO Burke asked to take off his shoes and PO Burke took them off for him. Once PO Burke took off his shoes PO Burke pushed PO Burke. PO Burke stated that the push caused him to lose his balance and fall backwards away from PO Burke. PO Burke was carrying his shoes in his hand. To catch his balance, PO Burke reached out in front of him with his hand that held his shoe and, in the process, the shoe made contact with PO Burke’s face. During a follow up interview, PO Burke was shown PO Rivera’s BWC footage (BR 09) from 8:35 to 9:00. PO Burke amended his statement (BR 17) and stated that he struck PO Burke as a reflexive action due to PO Burke’ showing him.

PO Rivera (BR 03), PO Burke (BR 04) and PO Lindquist (BR 05) all stated that then slapped PO Burke on the right side of his face with his free left hand. PO Rivera and PO Burke pushed down against the bench, uncuffed his right hand from the bench, and handcuffed his hands behind his back. PO Lindquist assisted PO Rivera and PO Burke in handcuffing PO Burke’s hands. PO Rivera witnessed the entire incident. PO Lindquist was present in the room but did not see the force used and only saw it at a later date when he reviewed PO Rivera’s BWC (2) footage (BR 09). Once PO Burke was handcuffed, him and were placed in a cell and the officers left the room.

PO Rivera (BR 03), PO Burke (BR 04) and PO Lindquist (BR 05) denied pushing or seeing any other officer do that. They all denied pointing a taser at PO Burke or seeing any other officer do that. None of the officers saw any officer with their taser out during this incident. All of the officers denied threatening to tase or threatening any other officer do so.

PO Burke stated that he had a pocketknife on him during this incident, but never placed it against his stomach. He did not remember if he took it out but stated that he only ever used it to cut strings off of prisoners’ clothing prior to placing them into cells, as per department procedure. He did not remember if he or any other officer cut the strings off his shorts. PO Rivera and PO Lindquist did not see PO Burke take out a knife or place one against his stomach. PO Rivera and PO Lindquist did not cut the strings off PO Burke’s shorts or see any other officer do that but stated that it would have been procedure to do so if the strings could not be removed otherwise, or if PO Burke refused to voluntarily remove them.

BWC footage captures one angle of this incident and does not clearly capture all actions taken or statements made by and the officers. From 0:00 to 6:25 of PO Rivera’s BWC (2) (BR 09), and are being lodged at the front desk of the 52nd Precinct stationhouse. From 6:25 to 8:30 PO Rivera, PO Burke, and PO Lindquist bring into the room and handcuff them to a bench in the room. At 8:45, PO Burke asks to take off his shoes and he refuses to do so. PO Burke takes his shoes off for him and pushes PO Burke away with his left hand. PO Burke slaps on the right side of his face with a shoe. PO Rivera and PO Burke approach and tell him to not
touch PO Burke. Immediately after, a slap is heard but it is not seen who slaps who or where they are slapped. PO Rivera and PO Burke were shown the BWC footage at 8:55 and they stated that slapped the right side of PO Burke’s face with his left hand during this portion of the incident. Between 9:00 and 10:30, PO Rivera and PO Burke push and handcuffed his hands behind his back. At 11:00 PO Rivera leaves the juvenile room and the footage ends. There are at least seven male officers seen standing immediately outside of the room. The footage shows that neither PO Burke nor any other officer pushed his head against the wall. The footage does not show any officer ever pointing their taser at or does not capture any officer saying “Make any move and I will tase you” or any other verbal or physical threat involving the use of a taser. The footage does not capture PO Burke or any other officer ever carrying a pocketknife, placing a knife against person, or using a knife to cut any strings on person’s clothing.

**NYPD Patrol Guide Procedure 221-01 (BR 12)** states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. Officers must consider the immediacy of the perceived threat or harm to members of service.
Allegation (V) Abuse of Authority: At the 52nd Precinct stationhouse, Police Officer Edgar Rivera refused to provide his shield number to BR 02 stated that he was released from the cell the following morning without any charges or summonses. Once he was released, he asked PO Rivera for his shield number and the shield number of the other officers involved in this incident. PO Rivera laughed and said, “Get out of here.” PO Rivera never provided his or any other shield numbers to BR 03 did not remember if requested his shield number or any other officers’ shield numbers but believed that he provided it to at some point during the day of the incident. PO Burke (BR 04) and PO Lindquist (BR 05) did not hear ask PO Rivera or any other officers for their shield numbers.

BWC footage (BR 06-09) did not capture asking any officers for their shield numbers.

Allegation (Z) Untruthful Statement: Police Officer Timothy Burke provided a misleading
During PO Burke’s initial narrative (BR 04), he stated that refused to take off his shoes voluntarily, so he leaned to the ground and removed his shoes for him. PO Burke away which caused him to lose his balance backwards. PO Burke reached out in front of him (with his hand that held shoe) to catch his balance, and in the process, the shoe made contact with face. PO Burke was shown from 8:35 to 9:00 of PO Rivera’s BWC 2 (BR 09) in which he is seen hitting in the face with the shoe. PO Burke amended his statement (BR 17) and stated that he struck in the face with the shoe as a reflexive reaction to shoving him away.

**NYPD Patrol Guide Procedure 203-08** (BR 18) states that a misleading statement is a statement that is intended to misdirect the fact finder, and materially alter the narrative by: intentionally omitting a material fact or facts, or altering and/or changing a member’s prior statement or account when a member of service is confronted with independent evidence indicating that an event did not occur as initially described. A material fact is a significant fact that a reasonable person would recognize as relevant to, or affecting, the subject matter of the issue at hand, including any foreseeable consequences, or establishment of the elements of some proscribed conduct. It is a fact that is essential to the determination of the issue and the suppression, omission, or alteration of such fact would reasonably result in a different decision or outcome. A material fact may be distinguished from an insignificant, trivial, or unimportant detail.

§ 87(2)(g)

**Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which has been a party (BR 19).
- This is the first CCRB complaint to which has been a party (BR 20).
- Police Officer Edgar Rivera has been a member of service for seven years and has been a subject in nine other CCRB complaints and twenty-five allegations, of which five were substantiated.
  - 201702768 involved a substantiated allegation of a threat of force against PO Rivera. The board recommended formalized training and the NYPD imposed instructions as discipline.
  - 201703447 involved a substantiated allegation of a refusal to provide name and shield number against PO Rivera. The board recommended command level instructions and the NYPD imposed command level instructions as discipline.
  - 201806414 involved a substantiated allegation of a discourtesy against PO Rivera. The board recommended command level instructions and the NYPD imposed command level instructions as discipline.
  - 201909592 involved substantiated allegations of failure to provide RTKA card, and a stop against PO Rivera. The board recommended command discipline A and the NYPD has not yet imposed discipline.
  - PO Rivera’s CCRB history does not reflect any apparent pattern pertinent to this investigation.
• Police Officer Timothy Burke has been a member of service for seven years and has been a subject in four other CCRB complaints and nine allegations, of which two were substantiated.
  o 201909592 involved substantiated allegations of failure to provide RTKA card, and a stop against PO Burke. The board recommended command discipline A and the NYPD has not yet imposed discipline. PO Burke’s CCRB history does not reflect any apparent pattern pertinent to this investigation.

• Police Officer James Lindquist has been a member of service for seven years and has been a subject in five other CCRB complaints and fourteen allegations, of which one was substantiated.
  o 201703383 involved a substantiated allegation of a question against PO Lindquist. The board recommended command level instructions and the NYPD imposed formalized training as discipline. PO Lindquist’s CCRB history does not reflect any apparent pattern pertinent to this investigation.

Mediation, Civil and Criminal Histories
• This case was not eligible for mediation.

§ 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b)

s mother § 87(2)(b)  filed a notice of claim with the City of New York on behalf of § 87(2)(b)  She claimed that § 87(2)(b)  was illegally seized, detained, falsely arrested, assaulted, battered, and improperly taken into custody and is seeking $500,000 as redress (BR 21).
• According to the Office of Court Administration (OCA), § 87(2)(b) (BR 22) and § 87(2)(b) (BR 23) have no history of convictions in New York City.

Squad No.: 4

Investigator: Edward Tsigel  Investigator Edward Tsigel  6/17/2021
Signature Print Title & Name Date

Squad Leader: Raquel Velasquez  IM Raquel Velasquez  6/22/2021
Signature Print Title & Name Date

Reviewer:  
Signature Print Title & Name Date