

Date: July 23, 2021
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary – August 2, 2021 Board Meeting

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Complaint #	19086
Complainant	Keenan Brock
Incident Date	April 24, 2019
CCA Investigator	Jessalyn Goodman
CCA Findings	Officer John Goebel Improper Seizure – EXONERATED Improper Search – EXONERATED Excessive Force – NOT SUSTAINED Harassment – NOT SUSTAINED Discourtesy – SUSTAINED

ANALYSIS

Allegation 1: Improper Seizure

At the directive of command staff, Officer Goebel conducted directed foot patrols around Baymiller and Findlay Streets due to community members’ reported concerns regarding loitering and drug activity. In his statement, Officer Goebel added that local community members and property owners mentioned similar concerns to him and did not want individuals loitering by their properties and blocking the sidewalk. On April 24, 2019, Officer Goebel observed Mr. Brock and three other individuals situated on the sidewalk of Baymiller and Findlay Streets, so he directed them to leave or receive a citation for impeding pedestrian traffic. Initially, the individuals complied but returned. When Officer Goebel saw them, he observed Mr. Brock discard a plastic wrapper onto the sidewalk; he detained Mr. Brock to issue a citation for CMC § 714-3: Litter in Public Places.

CPD Procedure § 12.554, Investigatory Stops, maintains that an arrest occurs when a citizen is no longer free to leave and the officer has the intent to arrest. The arrest must be supported by probable cause to believe the citizen is committing or has committed a criminal offense. Officer Goebel did not activate his BWC until he had started his conversation with Mr. Brock; as a result, there is no BWC footage to verify

Officer Goebel's initial observation. However, once Officer Goebel activated his BWC, he focused it on a plastic wrapper near where Mr. Brock had stood and stated, "This is part of the wrapper that he threw on the ground. It's on the littering ticket."

Despite the fact that Mr. Brock has disputed that he littered, CCA is not tasked with resolving whether Mr. Brock littered as accused, but rather with whether Officer Goebel had probable cause to arrest him for littering. Here BWC evidence shows that the officer confronted Mr. Brock very shortly after allegedly seeing the offense, and informed Mr. Brock that the officer observed Mr. Brock litter. The existence of these near-contemporaneous statements to Mr. Brock cut against the notion that the officer fabricated those observations later as a false pretense for an arrest. The observations are also corroborated by the fact that the officer completed a contact card shortly after the encounter that in part memorialized the observations. Therefore, the evidence establishes by a preponderance that Officer Goebel did not violate police policy, training, or procedure when he detained and cited Mr. Brock.

Allegation 2: Improper Search

Officer Goebel detained Mr. Brock to issue the littering citation. During the stop, Officer Goebel and Mr. Brock argued about whether Mr. Brock littered; Mr. Brock motioned with the chair and refused to drop it when directed to. Due to Mr. Brock's "combative" posture and speech, Officer Goebel removed the folding chair from Mr. Brock's hands, threw it to the side, and handcuffed Mr. Brock "for officer safety." This was corroborated by Officer Hayes and BWC footage. Officer Goebel stated he frisked Mr. Brock for weapons, due to concerns of his behavior and because he was in an area with reported high drug activity. In his statement, Officer Goebel did not believe he searched Mr. Brock; however, BWC footage showed Officer Goebel searched his pockets.

CPD Investigations Manual states officers are able to search an individual incident to arrest. In his statement, Officer Goebel described the situation as "an arrest." The CAD Report listed the Disposition as "Arrest," even though the comments include, "Combative subject detained temporarily to issue a citation." The completed Contact Card described Mr. Brock as "arrested." Although Mr. Brock was released with a citation, the citation was for a misdemeanor in the third degree, rather than for a traffic offense or minor misdemeanor. In addition, Mr. Brock was handcuffed prior to being searched and then swiftly detained in the rear of a police vehicle after the search. Taken together, those facts suggest that he was under custodial arrest at the time of the search. Therefore, the evidence establishes by a preponderance that the search was a valid search incident to arrest and thus that Officer Goebel was within CPD policy, procedure, and training.

Allegation 3: Excessive Force

Mr. Brock alleged that Officer Goebel "squeezed" the handcuffs together, sustaining injuries to his wrists. CPD Procedure §12.660, Prisoners: Securing Handling, and Transporting states that when handcuffs are applied, they "should be *reasonably* snug" (emphasis added), which is consistent with principles of reasonableness found in CPD Procedure 12.545 Use of Force. Per BWC footage, Mr. Brock stated the handcuffs were "too tight" three times, but Officer Goebel did not review or adjust them. Mr. Brock stated that due to a pre-existing injury, the handcuffing worsened his wrists' condition for two days. However, Mr. Brock did not advise Officer Goebel of his injury prior to or during his detainment. Additionally, CCA was unable to verify whether the handcuffs exacerbated his previous injury. Therefore, the evidence does not establish whether the handcuffs were reasonably applied and whether Officer Goebel's actions were within CPD policy, procedure, and training.

Allegation 4: Harassment

Mr. Brock alleged Officer Goebel’s subsequent action indicated harassment as Officer Goebel ticketed his vehicle for a parking violation but did not cite other vehicles for similar offenses. Officer Goebel denied the allegation. CPD does not have a definition or policy regarding harassment, but in the 2018 CCA Annual Report, CCA defined harassment to include “behavior that threatens or torments somebody, especially persistently.” At a minimum, under this definition, there must be proof of a pattern of wrongful conduct. City of Cincinnati records show two vehicles received citations on the same date, in the same area, and in a similar time frame regarding CMC §508-1A regarding parking violations; one of the vehicles belonged to Mr. Brock. Officer Goebel acknowledged that he knew Mr. Brock drove a blue vehicle but mentioned there were several blue vehicles in the area; he claimed he knew it was similar to the vehicle Mr. Brock drove the day before but was unaware it was Mr. Brock’s vehicle at the time of the citation. BWC footage showed Mr. Brock driving his vehicle in the presence of Officer Goebel. Mr. Brock denied any prior contact with Officer Goebel, although a review of CPD records showed one prior contact in February 2018. CCA could not determine if Mr. Brock was harassed as alleged.

Allegation 5: Discourtesy

Mr. Brock alleged Officer Goebel was “too aggressive” during the pedestrian stop. CPD’s Manual of Rules and Regulations §1.06 states members shall always be civil, orderly, and courteous in dealing with the public, subordinates, superiors and associates, and avoid the use of coarse, violent, or profane language. Although Officer Goebel denied being discourteous, BWC footage showed he directed profanity towards Mr. Keenan Brock multiple times during the encounter. Therefore, Officer Goebel was not in compliance with CPD’s policy, procedure, and training.

Note: Officer Goebel received an ESL for violating CPD’s Manual of Rules and Regulations.

FINDINGS

Officer John Goebel

Improper Seizure – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Improper Search – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Excessive Force – There are insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED**

Harassment – There are insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED**

Discourtesy – The allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper. **SUSTAINED**

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2

Complaint #	19109
Complainant	DeAndre Matthews
Incident Dates	March 17, May 12, and May 20, 2019
CCA Investigator	Dena Brown
CCA Findings	<u>Original Allegations</u> <i>Incident #1</i> Officer Michael Morrissey Improper Seizure – EXONERATED Improper Pointing of a Firearm – UNFOUNDED <i>Incident #2</i> Officer Michael Morrissey Officer Antonio Etter Improper Seizure – EXONERATED <i>Incidents #2 & #3</i> Officer Michael Morrissey Officer Antonio Etter Harassment – UNFOUNDED <u>Collateral Allegations</u> <i>Incident #2</i> Officer Michael Morrissey Discourtesy – SUSTAINED

ANALYSIS

Incident #1

Allegation 1: Improper Seizure

During routine patrol, Officer Morrissey observed Mr. DeAndre Matthews's vehicle with expired tags. Cincinnati Municipal Code 513-1: Impoundment of Motor Vehicles empowers officers to tow any motor vehicle which is parked in violation of law or which does not display currently valid license plates. CPD Procedure § 12.205 Traffic Enforcement directs officers to take appropriate enforcement action whenever a violation is detected. Officer Morrissey queried Mr. DeAndre Matthews's tags and confirmed the violation. Officer Morrissey issued a citation based off the traffic violation. This was confirmed by the BWC footage. CCA determined Officer Morrissey's decision to tow Mr. DeAndre Matthews's vehicle was within CPD's policy, procedure, and training.

Allegation 2: Improper Pointing of a Firearm

During this enforcement action, Mr. DeAndre Matthews alleged Officer Morrissey drew and pointed his firearm at him. Officer Morrissey denied the allegation. A review of Officer Morrissey's BWC footage confirmed Officer Morrissey never had his firearm drawn or pointed at Mr. DeAndre Matthews. However, the BWC footage also showed Mr. DeAndre Matthews continuously placing his hands in his pocket and approaching the vehicle after being ordered several times to remove his hands from his pocket and to stay away from the vehicle connected to the tow truck. Mr. Matthews approached and reached for the door and because Officer Morrissey could not see inside the vehicle due to the dark tint, Officer Morrissey drew and pointed his taser. Mr. DeAndre Matthews eventually complied with Officer Morrissey's directives and left the scene.

Officer Morrissey stated he drew his taser due to Mr. DeAndre Matthews's non-compliance after being ordered to step away from the vehicle several times. CPD Procedure 12.545 Use of Force states the taser is designed for self-defense or to temporarily immobilize a subject who is actively resisting arrest. Under the circumstances presented here, the evidence does not establish a violation of CPD's taser policies or procedures. As it pertains to the firearm assertion, CCA determined there was no support for the allegation.

Incident #2

Allegation 1: Improper Seizure

During routine patrol, Officers Morrissey and Etter observed Mr. DeAndre Matthews's vehicle parked with expired tags. Cincinnati Municipal Code 513-1: Impoundment of Motor Vehicles empowers officers to tow any motor vehicle which is parked in violation of law or which does not display currently valid license plates. CPD Procedure § 12.205 Traffic Enforcement directs officers to take appropriate enforcement action whenever a violation is detected. Officer Morrissey queried Mr. DeAndre Matthews's tags and confirmed the violation. Officer Etter issued a citation based off the traffic violation. This was confirmed by the BWC footage. CCA determined the officer's decision to tow Mr. DeAndre Matthews's vehicle was within CPD's policy, procedure, and training.

Allegation 2: Discourtesy

CPD's Manual of Rules and Regulations § 1.06 states members shall always be civil, orderly, and courteous in dealing with the public, subordinates, superiors and associates, and avoid the use of coarse, violent, or profane language. Although Officer Morrissey denied being discourteous, BWC footage showed he directed profanity towards Mr. DeAndre Matthews multiple times during the encounter. Therefore, Officer Morrissey was not in compliance with CPD's policy, procedure, and training.

Incidents #2 & #3

Allegation 1: Harassment

Mr. DeAndre Mathews alleged Officers Morrissey and Etter harassed him. Both officers denied the allegation. CPD does not have a definition or policy regarding harassment, but CCA has defined harassment to include "persistent aggressive pressure or intimidation." At a minimum, under this definition, there must be proof of a pattern of wrongful conduct. While it is notable that Officers Morrissey and Etter had multiple interactions with Mr. DeAndre Matthews within a two-month period, BWC footage confirmed that Officers Morrissey and Etter initiated contact with Mr. DeAndre Matthews due to law

violations. CCA determined that none of that contact could be reasonably described as persistent intimidation or persistent aggressive pressure. CPD records did not show any additional contacts between them other than those described. CCA determined there was no support for the allegation.

FINDINGS

Original Allegations

Incident #1

Officer Michael Morrissey

Improper Seizure - The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Improper Pointing of a Firearm – There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

Incident #2

Officer Michael Morrissey

Officer Antonio Etter

Improper Seizure - The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Incidents #2 & #3

Officer Michael Morrissey

Officer Antonio Etter

Harassment - There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

Collateral Allegations

Incident #2

Officer Michael Morrissey

Discourtesy - The allegation is supported by sufficient evidence to determine that the incident occurred, and the actions of the officer were improper. **SUSTAINED**

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3 REVIEW MEMO

Complaint #	20008
Complainant	Daquan Brown
Incident Date	December 26, 2019
CCA Investigator	Morgan Givens
CCA Findings	Officer Wermuth Officer Wolff Improper Stop – EXONERATED Improper Pointing of a Firearm – EXONERATED Officer Wermuth Officer Wolff Excessive Force – UNFOUNDED Officer Wermuth Officer Wolff Improper Search – EXONERATED

ANALYSIS

CCA completed a review of CCA Complaint No. 20008 by Mr. Daquan Brown, M/B/26, who alleged Improper Stop, Improper Pointing of a Firearm, Excessive Force, and Improper Search, against Officers John Wolff #P0117, M/W/37, and Christopher Wermuth, #P0073, M/W/41, during a traffic stop.

Mr. Brown alleged that on December 26, 2019, Officers Wolff and Wermuth stopped him without cause and searched his person and vehicle. He additionally alleged that the officers used excessive force by aggressively removing him from the seat of his vehicle and pointed their weapons in his direction.

On December 26, 2019, Officers Wolff and Wermuth initiated a traffic stop on Mr. Brown’s vehicle due to heavy window tint and because he left the curb without a signal as he traveled on Warsaw Ave. Officer Wermuth activated his lights and siren to initiate a traffic stop on Mr. Brown. Mr. Brown did not immediately stop but lessened his speed to a “slow roll” for approximately 300 yards. BWC footage showed that Mr. Brown drove for approximately 40 seconds, at an unknown rate of speed, after Officer Wermuth activated his overhead lights and siren. When Mr. Brown’s vehicle came to a complete stop, the officers departed their cruiser with their firearms drawn. Both officers articulated that they exited their cruiser with their firearms drawn because based on their training and experience, Mr. Brown’s “slow roll” afforded him time to conceal a weapon or contraband, leading them to believe that he may have been armed. Mr. Brown’s person was searched incident to arrest for Ohio Revised Code (ORC) § 2921.331 Failure to Comply with an Order or Signal of a Police Officer. Upon taking inventory of Mr. Brown’s car prior to it being towed, heroin (less than bulk) was recovered from the middle console of his vehicle. Mr. Brown was arrested and charged with ORC §4510.16 Driving Under Suspension, ORC §4513 Tinted

Window Violation, ORC §506.80 Improper Signal or Turn, and charged with ORC §2925.11 Possession of Drugs. Mr. Brown was transported without incident to the Hamilton County Justice Center and neither officer used force against Mr. Brown. In the court proceedings, the charges were dismissed, and Mr. Brown was convicted by plea to ORC §2921.31 Disorderly Conduct.

In a subsequent complaint (21027) made by Mr. Brown, he alleged that he is being harassed by CPD. This allegation is being further investigated and will be reported on a later date.

CCA interviewed Officers Wolff and Wermuth and reviewed CPD forms, and Body Worn Camera (BWC) footages. The BWC footage corroborated the officers' version of what occurred, and their actions fell within CPDs policies, procedures, and training.

FINDINGS

Officer Wermuth
Officer Wolff

Improper Stop - The evidence shows that the alleged conduct did occur, but did not violate CPD policies, procedures or training. **EXONERATED**

Improper Pointing of a Firearm - The evidence shows that the alleged conduct did occur, but did not violate CPD policies, procedures or training. **EXONERATED**

Officer Wermuth
Officer Wolff

Excessive Force - There are no facts to support that the incident complained of actually occurred. **UNFOUNDED**

Officer Wermuth
Officer Wolff

Improper Search - The evidence shows that the alleged conduct did occur, but did not violate CPD policies, procedures or training. **EXONERATED**

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4

Complaint #	20091
Complainant	Denise Tsibouris
Incident Date	April 22, 2020
CCA Investigator	Morgan Givens
CCA Findings	Officer James Mathews Officer Whittley Nelson Improper Search – EXONERATED Officer James Mathews Excessive Force – EXONERATED

ANALYSIS

Allegation 1: Excessive Force

D. Tsibouris alleged P.O. Mathews used excessive force when he apprehended her as she walked on a sidewalk approximately three blocks from Family Dollar which had reportedly been robbed. P.O. Mathews indicated that D. Tsibouris matched the description of a broadcast by the Emergency Communications Center (ECC) of an individual who attempted to commit a robbery of the Family Dollar on Warsaw Ave. BWC footage confirmed D. Tsibouris' appearance matched the description listed in the CAD report. When P.O. Mathews observed D. Tsibouris, he exited his vehicle and attempted to detain her. CPD procedure Manual § 12.545 Use of Force, defines active resistance as when a subject is making physically evasive movements to defeat the officer's attempt at control, including bracing, tensing, pushing, fleeing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. The policy also states, "Officers must avoid using unnecessary violence. Their privilege to use force is not limited to the amount of force necessary to protect themselves or others but extend to that amount reasonably necessary to enable them to effect the arrest of an actively resistant subject." D. Tsibouris displayed active resistance by tensing her arms which resulted in P.O. Mathews forcibly putting her hands behind her back to place her in handcuffs. Upon being placed in cuffs, no force was used on D. Tsibouris, nor did she display any resistance, but did verbally refute the allegations made against her. Therefore P.O. Mathews was within CPD's policy, procedure, and training.

Allegation 2: Improper Search (Person/Belongings)

D. Tsibouris alleged that her person and belongings were illegally searched. After detaining D. Tsibouris, P.O. Mathews learned that she had recently left said Family Dollar. CPD procedural Manual § 12.554 Investigatory Stops also states that every 'Terry' type stop does not automatically authorize a frisk. If a frisk is conducted, the officer must be able to articulate specific facts which led them to believe the individual could be armed and dangerous. In his statement, P.O. Mathews articulated that D. Tsibouris may be armed and dangerous as the broadcast included that he person who robbed the Family Dollar was armed with a knife. Prior to being placed in his marked cruiser, P.O. Mathews conducted a Terry Frisk of D. Tsibouris in which he recovered a folding knife from her person. The folding knife was large enough in size that it could be felt during a frisk. After the knife was recovered, D. Tsibouris was taken back to Family Dollar where W. Gill identified her as the person who threatened him with a pocketknife and allegedly had stolen merchandise.

P.O. Mathews stated that D. Tsibouris was detained up until the point that the knife was recovered, at which time she was placed under arrest for aggravated menacing. The BWC footage showed P.O. Mathews recover the knife from her person and explain to D. Tsibouris that Family Dollar alleged a knife was used to threaten the store manager. Upon being placed under arrest, P.O. Mathews searched her bag and P.O. Nelson searched her wallet for identification. No Family Dollar merchandise was recovered from D. Tsibouris's belongings. D. Tsibouris was cited for aggravated menacing and released. According to CPD Investigations Manual § 12.1.3 Search Incident to Lawful Arrest, an officer taking into custody any

suspect, even if from another officer, shall conduct a search of the person arrested and the area within their immediate control. Therefore P.O. Mathews and P.O. Nelson's search was within CPD's policy, procedure, and training.

Allegation 3: Discrimination

The Cincinnati Code of Ordinances Section 4. 4-A dictates that no member of the police force shall engage in racial profiling. CPD's Manual of Rules and Regulations states members shall not express any prejudice concerning race, sex, religion, national origin, life-style, or similar personal characteristics.

D. Tsibouris alleged that P.O. Mathews and P.O. Cornacchione did not take her accusation of alleged threats made by W. Gill seriously because of her race. P.O. Cornacchione and P.O. Matthews denied the use of race as a factor in declining to proceed with an investigation. P.O. Matthews deemed her accusation as retaliatory in nature as he cited her for aggravated menacing, and she immediately wanted to file the same charges against her accuser.

Following the incident at Family Dollar, D. Tsibouris went to District 3 in an attempt to bring charges against W. Gill. P.O. Cornacchione stated that Captain Broxterman instructed him to complete a National Incident-Based Reporting System (non-NIBRS) report which included critical information but would not result in criminal charges being filed or investigated against W. Gill. He added that Captain Broxterman advised D. Tsibouris's allegations were retaliatory and lacked credibility. P.O. Cornacchione maintained his basis for not proceeding with an investigation was not due to D. Tsibouris' race.

A review of BWC footage, officer statements and other evidence offered no independent evidence to prove the allegation that D. Tsibouris was treated adversely by P.O. Mathews or P.O. Cornacchione because of her race. Under the circumstances presented here, there is no support for the allegation that the officers discriminated against D. Tsibouris by engaging in racial profiling.

FINDINGS

Officer James Mathews
Officer Whittley Nelson

Improper Search Evidence shows the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer James Mathews

Excessive Force Evidence shows the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer William Cornacchione
Officer James Matthews

Discrimination – There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

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5

Complaint #	21011
Complainant	Marquez McCoy
Incident Date	January 26, 2021
CCA Investigator	Jonathan Batista
CCA Findings	Officer Christian Campo Officer Myles Abt Improper Stop – EXONERATED
	Officer Myles Abt Improper Pointing of a Firearm – EXONERATED
	Officer Christian Campo Improper Pointing of a Firearm – UNFOUNDED
	Officer Christian Campo Officer Myles Abt Improper Procedure – EXONERATED

ANALYSIS

Allegation 1: Improper Stop

Mr. McCoy alleged that CPD had no right to stop him due to the alleged traffic infraction being witnessed by a plain clothes officer in an unmarked vehicle. According to Officer Casch's statement to CCA, he conducted surveillance in plain clothes in the 7000 block of Glen Meadows due to drug complaints received. Officer Casch observed Mr. McCoy walk to and from his vehicle numerous times, entering the driver's seat and passengers' seat before entering an unknown apartment. Mr. McCoy then came back outside, drove the vehicle, parked in a driveway, and entered another apartment. Officer Casch witnessed Mr. McCoy drive off and commit a U-Turn. Officer Casch then went over the radio and notified Officer's Campo and Abt, who were in uniform and in a marked cruiser, to initiate the traffic stop. Officer's Campo and Abt stopped Mr. McCoy at a Shell gas station. Officer Campo positioned his vehicle to prevent Mr. McCoy from potentially fleeing the scene.

CPD Procedure §12.205 Traffic Enforcement, maintains that officers should take appropriate enforcement action whenever a violation is detected. Making a U-Turn is a citable traffic offense under Cincinnati Municipal Code (CMC) 506-84. In addition, Ohio Revised Code (ORC) 4549.13 requires officers on duty for the main purpose of enforcing misdemeanor motor vehicle or traffic laws to be in a vehicle that is marked in a distinctive manner or color and equipped with at least one flashing, oscillating, or rotating colored light mounted on top of the vehicle. Therefore, if the alleged traffic offense occurred, then the officers' stop of Mr. McCoy was proper.

Officer Casch's observation of Mr. McCoy making a U-Turn is corroborated by Officers Dean, Jennings, Abt and Campo, who told CCA that they were informed by Officer Casch about the U-Turn just prior to the officers stop of Mr. McCoy. Officer Abt confirmed for CCA that Officer Casch signaled over the radio for Officers Campo and Abt to make the stop. Ultimately, Officer Abt cited Mr. McCoy for a U-Turn, Cincinnati Municipal Code (CMC) 506-84.¹ Accordingly, CCA concluded Officers Abt and Campo were in compliance with CPD's policy, procedure, and training.

Allegation 2: Improper Pointing of a Firearm

Mr. McCoy alleged Officers Campo and Abt approached his vehicle with their firearms drawn. Officer Campo told CCA that he never drew his firearm. Officer Abt relayed he approached Mr. McCoy's vehicle with his firearm's safety mechanism released due to him observing Mr. McCoy make "furtive movements" and due to him not being able to see what was in Mr. McCoy's hands at the time of the stop. Officer Abt also thought it suspicious that Mr. McCoy had not come to an immediate stop when the officers activated their siren and attempted to pull him over moments earlier.

After reviewing BWC worn by Officer Abt and Campo, it is noted that while inside his car, Mr. McCoy appeared to make rapid movements with some part of his body after he was stopped. The BWC reveals that Officer Abt did have his firearm drawn, but in a low ready position with his finger off the trigger. It is duly noted that Officer Campo's firearm was never drawn at any point of this interaction.

CPD procedure §12.550 Discharging of Firearms by Police Personnel states, at such time as a police officer perceives what he interprets to be a threat of loss of life or serious physical harm to himself or others at the hands of another, he has the authority to display a firearm, with finger outside the trigger guard and have it ready for self-defense. The finger is only to be placed on the trigger when on target and ready to engage a threat. Officer Abt holstered his firearm when he and Officer Campo handcuffed Mr. McCoy and placed him inside of their cruiser. CCA concluded that the facts observed support Officer Abt's threat perception. Therefore, CCA concluded Officers Abt and Campo were in compliance with CPD's policy, procedure, and training.

Allegation 3: Improper Procedure

Mr. Marquez McCoy complained that none of the CPD officers who were at the scene of this vehicle stop wore masks. BWC confirms that officers did not wear masks in their dealings with Mr. McCoy.

CPD's Manual of Rules and Regulations Section One – Failure of Good Behavior 1.21 states members shall not make any arrest, search, or seizure not in accordance with law or with Department procedure. According to Cincinnati Mask Ordinance, No. 246-2020, issued in response to the COVID-19 pandemic on July 29, 2020 (and in effect at the time of this incident) police officers had the discretion not to wear a mask or facial covering "while acting in their official capacity as a public safety employee or emergency responder when wearing a facial covering would interfere with or limit their ability to carry out their official duties or functions." Accordingly, CCA concluded that the officers were in compliance with CPD's policy, procedure, and training.

¹ Separately, Officer Campo cited Mr. McCoy for Obstructing Official Business, ORC code 2921.31 because Mr. McCoy initially refused to exit his vehicle as ordered when he was stopped. Officer Campo also issued a written warning for possession of Marijuana, ORC code 910-23 because a clear plastic bag containing marijuana was observed in plain view in Mr. McCoy's car after the stop.

FINDINGS

Officer Christian Campo
Officer Myles Abt

Improper Stop – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer Myles Abt

Improper Pointing of a Firearm – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer Christian Campo

Improper Pointing of a Firearm – There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

Officer Christian Campo
Officer Myles Abt

Improper Procedure– The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

■

Date: July 23, 2021
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary – August 2, 2021 Board Meeting

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ANALYSIS

Allegation 1: Improper Seizure

At the directive of command staff, Officer Goebel conducted directed foot patrols around Baymiller and Findlay Streets due to community members’ reported concerns regarding loitering and drug activity. In his statement, Officer Goebel added that local community members and property owners mentioned similar concerns to him and did not want individuals loitering by their properties and blocking the sidewalk. On April 24, 2019, Officer Goebel observed Mr. Brock and three other individuals situated on the sidewalk of Baymiller and Findlay Streets, so he directed them to leave or receive a citation for impeding pedestrian traffic. Initially, the individuals complied but returned. When Officer Goebel saw them, he observed Mr. Brock discard a plastic wrapper onto the sidewalk; he detained Mr. Brock to issue a citation for CMC § 714-3: Litter in Public Places.

CPD Procedure § 12.554, Investigatory Stops, maintains that an arrest occurs when a citizen is no longer free to leave and the officer has the intent to arrest. The arrest must be supported by probable cause to believe the citizen is committing or has committed a criminal offense. Officer Goebel did not activate his BWC until he had started his conversation with Mr. Brock; as a result, there is no BWC footage to verify

Officer Goebel's initial observation. However, once Officer Goebel activated his BWC, he focused it on a plastic wrapper near where Mr. Brock had stood and stated, "This is part of the wrapper that he threw on the ground. It's on the littering ticket."

Despite the fact that Mr. Brock has disputed that he littered, CCA is not tasked with resolving whether Mr. Brock littered as accused, but rather with whether Officer Goebel had probable cause to arrest him for littering. Here BWC evidence shows that the officer confronted Mr. Brock very shortly after allegedly seeing the offense, and informed Mr. Brock that the officer observed Mr. Brock litter. The existence of these near-contemporaneous statements to Mr. Brock cut against the notion that the officer fabricated those observations later as a false pretense for an arrest. The observations are also corroborated by the fact that the officer completed a contact card shortly after the encounter that in part memorialized the observations. Therefore, the evidence establishes by a preponderance that Officer Goebel did not violate police policy, training, or procedure when he detained and cited Mr. Brock.

Allegation 2: Improper Search

Officer Goebel detained Mr. Brock to issue the littering citation. During the stop, Officer Goebel and Mr. Brock argued about whether Mr. Brock littered; Mr. Brock motioned with the chair and refused to drop it when directed to. Due to Mr. Brock's "combative" posture and speech, Officer Goebel removed the folding chair from Mr. Brock's hands, threw it to the side, and handcuffed Mr. Brock "for officer safety." This was corroborated by Officer Hayes and BWC footage. Officer Goebel stated he frisked Mr. Brock for weapons, due to concerns of his behavior and because he was in an area with reported high drug activity. In his statement, Officer Goebel did not believe he searched Mr. Brock; however, BWC footage showed Officer Goebel searched his pockets.

CPD Investigations Manual states officers are able to search an individual incident to arrest. In his statement, Officer Goebel described the situation as "an arrest." The CAD Report listed the Disposition as "Arrest," even though the comments include, "Combative subject detained temporarily to issue a citation." The completed Contact Card described Mr. Brock as "arrested." Although Mr. Brock was released with a citation, the citation was for a misdemeanor in the third degree, rather than for a traffic offense or minor misdemeanor. In addition, Mr. Brock was handcuffed prior to being searched and then swiftly detained in the rear of a police vehicle after the search. Taken together, those facts suggest that he was under custodial arrest at the time of the search. Therefore, the evidence establishes by a preponderance that the search was a valid search incident to arrest and thus that Officer Goebel was within CPD policy, procedure, and training.

Allegation 3: Excessive Force

Mr. Brock alleged that Officer Goebel "squeezed" the handcuffs together, sustaining injuries to his wrists. CPD Procedure §12.660, Prisoners: Securing Handling, and Transporting states that when handcuffs are applied, they "should be *reasonably* snug" (emphasis added), which is consistent with principles of reasonableness found in CPD Procedure 12.545 Use of Force. Per BWC footage, Mr. Brock stated the handcuffs were "too tight" three times, but Officer Goebel did not review or adjust them. Mr. Brock stated that due to a pre-existing injury, the handcuffing worsened his wrists' condition for two days. However, Mr. Brock did not advise Officer Goebel of his injury prior to or during his detainment. Additionally, CCA was unable to verify whether the handcuffs exacerbated his previous injury. Therefore, the evidence does not establish whether the handcuffs were reasonably applied and whether Officer Goebel's actions were within CPD policy, procedure, and training.

Allegation 4: Harassment

Mr. Brock alleged Officer Goebel’s subsequent action indicated harassment as Officer Goebel ticketed his vehicle for a parking violation but did not cite other vehicles for similar offenses. Officer Goebel denied the allegation. CPD does not have a definition or policy regarding harassment, but in the 2018 CCA Annual Report, CCA defined harassment to include “behavior that threatens or torments somebody, especially persistently.” At a minimum, under this definition, there must be proof of a pattern of wrongful conduct. City of Cincinnati records show two vehicles received citations on the same date, in the same area, and in a similar time frame regarding CMC §508-1A regarding parking violations; one of the vehicles belonged to Mr. Brock. Officer Goebel acknowledged that he knew Mr. Brock drove a blue vehicle but mentioned there were several blue vehicles in the area; he claimed he knew it was similar to the vehicle Mr. Brock drove the day before but was unaware it was Mr. Brock’s vehicle at the time of the citation. BWC footage showed Mr. Brock driving his vehicle in the presence of Officer Goebel. Mr. Brock denied any prior contact with Officer Goebel, although a review of CPD records showed one prior contact in February 2018. CCA could not determine if Mr. Brock was harassed as alleged.

Allegation 5: Discourtesy

Mr. Brock alleged Officer Goebel was “too aggressive” during the pedestrian stop. CPD’s Manual of Rules and Regulations §1.06 states members shall always be civil, orderly, and courteous in dealing with the public, subordinates, superiors and associates, and avoid the use of coarse, violent, or profane language. Although Officer Goebel denied being discourteous, BWC footage showed he directed profanity towards Mr. Keenan Brock multiple times during the encounter. Therefore, Officer Goebel was not in compliance with CPD’s policy, procedure, and training.

Note: Officer Goebel received an ESL for violating CPD’s Manual of Rules and Regulations.

FINDINGS

Officer John Goebel

Improper Seizure – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Improper Search – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Excessive Force – There are insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED**

Harassment – There are insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED**

Discourtesy – The allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper. **SUSTAINED**

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2

Complaint #	19109
Complainant	DeAndre Matthews
Incident Dates	March 17, May 12, and May 20, 2019
CCA Investigator	Dena Brown
CCA Findings	<u>Original Allegations</u> <i>Incident #1</i> Officer Michael Morrissey Improper Seizure – EXONERATED Improper Pointing of a Firearm – UNFOUNDED <i>Incident #2</i> Officer Michael Morrissey Officer Antonio Etter Improper Seizure – EXONERATED <i>Incidents #2 & #3</i> Officer Michael Morrissey Officer Antonio Etter Harassment – UNFOUNDED <u>Collateral Allegations</u> <i>Incident #2</i> Officer Michael Morrissey Discourtesy – SUSTAINED

ANALYSIS

Incident #1

Allegation 1: Improper Seizure

During routine patrol, Officer Morrissey observed Mr. DeAndre Matthews's vehicle with expired tags. Cincinnati Municipal Code 513-1: Impoundment of Motor Vehicles empowers officers to tow any motor vehicle which is parked in violation of law or which does not display currently valid license plates. CPD Procedure § 12.205 Traffic Enforcement directs officers to take appropriate enforcement action whenever a violation is detected. Officer Morrissey queried Mr. DeAndre Matthews's tags and confirmed the violation. Officer Morrissey issued a citation based off the traffic violation. This was confirmed by the BWC footage. CCA determined Officer Morrissey's decision to tow Mr. DeAndre Matthews's vehicle was within CPD's policy, procedure, and training.

Allegation 2: Improper Pointing of a Firearm

During this enforcement action, Mr. DeAndre Matthews alleged Officer Morrissey drew and pointed his firearm at him. Officer Morrissey denied the allegation. A review of Officer Morrissey's BWC footage confirmed Officer Morrissey never had his firearm drawn or pointed at Mr. DeAndre Matthews. However, the BWC footage also showed Mr. DeAndre Matthews continuously placing his hands in his pocket and approaching the vehicle after being ordered several times to remove his hands from his pocket and to stay away from the vehicle connected to the tow truck. Mr. Matthews approached and reached for the door and because Officer Morrissey could not see inside the vehicle due to the dark tint, Officer Morrissey drew and pointed his taser. Mr. DeAndre Matthews eventually complied with Officer Morrissey's directives and left the scene.

Officer Morrissey stated he drew his taser due to Mr. DeAndre Matthews's non-compliance after being ordered to step away from the vehicle several times. CPD Procedure 12.545 Use of Force states the taser is designed for self-defense or to temporarily immobilize a subject who is actively resisting arrest. Under the circumstances presented here, the evidence does not establish a violation of CPD's taser policies or procedures. As it pertains to the firearm assertion, CCA determined there was no support for the allegation.

Incident #2

Allegation 1: Improper Seizure

During routine patrol, Officers Morrissey and Etter observed Mr. DeAndre Matthews's vehicle parked with expired tags. Cincinnati Municipal Code 513-1: Impoundment of Motor Vehicles empowers officers to tow any motor vehicle which is parked in violation of law or which does not display currently valid license plates. CPD Procedure § 12.205 Traffic Enforcement directs officers to take appropriate enforcement action whenever a violation is detected. Officer Morrissey queried Mr. DeAndre Matthews's tags and confirmed the violation. Officer Etter issued a citation based off the traffic violation. This was confirmed by the BWC footage. CCA determined the officer's decision to tow Mr. DeAndre Matthews's vehicle was within CPD's policy, procedure, and training.

Allegation 2: Discourtesy

CPD's Manual of Rules and Regulations § 1.06 states members shall always be civil, orderly, and courteous in dealing with the public, subordinates, superiors and associates, and avoid the use of coarse, violent, or profane language. Although Officer Morrissey denied being discourteous, BWC footage showed he directed profanity towards Mr. DeAndre Matthews multiple times during the encounter. Therefore, Officer Morrissey was not in compliance with CPD's policy, procedure, and training.

Incidents #2 & #3

Allegation 1: Harassment

Mr. DeAndre Mathews alleged Officers Morrissey and Etter harassed him. Both officers denied the allegation. CPD does not have a definition or policy regarding harassment, but CCA has defined harassment to include "persistent aggressive pressure or intimidation." At a minimum, under this definition, there must be proof of a pattern of wrongful conduct. While it is notable that Officers Morrissey and Etter had multiple interactions with Mr. DeAndre Matthews within a two-month period, BWC footage confirmed that Officers Morrissey and Etter initiated contact with Mr. DeAndre Matthews due to law

violations. CCA determined that none of that contact could be reasonably described as persistent intimidation or persistent aggressive pressure. CPD records did not show any additional contacts between them other than those described. CCA determined there was no support for the allegation.

FINDINGS

Original Allegations

Incident #1

Officer Michael Morrissey

Improper Seizure - The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Improper Pointing of a Firearm – There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

Incident #2

Officer Michael Morrissey
Officer Antonio Etter

Improper Seizure - The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Incidents #2 & #3

Officer Michael Morrissey
Officer Antonio Etter

Harassment - There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

Collateral Allegations

Incident #2

Officer Michael Morrissey

Discourtesy - The allegation is supported by sufficient evidence to determine that the incident occurred, and the actions of the officer were improper. **SUSTAINED**

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3 REVIEW MEMO

Complaint #	20008
Complainant	Daquan Brown
Incident Date	December 26, 2019
CCA Investigator	Morgan Givens
CCA Findings	Officer Wermuth Officer Wolff Improper Stop – EXONERATED Improper Pointing of a Firearm – EXONERATED Officer Wermuth Officer Wolff Excessive Force – UNFOUNDED Officer Wermuth Officer Wolff Improper Search – EXONERATED

ANALYSIS

CCA completed a review of CCA Complaint No. 20008 by Mr. Daquan Brown, M/B/26, who alleged Improper Stop, Improper Pointing of a Firearm, Excessive Force, and Improper Search, against Officers John Wolff #P0117, M/W/37, and Christopher Wermuth, #P0073, M/W/41, during a traffic stop.

Mr. Brown alleged that on December 26, 2019, Officers Wolff and Wermuth stopped him without cause and searched his person and vehicle. He additionally alleged that the officers used excessive force by aggressively removing him from the seat of his vehicle and pointed their weapons in his direction.

On December 26, 2019, Officers Wolff and Wermuth initiated a traffic stop on Mr. Brown’s vehicle due to heavy window tint and because he left the curb without a signal as he traveled on Warsaw Ave. Officer Wermuth activated his lights and siren to initiate a traffic stop on Mr. Brown. Mr. Brown did not immediately stop but lessened his speed to a “slow roll” for approximately 300 yards. BWC footage showed that Mr. Brown drove for approximately 40 seconds, at an unknown rate of speed, after Officer Wermuth activated his overhead lights and siren. When Mr. Brown’s vehicle came to a complete stop, the officers departed their cruiser with their firearms drawn. Both officers articulated that they exited their cruiser with their firearms drawn because based on their training and experience, Mr. Brown’s “slow roll” afforded him time to conceal a weapon or contraband, leading them to believe that he may have been armed. Mr. Brown’s person was searched incident to arrest for Ohio Revised Code (ORC) § 2921.331 Failure to Comply with an Order or Signal of a Police Officer. Upon taking inventory of Mr. Brown’s car prior to it being towed, heroin (less than bulk) was recovered from the middle console of his vehicle. Mr. Brown was arrested and charged with ORC §4510.16 Driving Under Suspension, ORC §4513 Tinted

Window Violation, ORC §506.80 Improper Signal or Turn, and charged with ORC §2925.11 Possession of Drugs. Mr. Brown was transported without incident to the Hamilton County Justice Center and neither officer used force against Mr. Brown. In the court proceedings, the charges were dismissed, and Mr. Brown was convicted by plea to ORC §2921.31 Disorderly Conduct.

In a subsequent complaint (21027) made by Mr. Brown, he alleged that he is being harassed by CPD. This allegation is being further investigated and will be reported on a later date.

CCA interviewed Officers Wolff and Wermuth and reviewed CPD forms, and Body Worn Camera (BWC) footages. The BWC footage corroborated the officers' version of what occurred, and their actions fell within CPDs policies, procedures, and training.

FINDINGS

Officer Wermuth
Officer Wolff

Improper Stop - The evidence shows that the alleged conduct did occur, but did not violate CPD policies, procedures or training. **EXONERATED**

Improper Pointing of a Firearm - The evidence shows that the alleged conduct did occur, but did not violate CPD policies, procedures or training. **EXONERATED**

Officer Wermuth
Officer Wolff

Excessive Force - There are no facts to support that the incident complained of actually occurred. **UNFOUNDED**

Officer Wermuth
Officer Wolff

Improper Search - The evidence shows that the alleged conduct did occur, but did not violate CPD policies, procedures or training. **EXONERATED**

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4

Complaint #	20091
Complainant	Denise Tsibouris
Incident Date	April 22, 2020
CCA Investigator	Morgan Givens
CCA Findings	Officer James Mathews Officer Whittley Nelson Improper Search – EXONERATED Officer James Mathews Excessive Force – EXONERATED

ANALYSIS

Allegation 1: Excessive Force

D. Tsibouris alleged P.O. Mathews used excessive force when he apprehended her as she walked on a sidewalk approximately three blocks from Family Dollar which had reportedly been robbed. P.O. Mathews indicated that D. Tsibouris matched the description of a broadcast by the Emergency Communications Center (ECC) of an individual who attempted to commit a robbery of the Family Dollar on Warsaw Ave. BWC footage confirmed D. Tsibouris' appearance matched the description listed in the CAD report. When P.O. Mathews observed D. Tsibouris, he exited his vehicle and attempted to detain her. CPD procedure Manual § 12.545 Use of Force, defines active resistance as when a subject is making physically evasive movements to defeat the officer's attempt at control, including bracing, tensing, pushing, fleeing, or verbally signaling an intention to avoid or prevent being taken into or retained in custody. The policy also states, "Officers must avoid using unnecessary violence. Their privilege to use force is not limited to the amount of force necessary to protect themselves or others but extend to that amount reasonably necessary to enable them to effect the arrest of an actively resistant subject." D. Tsibouris displayed active resistance by tensing her arms which resulted in P.O. Mathews forcibly putting her hands behind her back to place her in handcuffs. Upon being placed in cuffs, no force was used on D. Tsibouris, nor did she display any resistance, but did verbally refute the allegations made against her. Therefore P.O. Mathews was within CPD's policy, procedure, and training.

Allegation 2: Improper Search (Person/Belongings)

D. Tsibouris alleged that her person and belongings were illegally searched. After detaining D. Tsibouris, P.O. Mathews learned that she had recently left said Family Dollar. CPD procedural Manual § 12.554 Investigatory Stops also states that every 'Terry' type stop does not automatically authorize a frisk. If a frisk is conducted, the officer must be able to articulate specific facts which led them to believe the individual could be armed and dangerous. In his statement, P.O. Mathews articulated that D. Tsibouris may be armed and dangerous as the broadcast included that he person who robbed the Family Dollar was armed with a knife. Prior to being placed in his marked cruiser, P.O. Mathews conducted a Terry Frisk of D. Tsibouris in which he recovered a folding knife from her person. The folding knife was large enough in size that it could be felt during a frisk. After the knife was recovered, D. Tsibouris was taken back to Family Dollar where W. Gill identified her as the person who threatened him with a pocketknife and allegedly had stolen merchandise.

P.O. Mathews stated that D. Tsibouris was detained up until the point that the knife was recovered, at which time she was placed under arrest for aggravated menacing. The BWC footage showed P.O. Mathews recover the knife from her person and explain to D. Tsibouris that Family Dollar alleged a knife was used to threaten the store manager. Upon being placed under arrest, P.O. Mathews searched her bag and P.O. Nelson searched her wallet for identification. No Family Dollar merchandise was recovered from D. Tsibouris's belongings. D. Tsibouris was cited for aggravated menacing and released. According to CPD Investigations Manual § 12.1.3 Search Incident to Lawful Arrest, an officer taking into custody any

suspect, even if from another officer, shall conduct a search of the person arrested and the area within their immediate control. Therefore P.O. Mathews and P.O. Nelson's search was within CPD's policy, procedure, and training.

Allegation 3: Discrimination

The Cincinnati Code of Ordinances Section 4. 4-A dictates that no member of the police force shall engage in racial profiling. CPD's Manual of Rules and Regulations states members shall not express any prejudice concerning race, sex, religion, national origin, life-style, or similar personal characteristics.

D. Tsibouris alleged that P.O. Mathews and P.O. Cornacchione did not take her accusation of alleged threats made by W. Gill seriously because of her race. P.O. Cornacchione and P.O. Matthews denied the use of race as a factor in declining to proceed with an investigation. P.O. Matthews deemed her accusation as retaliatory in nature as he cited her for aggravated menacing, and she immediately wanted to file the same charges against her accuser.

Following the incident at Family Dollar, D. Tsibouris went to District 3 in an attempt to bring charges against W. Gill. P.O. Cornacchione stated that Captain Broxterman instructed him to complete a National Incident-Based Reporting System (non-NIBRS) report which included critical information but would not result in criminal charges being filed or investigated against W. Gill. He added that Captain Broxterman advised D. Tsibouris's allegations were retaliatory and lacked credibility. P.O. Cornacchione maintained his basis for not proceeding with an investigation was not due to D. Tsibouris' race.

A review of BWC footage, officer statements and other evidence offered no independent evidence to prove the allegation that D. Tsibouris was treated adversely by P.O. Mathews or P.O. Cornacchione because of her race. Under the circumstances presented here, there is no support for the allegation that the officers discriminated against D. Tsibouris by engaging in racial profiling.

FINDINGS

Officer James Mathews
Officer Whittley Nelson

Improper Search Evidence shows the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer James Mathews

Excessive Force Evidence shows the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer William Cornacchione
Officer James Matthews

Discrimination – There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

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5

Complaint #	21011
Complainant	Marquez McCoy
Incident Date	January 26, 2021
CCA Investigator	Jonathan Batista
CCA Findings	Officer Christian Campo Officer Myles Abt Improper Stop – EXONERATED Officer Myles Abt Improper Pointing of a Firearm – EXONERATED Officer Christian Campo Improper Pointing of a Firearm – UNFOUNDED Officer Christian Campo Officer Myles Abt Improper Procedure – EXONERATED

ANALYSIS

Allegation 1: Improper Stop

Mr. McCoy alleged that CPD had no right to stop him due to the alleged traffic infraction being witnessed by a plain clothes officer in an unmarked vehicle. According to Officer Casch's statement to CCA, he conducted surveillance in plain clothes in the 7000 block of Glen Meadows due to drug complaints received. Officer Casch observed Mr. McCoy walk to and from his vehicle numerous times, entering the driver's seat and passengers' seat before entering an unknown apartment. Mr. McCoy then came back outside, drove the vehicle, parked in a driveway, and entered another apartment. Officer Casch witnessed Mr. McCoy drive off and commit a U-Turn. Officer Casch then went over the radio and notified Officer's Campo and Abt, who were in uniform and in a marked cruiser, to initiate the traffic stop. Officer's Campo and Abt stopped Mr. McCoy at a Shell gas station. Officer Campo positioned his vehicle to prevent Mr. McCoy from potentially fleeing the scene.

CPD Procedure §12.205 Traffic Enforcement, maintains that officers should take appropriate enforcement action whenever a violation is detected. Making a U-Turn is a citable traffic offense under Cincinnati Municipal Code (CMC) 506-84. In addition, Ohio Revised Code (ORC) 4549.13 requires officers on duty for the main purpose of enforcing misdemeanor motor vehicle or traffic laws to be in a vehicle that is marked in a distinctive manner or color and equipped with at least one flashing, oscillating, or rotating colored light mounted on top of the vehicle. Therefore, if the alleged traffic offense occurred, then the officers' stop of Mr. McCoy was proper.

Officer Casch's observation of Mr. McCoy making a U-Turn is corroborated by Officers Dean, Jennings, Abt and Campo, who told CCA that they were informed by Officer Casch about the U-Turn just prior to the officers stop of Mr. McCoy. Officer Abt confirmed for CCA that Officer Casch signaled over the radio for Officers Campo and Abt to make the stop. Ultimately, Officer Abt cited Mr. McCoy for a U-Turn, Cincinnati Municipal Code (CMC) 506-84.¹ Accordingly, CCA concluded Officers Abt and Campo were in compliance with CPD's policy, procedure, and training.

Allegation 2: Improper Pointing of a Firearm

Mr. McCoy alleged Officers Campo and Abt approached his vehicle with their firearms drawn. Officer Campo told CCA that he never drew his firearm. Officer Abt relayed he approached Mr. McCoy's vehicle with his firearm's safety mechanism released due to him observing Mr. McCoy make "furtive movements" and due to him not being able to see what was in Mr. McCoy's hands at the time of the stop. Officer Abt also thought it suspicious that Mr. McCoy had not come to an immediate stop when the officers activated their siren and attempted to pull him over moments earlier.

After reviewing BWC worn by Officer Abt and Campo, it is noted that while inside his car, Mr. McCoy appeared to make rapid movements with some part of his body after he was stopped. The BWC reveals that Officer Abt did have his firearm drawn, but in a low ready position with his finger off the trigger. It is duly noted that Officer Campo's firearm was never drawn at any point of this interaction.

CPD procedure §12.550 Discharging of Firearms by Police Personnel states, at such time as a police officer perceives what he interprets to be a threat of loss of life or serious physical harm to himself or others at the hands of another, he has the authority to display a firearm, with finger outside the trigger guard and have it ready for self-defense. The finger is only to be placed on the trigger when on target and ready to engage a threat. Officer Abt holstered his firearm when he and Officer Campo handcuffed Mr. McCoy and placed him inside of their cruiser. CCA concluded that the facts observed support Officer Abt's threat perception. Therefore, CCA concluded Officers Abt and Campo were in compliance with CPD's policy, procedure, and training.

Allegation 3: Improper Procedure

Mr. Marquez McCoy complained that none of the CPD officers who were at the scene of this vehicle stop wore masks. BWC confirms that officers did not wear masks in their dealings with Mr. McCoy.

CPD's Manual of Rules and Regulations Section One – Failure of Good Behavior 1.21 states members shall not make any arrest, search, or seizure not in accordance with law or with Department procedure. According to Cincinnati Mask Ordinance, No. 246-2020, issued in response to the COVID-19 pandemic on July 29, 2020 (and in effect at the time of this incident) police officers had the discretion not to wear a mask or facial covering "while acting in their official capacity as a public safety employee or emergency responder when wearing a facial covering would interfere with or limit their ability to carry out their official duties or functions." Accordingly, CCA concluded that the officers were in compliance with CPD's policy, procedure, and training.

¹ Separately, Officer Campo cited Mr. McCoy for Obstructing Official Business, ORC code 2921.31 because Mr. McCoy initially refused to exit his vehicle as ordered when he was stopped. Officer Campo also issued a written warning for possession of Marijuana, ORC code 910-23 because a clear plastic bag containing marijuana was observed in plain view in Mr. McCoy's car after the stop.

FINDINGS

Officer Christian Campo
Officer Myles Abt

Improper Stop – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer Myles Abt

Improper Pointing of a Firearm – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer Christian Campo

Improper Pointing of a Firearm – There are no facts to support the incident complained of actually occurred. **UNFOUNDED**

Officer Christian Campo
Officer Myles Abt

Improper Procedure– The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

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