

Date: December 30, 2020
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary – January 4, 2021 Board Meeting

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Complaint #	18217
Complainant	Monica Owens
CCA Investigator	Dena Brown
CCA Findings	Officer Thomas Weigand Officer Mark Bode Improper Entry – NOT SUSTAINED Officer Thomas Weigand Officer Mark Bode Officer Deon Mack Improper Procedure (Consent to Search) – SUSTAINED
Board Findings	Agree
City Manager Findings	Pending

ANALYSIS	
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On November 5, 2018, Ms. Owens alleged her apartment door was unlocked and opened by CPD and Officers Weigand and Bode entered her apartment. In their statements, Officers Weigand and Bode acknowledged that they knocked on Ms. Owens’s door and spoke to her from the hallway. Officers Bode and Weigand did not state they unlocked or opened Ms. Owens’s door. The officers present during the interaction were plainclothes officers and did not wear BWCs. Due to a lack of independent witnesses and no BWC footage, CCA could not determine if Officers Bode and Weigand opened Ms. Owens’s door.

CPD Procedure § 12.700 Search Warrants/Consent to Search states individuals must sign a Form 601, or Form 601PV before conducting all consent searches including vehicles, persons, buildings, areas, computers, electronic devices, or residences, except where the consent is captured via BWC. Officers Bode, Weigand and Ms. Owens confirmed she agreed to sign the Form 601 Consent to Search; however, the officers failed to capture Ms. Owens’s consent on a BWC or DVR. CPD Procedure § 12.700 Search

Warrants/Consent to Search states requests to search without a warrant, including searches of persons, buildings, or vehicles, will be recorded. As Officers Bode and Weigand handled Ms. Owens's understanding of and signature on the Consent to Search form, they were responsible to ensure the encounter was recorded. Therefore, CCA concluded Officers Bode and Weigand violated CPD's policy, procedure, and training.

CPD Procedure § 12.540 Body Worn Camera System requires officers to use BWC equipment to record all calls for service and self-initiated activities. Officer Mack did not activate his BWC during the encounter with Ms. Owen or the subsequent search of her residence. Therefore, Officer Mack did not comply with CPD's policy, procedure, and training.

Ms. Owens alleged \$500 dollars was removed from her wallet. It is outside of CCA's purview to investigate a criminal allegation.

Recommendation

In the past, CCA has expressed concern regarding discrepancies between the complainants and police officers on the issue of improper entries and improper searches. While BWCs are primarily worn by uniformed officers, CCA expressed concern during the BWC Policy implementation period regarding scenarios where plainclothes officers should be required to wear BWCs. This case provides such an example. While most of the involved officers in this case were working a plainclothes assignment, almost all those in plainclothes wore vests clearly marked CPD. CCA recommends plainclothes officers who wear clothing clearly marked POLICE should be required to wear a BWC.

FINDINGS

Officer Thomas Weigand
Officer Mark Bode

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

Officer Thomas Weigand
Officer Mark Bode
Officer Deon Mack

Improper Procedure (Consent to Search) – 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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Complaint #	18239
Complainant	Gregory Perkins
CCA Investigator	Dena Brown
CCA Findings	Officer David Gregory Excessive Force – UNFOUNDED Improper Procedure (BWC) – SUSTAINED
Board Findings	Agree
City Manager Findings	Pending

ANALYSIS

Mr. Perkins alleged Officer Gregory used excessive force when he “physically threw” Mr. Perkins out of UCMC. CCA reviewed UCMC’s video footage which corroborated Officer Gregory’s version of what occurred. At no time did Officer Gregory use any force against Mr. Perkins as alleged. CCA recommends the allegations of Excessive Force against Officer Gregory be closed unfounded.

During Officer Gregory’s interaction with Mr. Perkins, he failed to activate his BWC. CPD Procedure § 15.540 Body Worn Camera System states officers are required to activate their BWC system during law enforcement-related encounters and self-initiated activities. CPD Manual of Rules and Regulations § 2.18 states that members of the department shall not fail to activate their BWC system except for a good cause. CCA concluded Officer Gregory was in violation of CPD’s policy, procedure, and training.

FINDINGS

Officer David Gregory

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

Improper Procedure (BWC) – 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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Complaint #	20150
Complainant	Bridget Kinney
CCA Investigator	Jessalyn Goodman
CCA Findings	Officer Eric Bley Improper Stop – EXONERATED Discourtesy – SUSTAINED Discrimination – NOT SUSTAINED
Board Findings	Agree
City Manager Findings	Pending

ANALYSIS

During routine patrol, Officer Bley observed a Lyft driver’s vehicle stopped on Clifton Ave. CPD Procedure § 12.205 Traffic Enforcement directs officers to take appropriate enforcement action whenever a violation is detected. Ohio Revised Code § 4511.22, wherein no person shall stop or operate a vehicle at such an unreasonably slow speed as to impede or block the normal and reasonable movement of traffic. MVR footage confirmed the vehicle was stationary in the roadway for several seconds, causing other vehicles to move left of center to pass. CCA determined Officer Bley’s decision to initiate a traffic stop was within CPD’s policy, procedure, and training.

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. Ms. Kinney alleged Officer Bley was discourteous during the traffic stop. Officer Bley acknowledged he raised his voice, but stated his actions were for their safety and to cover the distance between himself and Ms. Kinney. Although Officer Bley’s initial comments to Ms. Kinney were not recorded on his BWC due to the 30 second buffer, subsequent BWC footage showed Officer Bley using a stern tone which appeared to escalate the encounter. Therefore, CCA determined Officer Bley’s actions were discourteous.

Ms. Kinney believed Officer Bley required “racial diversity training” to learn “not all African American people are criminals.” CPD’s Manual of Rules and Regulations § 1.06 states members shall not express any prejudice concerning race, sex, religion, national origin, life-style, or similar personal characteristic. Officer Bley denied that his actions were discriminatory. CCA did not observe any independent evidence to support or refute the claims of discrimination. Therefore, CCA is unable to determine if CPD’s policies, procedures and training were violated.

Note

Officer Bley was disciplined and received an instructional ESL for discourtesy.

FINDINGS

Officer Eric Bley

Improper Stop – There are no facts to support the incident complained of actually occurred.
EXONERATED

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

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

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