

Date: July 9, 2021
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary – July 12, 2021 Board Meeting

1

Complaint #	19149
Complainant	William Lindsey and Brittny Holmes
Incident Date	July 2, 2019
CCA Investigator	Jessalyn Goodman
CCA Findings	<p><u>Original Allegations</u> Complainant: William Lindsey Officer Quentin Bishop Discourtesy – NOT SUSTAINED Harassment – UNFOUNDED</p> <p>Complainant: Brittny Holmes (on behalf of Mr. Lindsey) Discrimination – NOT SUSTAINED</p> <p><u>Collateral Allegations</u> Officer Quentin Bishop Improper Stop – EXONERATED Improper Procedure (BWC) – SUSTAINED</p>

ANALYSIS

On July 2, 2019, Officer Bishop advised Mr. Lindsey that he was no longer able to park in Kroger's area because he was not a patron of the business; however, Mr. Lindsey was not detained and free to go at any time. CPD Procedure § 12.554, Investigatory Stops, allows for a first level consensual encounter, in which a police officer may approach any person in a public place and request to talk to him. So long as the person is free to leave whenever he wants, no Fourth Amendment seizure has occurred and no reasonable suspicion or probable cause is required. CCA believes Officer Bishop was in compliance with CPD's policy, procedure, and training when he encountered Mr. Lindsey and informed him of the suspected violation. Mr. Lindsey was not cited and given the opportunity to leave.

Ms. Holmes alleged that Officer Bishop discriminated against them due to their race; she stated felt Officer Bishop was “trying to get some rank from them by going against his own people.” Per CPD’s Procedure Manual § 1.06 C, officers shall not express any prejudice concerning race, sex, religion, national origin, life-style, or similar personal characteristics. Officer Bishop denied that his actions involving Mr. Lindsey and Ms. Holmes were discriminatory and instead were based on Mr. Lindsey’s parking violations at Kroger. CCA neither observed nor obtained any independent evidence to support or refute the claims of discrimination. Therefore, CCA is unable to determine if Officer Bishop violated CPD’s policies, procedures, and training.

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. During his interactions with Officer Bishop on July 1 and July 2, Officer Bishop did not activate his BWC and record the interaction with Mr. Lindsey; as a result, CCA was not able to view the contact that led to the allegations. Officer Bishop activated his BWC afterwards, during which he recounted the event with Officer Davis. CCA concluded Officer Bishop was in violation of 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. Mr. Lindsey and Ms. Holmes alleged Officer Bishop was discourteous and used an unprofessional tone. BWC footage did not capture the initial interaction as described by Mr. Lindsey and Ms. Holmes; subsequent encounters did not capture any inappropriate communication between Officer Bishop and Mr. Lindsey. Therefore, CCA was unable to determine if Officer Bishop was discourteous towards Mr. Lindsey and Ms. Holmes as alleged.

Mr. Lindsey alleged Officer Bishop’s behavior was harassment. CCA has defined harassment to include “persistent aggressive pressure or intimidation.” Officer Bishop confirmed he had multiple contacts with Mr. Lindsey but elaborated the interactions were limited to consensual encounters at Kroger, due to Mr. Lindsey’s frequent presence. CPD records did not show any additional contacts between them, outside of those July 2019 encounters at Kroger. The footage from Officer Bishop’s BWC on July 18 and July 24 did not show conduct rising to the level of harassment. Similarly, the only evidence of the encounter between Officer Bishop and Mr. Lindsey on July 1—Officer’s Bishop’s statement about the contact—reveals no conduct on that day amounting to aggressive pressure or intimidation. While there is an unresolved dispute between the parties about what occurred on July 2 (due in part to the lack of relevant BWC recordings), Officer Bishop’s conduct that day, standing alone, would not meet the threshold for persistent action. Therefore, CCA determined there is no indication that Officer Bishop maintained any persistent intimidating or aggressive behavior towards Mr. Lindsey.

FINDINGS

Original Allegations

Complainant: William Lindsey

Officer Quentin Bishop

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

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

Complainant: Brittney Holmes (on behalf of Mr. Lindsey)

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

Collateral Allegations

Officer Quentin Bishop

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

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 #	20014
Complainant	Krystal Clark
Incident Date	January 13, 2020
CCA Investigator	Ike Ekeke
CCA Findings	<u>January 13, 2020</u> Officer Ross McNicol Officer Elliot Miller <i>Complainant: RC</i> <i>Complainant: RT</i> Improper Stop – EXONERATED Officer Ross McNicol <i>Complainant: RC</i> Improper Search – SUSTAINED Officer Elliot Miller <i>Complainant: RT</i> Improper Search – EXONERATED

February 25, 2020

Officer Caleb Sarchet
Officer Casey Carver
Officer Barnabas Blank

Complainant: RT

Improper Stop – EXONERATED

Improper Pointing of Firearm – EXONERATED

Officer Caleb Sarchet
Officer Casey Carver

Complainant: RT

Improper Search – EXONERATED

ANALYSIS

January 13, 2020

Allegation 1: Improper Stop

ECC requested officers respond to Ziegler Park based on an unidentified teenage caller’s report of five black males and female’s teenagers) carrying guns near Ziegler Park. After clarification with the caller, ECC communicated there were “three black males, 14-15, that have guns.” According to Officer McNicol, he observed a third unidentified black male approach RT and RC and “do like a handshake and a chest bump.” After Officer McNicol alerted CPD Dispatch of seeing RC and RT near Main Street and 13th Street (approximately four minutes from Ziegler Park), Officers Miller, Florea, Goebel, and Sanders responded to their location. CPD Procedure § 12.554 Investigatory Stops provides that officers may forcibly stop and detain the citizen for a brief investigatory period when an officer has reasonable suspicion to believe the citizen is committing or has committed a crime. Officers McNicol and Miller initiated contact and asked about the presence of weapons, which RC denied. Therefore, the evidence supports the conclusion that Officers McNicol and Miller did not violate CPD's policy, procedure, and relevant law by stopping RC and RT in furtherance of investigating the report of firearms held possessed by teenagers in the area.

Allegation 2: Improper Search

After stopping RT and RC, Officers Miller and McNicol frisked RT and RC, respectively. CPD Procedure § 12.554 states every "Terry" type stop does not automatically authorize a frisk. To substantiate the use of a Terry Frisk, the officer must articulate specific facts that led them to believe the individual could be armed and dangerous. After stating he responded to Officer McNicol’s possibly identification of individuals related to the ECC call of males with guns, Officer Miller stated he patted down RT “for weapons... [believed to be] on their person or in their bag.” Therefore, the evidence supports the conclusion that Officer Miller did not violate CPD's policy, procedure, and relevant law by patting down RT in furtherance of investigating the report of firearms held possessed by teenagers in the area.

While Officer Miller patted down RT, Officer McNicol patted RC’s backpack, side pant pockets, and jacket pockets. Krystal Clark expressed discomfort about Officer McNicol patting down her daughter

RC. As to allegations of sexual misconduct, CCA does not have the purview to investigate those types of allegations. However—in reference to a policy dictating the patting down of female subject by an officer—CPD Procedure § 12.554 (which dictates "Terry" frisk) does not prescribe for how a male officer should attempt to conduct a Terry frisk of a female subject. According to CPD's Police Academy commander, officers are taught to blade their hands (where the officer flatly faces the palm of their hand either vertically or horizontally) when searching a female subject—specifically to avoid even the appearance of inappropriate frisk. In this situation at hand, Officer McNicol frisked RC for approximately 15 seconds without touching the areas near or on RC's private areas. Therefore, there is a lack of evidence to support the allegation that Officer McNicol violated CPD's policy, procedure, or relevant law regarding searches of female suspects when he frisked RC.

Despite the absence of support for the contention that Officer McNicol violated CPD's rules on searching female suspects, BWC footage showed that while patting down RC's left jacket pocket, Officer McNicol reached into RC's jacket pocket but did not pull out any item. According to the Supreme Court's instruction in Minnesota v. Dickerson, 508 U.S. 366, 378, an officer's continued exploration of a defendant's pocket after having concluded that it contains no weapon is unrelated to the sole justification of the search under Terry (the protection of the police officer and others nearby) and is thus impermissible under Terry. CPD's guidance and training pertaining to the conducting of frisks mirrors these limits. Officer McNicol denied feeling any items to cause him to alert to weapons. When Officer McNicol reached into RC's pocket, it lacked support from Terry. 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. Therefore, Officer McNicol violated CPD rules and relevant law when he reached into RC's pocket while patting down RC.

After not finding anything to cause Officer Miller an alert or alarm, Officer Miller asked RT for consent to search RT's backpack, and while reaching for the strap over his left should, RT gestured as if attempting to take off his backpack as Officer Miller took the backpack into his possession. CPD Procedure § 12.700 states that all requests to search without a warrant, including searches of persons, buildings, or vehicles, will be recorded with a Body-Worn Camera (BWC). With his BWC recording, Officer Miller searched RT's backpack, found no weapons, and returned RT's backpack to him.

Similarly, Officer McNicol asked RC for permission to search her backpack; she responded by allowing the backpack to slide down into Officer McNicol's possession. Officer McNicol searched the backpack and did not recover any weapons. Therefore, the evidence supports the conclusion that Officers Miller and McNicol did not violate CPD's policy, procedure, and relevant law when they respectively received consent to search RT's and RC's backpacks before respectively searching the backpacks.

February 25, 2020

Allegation 3: Improper Stop

Dispatch received a report of concerns that RT possessed a firearm in his pocket and provided a description. Using that description, a plainclothes officer identified RT boarding a Metro bus near West Liberty Street and Central Parkway. Officer Sarchet initiated a traffic stop on the bus. CPD Procedure § 12.554 Investigatory Stops provides that officers may forcibly stop and detain the citizen for a brief investigatory period when an officer has reasonable suspicion to believe the citizen is committing or has committed a crime. Officers Sarchet, Blank, and Carver entered the bus, and Officer Sarchet placed RT in handcuffs. Based on the information available, Officer Sarchet had reasonable suspicion to initiate the

traffic stop, and the officers had reasonable suspicion to thereafter detain RT. Therefore, CCA determined that Officer Sarchet's, Blank's and Carver's stop did not violate CPD procedure and the relevant law.

Allegation 4: Improper Search

According to Officer Sarchet's statement and BWC footage, Officer Sarchet handcuffed and patted down RT's exterior clothes as he stood. CPD Procedure § 12.554 states that to substantiate the use of a Terry Frisk, an officer must articulate specific facts that led the officer to believe the individual could be armed and dangerous. After not finding any weapons, Officer Sarchet allowed RT to sit down. In his statement, Officer Sarchet articulated that the pat-down was based on the call that RT carried a firearm. Therefore, CCA determined that Officer Sarchet's pat-down did not violate CPD procedure and the relevant law.

While Officer Sarchet patted down RT, Officer Carver picked up RT's backpack and moved it to the front of the bus, where Officer Carver searched it. According to Officer Carver's statement, she noticed the backpack was "heavier than normal" and felt an object slide within it. When Officer Carver set the backpack down on a "metal portion" in the front of the bus, Officer Carver noticed the backpack made a "something metallic [sound]" and suspected the presence of a firearm. According to Officer Carver's statement and BWC, Officer Carver found a boot, which Officer Carver believed might have made the metallic sound. According to Minnesota v. Dickerson, 508 U.S. 366, 378, an officer may use plain feel to support a further examination of the subjected person's contents. Officer Carver's statement describing the feeling of RT's backpack aligns with a permissible basis for further searching RT's backpack. Therefore, CCA determined Officer Carver did not violate CPD procedure and relevant law when she searched RT's backpack.

Allegation 5: Improper Pointing of Firearm

CPD Procedure § 12.550, Discharging of Firearms by Police Personnel, maintains that when an 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 use that force reasonably necessary to protect himself or others from death or serious physical harm at the hands of another. When discussing their response to receiving a call regarding a minor having a gun, Officer Sarchet stated he held his firearm (though pointed toward the ground) "in case there is an incident." When discussing their response to receiving a call regarding a minor having a gun, Officer Blank stated he held his rifle pointed downward until RT cooperated with Officer Sarchet. According to Officer Carver's statement, Officer Carver drew her weapon due to her responding to a report of a gun, "gun run." According to the Officers Sarchet's, Blank's, and Carver's bodycam videos, each held their firearms pointing down when entering the bus that held RT. Officers Sarchet and Carver holstered their weapon after identifying RT on the bus but before placing him in handcuffs. Therefore, Officers Sarchet, Blank, and Carver having their firearms out but positioned in the "low ready" position did not violate CPD's policy.

FINDINGS

January 13, 2020

Officer Ross McNicol
Officer Elliot Miller

Complainant: RC
Complainant: RT

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

Officer Ross McNicol

Complainant: RC

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

Officer Elliot Miller

Complainant: RT

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

February 25, 2020

Officer Caleb Sarchet
Officer Casey Carver
Officer Barnabas Blank

Complainant: RT

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

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

Officer Caleb Sarchet
Officer Casey Carver

Complainant: RT

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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Complaint #	20058
Complainant	Oumar Bouso
Incident Date	March 24, 2020
CCA Investigator	Ikechukwu Ekeke
CCA Findings	Officer Charles Kilgore Improper Stop – EXONERATED Improper Procedure (BWC) – SUSTAINED Excessive Force – SUSTAINED Officer Michael Brogan Improper Stop – EXONERATED Improper Procedure (BWC) – SUSTAINED

ANALYSIS

Allegation 1: Improper Stop

Though Officers Kilgore and Brogan arrived at the scene for an unrelated matter, they observed a familiar individual, Mr. Bouso, arguing with the unidentified males. Officers Brogan and Kilgore each verbally attempted to diffuse the argument between the three men as both parties expressed a willingness to fight one another. Within eight (8) minutes, Officers Kilgore and Brogan made physical contact with Mr. Bouso on at least the following occasions, respectively:

A. Officer Kilgore-

1. grabbed Mr. Bouso's arm, pulled Mr. Bouso backward from an unidentified male, and released him;
2. placed his right arm in front of Mr. Bouso, stopping Mr. Bouso's approach forward;
3. grabbed Mr. Bouso's right arm with one arm, held Mr. Bouso, and eventually pulled Mr. Bouso behind him, causing Mr. Bouso to fall.

B. Officer Brogan-

1. grabbed Mr. Bousso's shirt and pushed Mr. Bousso away from an unidentified male;
2. grabbed Mr. Bousso's right sleeve and turning Mr. Bousso around.

CPD Procedure § 12.554 Investigatory Stops provides that officers may forcibly stop and detain the citizen for a brief investigatory period when an officer has reasonable suspicion to believe the citizen is committing or has committed a crime.

Though Officer Kilgore stated Mr. Bousso was never under arrest during the encounter, Officers Kilgore's and Brogan's physical touching of Mr. Bousso by respectively grabbing, pulling, pushing, and then turning around of Mr. Bousso each constituted a stop. Each of those physical touchings exerted a sufficient amount of contact that restricted Mr. Bousso's freedom to move without compliance. Therefore, those instances of physical contact by Officers Kilgore and Brogan must have accompanied reasonable suspicion of a crime (Terry) to conform with the 4th Amendment and CPD Procedure § 12.554.

Officer Kilgore's Initial Grabbing and Pulling

According to Officer Kilgore's statements and supported by video surveillance, Officer Kilgore physically pulled Mr. Bousso away from the unidentified male to prevent him from fighting. Video surveillance shows that this occurred at approximately 12:58PM. Based on the information available, Officer Kilgore had reasonable suspicion to stop Mr. Bousso and restrict Mr. Bousso's freedom (even if only momentarily) based on preventing a physical altercation. Therefore, CCA determined that Officer Kilgore's stop did not violate the CPD procedure and the relevant law.

Officer Kilgore's Final Grabbing and Pulling

According to Officer Kilgore's statements and supported by video surveillance, at approximately 1:02PM, after Mr. Bousso attempted to walk toward the street in the unidentified males' direction, Officer Kilgore grabbed and pulled Mr. Bousso back, causing Mr. Bousso to fall. Officer Kilgore stated he attempted to prevent a seemingly intoxicated (slurred speech, staggering, and bloodshot eyes) Mr. Bousso from walking through active traffic towards a fight with the unidentified individuals, as at least one loudly expressed their willingness to fight Mr. Bousso. Therefore, as it pertains to the issue of the stop's validity, CCA determined that Officer Kilgore did not violate CPD procedure and the relevant law by stopping Mr. Bousso from crossing the street. However, the force used to effectuate that particular stop is analyzed separately in this report and is discussed below.

Officer Brogan's Initial Grabbing

According to Officer Brogan's statements and supported by video surveillance, at approximately 12:58 PM, Officer Brogan grabbed Mr. Bousso's shirt and pulled him away from one of the unidentified males that Mr. Bousso "was going after" after being separated from earlier. Therefore, CCA determined that Officer Brogan's stop did not violate CPD procedure and the relevant law by pulling Mr. Bousso back from fighting an unidentified male.

Officer Brogan's Final Grabbing

According to Officer Brogan's statements and supported by video surveillance, while riding a Segway at approximately 1:02:PM, Officer Brogan grabbed Mr. Bousso's sleeve and turned Mr. Bousso around as Mr. Bousso walked in the direction of the unidentified males that Officer Brogan previously separated. Officer Brogan noted that after "Omar kept screaming at [the unidentified man] from across the street," Mr. Bousso started "going after the [unidentified] guy again," and Officer Brogan grabbed hold of Mr. Bousso's shirt "keep him from attacking the guy." Therefore, CCA determined that Officer Brogan's stop did not violate CPD procedure and the relevant law by pulling Mr. Bousso back from fighting an unidentified male.

Allegation 2: Improper Procedure (BWC)

"The Center Surveillance Video" showed Officer Brogan physically engaged with Mr. Bousso multiple times before Officer Brogan activated his BWC. 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 Kilgore did not activate his BWC during his self-initiated activity involving Mr. Bousso. Also, as previously analyzed, Officers Kilgore's and Brogan's physical contact with Mr. Bousso likely constituted a stop, whereby even if the circumstance started as a voluntary encounter, the encounters transitioned into a self-initiated activity that warrants BWC activation. Therefore, Officers Kilgore and Brogan did not comply with CPD's policy, procedure, and training by failing to turn on their respective BWC during their engagement with Mr. Bousso.

Allegation 3: Excessive Force

Mr. Bousso complained about Officer Kilgore knocking him down to the ground, causing his lips to bleed. Video surveillance appears to show Officer Kilgore pull Mr. Bousso with both hands and throw Mr. Bousso behind Officer Kilgore, causing Mr. Bousso to hit the ground as Mr. Bousso was attempting to walk toward the street. After viewing that video surveillance, Officer Kilgore acknowledged that he grabbed and pulled Mr. Bousso behind him (Officer Kilgore), causing Mr. Bousso to fall.

CPD Procedure §12.545 Use of Force states a police officer's right to make an arrest or an investigatory stop necessarily carries with it the right to use some degree of physical coercion, or threat thereof, to effect it. As noted in an earlier section, this instance of Officer Kilgore restricting Mr. Bousso's freedom to go as he pleased constituted, at a minimum, a stop. CPD Procedure §12.545 defines force as any "physical strike, instrumental contact with a person, or any significant physical contact that restricts movement of a person." In this case, Officer Kilgore grabbing and pulling Mr. Bousso behind him equals significant physical contact that restricted Mr. Bousso's movement; thereby, Officer Kilgore's actions constituted a use of force.

In the presence of use of force, an assessment of the reasonableness of the force under CPD Procedure §12.545 requires:

careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. ... (T)he 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of

hindsight ...the question is whether the officers' actions are 'objectively reasonable' in light of the facts and circumstances confronting them.

(citing Graham v. Connor, 1989). However, CPD Procedure §12.545 also states:

Officers should attempt to achieve control through advice, delay, warnings, and/or persuasion when confronted with a situation where control is required to effect an arrest or protect the public's safety. However, whenever possible, de-escalation techniques shall be employed to gain voluntary compliance by a subject.

One potential use of force that is governed by these principles is "hard hands," which CPD Procedure §12.545 states is the "use of physical pressure to force a person against an object or the ground, [or] use of physical strength or skill that causes pain or leaves a mark."

According to Officers Kilgore's and Brogan's statements and supporting video surveillance, throughout the eight-minute interaction, Officers Kilgore and Brogan verbally and non-physically attempted to de-escalate the ongoing argument and pending altercation between Mr. Bouso and the other unidentified individuals. However, in this instance, Officer Kilgore ultimately used physical strength to pull Mr. Bouso, throwing him backward, causing him to fall to the ground. Officer Kilgore's actions injured Mr. Bouso, leaving a mark and causing him pain, even if Officer Kilgore did not intend for Mr. Bouso to fall. Though Officer Kilgore described this action as "Escorting," his action does not conform to CPD Procedure §12.545's description of that term, which is the "use of light pressure to guide a person or keep a person in place," but instead conforms with CPD's "hard hands" definition.

CPD Procedure §12.545 proposes factors used to consider when determining the reasonableness of Officer Kilgore's use of hard hands. Here, those factors weigh in favor of a finding that the force used was objectively unreasonable. Though Officer Kilgore was in close proximity to Mr. Bouso, Officer Kilgore noted Mr. Bouso was not a threat to him or Officer Brogan, nor was Mr. Bouso under arrest at any point during this encounter. Officer Kilgore noted that he attempted to protect Mr. Bouso—who showed signs of intoxication with slurred speech, bloodshot eyes, and staggering—from the unidentified individuals. Presumably, these factors would increase the level of regard—and not increase the use of force—that Officer Kilgore should have displayed towards Mr. Bouso in this instance.

Additionally, those other unidentified individuals who had been feuding with Mr. Bouso were across the street and not in close enough proximity to either Officer Kilgore or to Mr. Bouso at the time he was thrown to the ground. Mr. Bouso presented no immediate danger justifying the application and amount of the force used. It is also notable that after pulling Mr. Bouso and causing him to fall to the ground, Officer Kilgore walked away from Mr. Bouso, leaving him motionless on the ground for six (6) seconds rather than immediately check on his condition or render medical aid, cutting against the objective reasonableness of the officer's actions.

To be clear, this investigation does not purport to ascribe any malicious intent to Officer Kilgore's conduct. However, even if not done maliciously, the result of Officer Kilgore's use of hard hands does not conform with the reasonableness use of force standard. Therefore, Officer Kilgore did not comply with CPD's use of force policy by grabbing Mr. Bouso with two hands and pulling Mr. Bouso behind him, causing Mr. Bouso to fall face-first into the ground.

FINDINGS

Officer Charles Kilgore

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

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**

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

Officer Michael Brogan

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

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**

RECOMMENDATION

#R2131

Use of Force Reporting Policy/Procedure

As it relates to the use of force reporting requirements in CPD Procedure §12.545 for the use of “hard hands,” CCA recommends that CPD include language that broadens its reporting mandate to require the completion of a written use of force report and reporting of that force to a supervisor, by whichever officers use hard hands, irrespective of whether those officers make an arrest. One way to broaden this mandate would be to change the phrase “arresting officer” in the reporting provisions of §12.545 so that it reads “each officer who uses force.”

Typically, according to CPD Procedure §12.545, a “hard hands” use of force by “an arresting officer” would require either that officer (under CPD policy in effect in 2020) or that officer’s supervisor (under current CPD policy) to file a use of force report documenting the circumstances surrounding the use of force (i.e., Form 18NC, Noncompliant Suspect/Arrestee Report). In all such cases, CPD Procedure §12.545 requires an “arresting officer to notify a supervisor.” However, in this case, according to the statements and video surveillance, Officer Kilgore never arrested Mr. Bousso, nor did any other officer arrest or even cite Mr. Bousso. Accordingly, under a plain reading of the current policy, in cases like this one, no use of force report is required, so long as an arrest does not occur. CCA believes that the benefits that correspond to broad use of force reporting when a citizen is arrested also apply when that

citizen is not arrested. The current policy language risks depriving both CPD and CCA of valuable information for accountability and tracking purposes by not mandating reporting in non-arrest situations involving hard hands.

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Complaint #	21059
Complainant	Scott Grammer
Incident Date	April 2, 2021
CCA Investigator	Jonathan Batista
CCA Findings	Officer Jessie Hooven Harassment – UNFOUNDED Discrimination – UNFOUNDED Discourtesy – UNFOUNDED Improper Procedure – UNFOUNDED

ANALYSIS

On April 2, 2021, at or around 4165 Clifton Avenue, Mr. Grammer alleged that Officer Hooven arrested Ms. Taylor Newell, F/W/Unknown, and cited Mr. Jeffery Willhoite, M/W/47 for panhandling in a Kroger Parking lot. Mr. Grammer alleged Officer Hooven routinely stopped, cited, and arrested Mr. Willhoite in the past year and on more than one occasion he witnessed Officer Hooven cite or arrest Ms. Newell. Mr. Grammer added that Officer Hooven does not enforce panhandling laws against African Americans and ignores crimes such as drug dealing and prostitution in order to enforce panhandling against Mr. Willhoite. Mr. Grammer went on to say that other CPD officers help Mr. Willhoite and Ms. Newell by gifting food and showing sympathy to their current situation by not enforcing local panhandling laws. When Mr. Grammer approached Officer Hooven and asked him as to why he enforces the laws, he stated that Mr. Hooven responded with attitude.

On April 2, 2021, Officer Hooven who was in uniform, in a cruiser partnered with Officer Frank Boggio #P0300 M/W/45 reportedly Observed Mr. Willhoite panhandling on the corner of Clinton Avenue and Spring Grove Avenue. Mr. Willhoite held a sign, walked up to vehicles, and asked for money. Officer Hooven pulled over and approached Mr. Willhoite, addressed him by his name, and immediately told Mr. Willhoite to place his hands behind his back. Mr. Willhoite at first asked Officer Hooven not to arrest him, however when Officer Hooven explained the reason why he was being arrested he complied. Officer Hooven searched Mr. Willhoite incident to arrest and placed him in the rear of the cruiser. Officer Boggio remained inside the cruiser with Mr. Willhoite. Due to Mr. Willhoite having a dog with him, Officer Hooven cited Mr. Willhoite for Cincinnati Municipal code (CMC) 910-12 Improper Solicitation; he denied any inaccuracies listed in the citation. Officer Hooven denied the allegations of harassment, discrimination, discourtesy, and lack of service.

CCA interviewed Officers Hooven and Boggio and reviewed CPD’s policy, procedure, issued citations, and recorded footage. The BWC footage collaborated the officer’s version of what occurred as stated

above. There is no information to indicate that Officer Hooven engaged in discrimination toward, harassed, was discourteous or provided a lack of service to Mr. Willhoite or Ms. Newell. Furthermore, after reviewing BWC footage and Hamilton County Clerk of Courts records, there is no evidence that Ms. Newell was present at this location or that Officer Hooven has ever had an interaction with Ms. Newell. A review of Officer Hooven’s recorded stops from February 29, 2020, to April 2, 2021 does not reflect a pattern of any kind by Officer Hooven. In total there have been three documented stops of Mr. Willhoite by Officer Hooven, all of which ended either with a citation or an arrest for (CMC) 910-12 Improper Solicitation.

FINDINGS

Officer Jessie Hooven

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

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

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

Improper Procedure – There are no facts to support the incident complained of actually occurred.
UNFOUNDED

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5

Complaint #	21078
Complainant	Deron Elliot
Incident Date	April 2, 2021
CCA Investigator	Morgan Givens
CCA Findings	Officer Weitlauf Excessive Force - UNFOUNDED

ANALYSIS

CCA completed a review of CCA Complaint No. 21078 by Mr. Deron Elliot, M/W/37, alleging Excessive Force against Officer Jared Weitlauf, M/W/34, P0400.

Mr. Elliot alleged that on April 15, 2021, he was arrested for assault and fainted as he was walked to the cruiser. He alleged that Officer Weitlauf forcibly “threw” him on the ground, where he remained for “a

few” minutes with Officer Weitlauf’s knee in his back.

Officers Jared Weitlauf, Darwin Gulley, and Karoline Harris were dispatched by the Emergency Communications Center (ECC) to 6908 Gracely Dr. for a family violence run. Upon arrival, Officer Weitlauf observed Mr. Elliot strike a female victim in the face with a closed fist. Officer Weitlauf arrested Mr. Elliot and during the escort to the cruiser, he fell to the ground and complained of heart issues. Mr. Elliot remained on the grass for approximately two minutes, on his side, with his hands cuffed behind his back. Officer Weitlauf squatted behind Mr. Elliott; his knee never touched his back, nor was any weight placed on Mr. Elliot’s back as alleged. Officer Weitlauf requested CFD to assist Mr. Elliot with his alleged heart condition. Mr. Elliot inquired as to if he could go to court instead of going to the hospital, but out of an abundance of caution he was taken to Mercy West to be evaluated and was discharged.

Mr. Elliot was cited for Ohio Revised Code §2903.13 Assault. Officer Weitlauf denied pushing Mr. Elliot to the ground, using force against him, and refuted the allegation that he put his knee in Mr. Elliott’s back.

CCA interviewed Officers Weitlauf, Gulley, and Harris and reviewed CPD forms, and Body Worn Camera (BWC) footages. The BWC footage corroborated the officers’ version of what occurred. At no time did Officer Weitlauf use excessive force as Mr. Elliot alleged. CCA concluded the allegation of Excessive Force as Unfounded. There were no facts to support the incident occurred.

FINDINGS

Officer Weitlauf

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

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