

Date: January 23, 2012

To: Board Members, Citizen Complaint Authority

From: Kenneth E. Glenn, CCIA Director

Subject: CCA Investigative Summaries, Board Meeting / February 6, 2012

1 OLD BUSINESS

Complaint #	11228
Complainant(s)	Sophia Reed
Involved Officer(s)	Jeffrey Ruberg & Nicholas Hageman
CCA Investigator	Greg Pychewicz
Director Recommendation	<p>Ruberg: Use of Force (Physical) - Exonerated Improper Procedure (Seat Belt) - Sustained</p> <p>Hageman: Discourtesy - Not Sustained Improper Procedure (Seat Belt) - Sustained</p>
Board Recommendation	<p>Agree-In-Part</p> <p>Ruberg: Use of Force (Physical) – Exonerated (Agree) Improper Procedure (Seat Belt) – Sustained (Agree)</p> <p>Hageman: Discourtesy - Not Sustained (Disagree) Improper Procedure (Seat Belt) – Sustained (Agree)</p> <p><i>Board Comments</i> <i>The board disagreed with the director’s recommendation of “Not Sustained” on the discourtesy allegation against Officer Hageman and submits a recommendation of “Sustained” for the officer’s comments.</i></p>
City Manager Finding	<p>Agree-In-Part</p> <p><i>City Manager Comments</i> <i>The use of force and seat belt dispositions are affirmed. While the comment about how the complainant was fitting into her clothes is not major, it is nonetheless unnecessary, and inappropriate. I trust the Captain’s counseling of the officer is sufficient. The charge is “Sustained.”</i></p>

Narrative

Ms. Sophia Reed filed a citizen complaint with Cincinnati Police Department on August 19, 2011. The incident occurred on August 13, 2011, at 2203 Queen City Avenue, at approximately 12:50 am. The case was referred to CCIA on September 6, 2011.

Ms. Reed alleged D-3 Officer Jeffrey Ruberg used excessive force by squeezing her arm and pulling it behind her back when she removed her handcuffs and searched her vehicle without permission. She also alleged Officer Nicholas Hageman was discourteous when he commented on her tight pants.

Summary

Officers Hageman and Ruberg stopped Ms. Reed's vehicle because there was a warrant for her arrest for driving on a suspended license. After she got out of the vehicle and was informed she was under arrest, Officer Hageman asked if she had any sharp objects. The DVR reflected him saying her pants were tight and looked like they had been painted on so he would not subject her to a search. Officer Hageman handcuffed Ms. Reed and placed her in the police cruiser.

Ms. Reed stated after she was placed in the police vehicle, she removed the handcuffs to use her cell phone. Once they arrived at the justice center and as the officers started to remove her from the vehicle, she handed them the handcuffs. The officers stated as they began to place the handcuffs back on her, she pulled away and began using profanity and racial remarks toward them. Ms. Reed stated as Officer Hageman was placing the handcuffs back on her wrist, she reached over to pull her blouse from under the cuff and Officer Ruberg grabbed her arm and twisted it behind her.

Both officers stated Ms. Reed pulled away from having the handcuffs placed on her. Officers Ruberg and Hageman stated the only force used was to grab her arm and place it behind her back to handcuff her. Officer Ruberg stated he held her arm tight to control her as she pulled away. Ms. Reed's stated she moved her arm around to pull her sleeve up from the other arm that had been handcuffed. The actions of the officers in using minimal force to re-handcuff Ms. Reed falls within CPD policy as she admitted that she was moving her arms around.

Officers Ruberg and Hageman did not recall if they placed a seat belt or restraint on Ms. Reed during the transport to the Justice Center.. The DVR did not capture Ms. Reed as she was placed in the vehicle. However, during the transport to the Justice Center, the DVR captured Ms. Reed moving around in the rear seat which would indicate a seat belt was not used. The fact that Ms. Reed was able to remove the handcuffs, resulted in the interaction at the Justice Center where she alleged the use of excessive force during the re-handcuffing process. The officers gave no indication why it was not practical to place Ms. Reed in a seat belt which potentially helped her to remove the handcuffs.

Findings

Use of Force- Physical -Officer Jeffrey Ruberg

A preponderance of the evidence shows that the alleged conduct did occur but did not violate CPD policy.
EXONERATED

Discourtesy- Officer Nicholas Hageman

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

Improper Procedure (Seat Belt) Officers Nicholas Hageman and Jeffrey Ruberg

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

#2

Complaint #	11090
	Discharge of a Firearm
Involved Officer(s)	Sergeant Andrew Mitchell
CCA Investigator	Dena Brown and Greg Pychewicz
Director Recommendation	Discharge of a Firearm - Exonerated
Board Recommendation	Hold until March
City Manager Finding	Pending

Narrative

On April 18, 2011, CCA received a call from communications section stating that a CPD officer was involved in a discharge of a firearm. The incident occurred at approximately 3:15 am in front of 1833 Chase Ave. Mr. David Hebert was fatally wounded during the incident.

Summary

On April 18, 2011, officers responded to the home of Jason Weller who advised them that he had been robbed and cut by David Hebert and Megan Hutchinson and gave the officers a description of them. On his way to the scene, Sergeant Mitchell had observed both subjects walking a dog in the vicinity. After getting a description from Mr. Weller, Sergeant Mitchell responded to where the suspects were being questioned. Upon arrival, he positioned himself to the right of Officer Johnson and observed Mr. Hebert place his right hand in his right front pants pocket and withdrew a long bladed knife from his pocket. Sergeant Mitchell drew his service weapon as Mr. Hebert raised the knife over his head and in an aggressive manner came downward toward Officer Johnson.

Sergeant Mitchell moved sideways to remove Officer Johnson out of his line of fire and discharged two rounds at Mr. Hebert's upper body as he turned with the knife in his hand in a swiping motion at Officer Johnson. Sergeant Mitchell believed Officer Johnson had been cut by the action of Mr. Hebert and any further delay would cause serious bodily harm or death to Officer Johnson. All the officers at the scene gave similar accounts of the incident. The angle of how Mr. Hebert brandished the knife toward Officer Johnson was the opinion and perception of each officer. Whether Mr. Hebert motion with the knife was downward or across in a swiping motion is not an issue as the officers articulated a threat of serious bodily harm or death to Officer Johnson. Significant portions of Ms. Hutchinson's account of the incident were disproved by the DVR. Ms. Hutchinson stated that she was aware of Mr. Hebert having the knife in his possession the day of the incident. The knife's location after the incident occurred cannot be addressed with certainty as Officer Kneller was the only officer on scene who witnessed the knife thrown by Mr. Hebert.

Other than the officers statements, there are no civilian witnesses or evidence that would suggest that the action taken by Sergeant Mitchell was not in compliance with CPD policy, procedure and training. Although CCA finds the actions of Sergeant Mitchell complied with CPD policy, CCA recommend that the Firearms Discharge Board carefully review the tactics of the officers at the scene in approaching Mr. Herbert and Ms. Hutchinson who they suspected was armed with a sword or knife and had possibly cut and robbed Mr. Weller.

Findings

Discharge of a Firearm-Sergeant Andrew Mitchell

A preponderance of the evidence shows alleged conduct did occur, but did not violate CPD policies, procedures, or training. **EXONERATED** ■

3

Complaint #	11171
Complainant(s)	Latoya Gardner
Involved Officer(s)	Barnabas Blank
CCA Investigator	David Moonitz
Director Recommendation	Use of Force (Taser) - Exonerated
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Latoya Gardner alleged on July 4, 2011, at 926 Chapel Street, Officer Barnabas Blank tased her for no reason and arrested her. The complaint was received by CCA, from CPD, July 18, 2011.

Summary

Ms. Gardner stated Officer Blank tased and arrested her for no reason. Officers Blank and Moore stated they initially responded to a gun dispatch from Communications. Upon arrival they visually scanned the area after exiting the CPD vehicle. Prior to their arrival there was an assault that occurred. While Officer Blank continued to scan the area, Officer Moore was having a conversation with a person concerning the assault. Ms. Gardner was observed crossing the street by Officer Blank and Ms. Ware and she was animated and appeared to be intoxicated. She approached the person with whom Officer Moore was talking and attempted to physically strike her. She began to walk away and Officer Blank ordered her multiple times to stop or she would be tased. Ms. Gardner ignored the warnings and Officer Blank deployed his taser one time and she fell to the ground. She was handcuffed and taken into custody. Officer Blank's actions were within CPD policy, procedures and training.

Findings

Officer Barnabas Blank-Use of Force-TASER

A preponderance of the evidence shows the alleged conduct did occur but did not violate CPD policies, procedures or training. **EXONERATED** ■

Complaint #	11176
Complainant(s)	Marthrita Nailon
Involved Officer(s)	Jason Ader, Sergeant Jeffrey Battison, Unknown Officers
CCA Investigator	David Moonitz
Director Recommendation	Ader: Excessive Force (Canine) - Not Sustained Excessive Force (Taser) - Not Sustained Battison: Excessive Force (Taser) – Not Sustained Unknown: Excessive Force (Physical) - Not Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Marthrita Nailon, mother of Derrick Broach, filed a complaint with CCA, via telephone, on July 19, 2011. The incident occurred on June 23, 2011, at 4801 Glenshade Avenue, at approximately 1:07 A.M. It was alleged Officer Ader used excessive force, by ordering the canine to bite Mr. Broach and unnecessarily tasing him.

Summary

Officers Haynes and Olverson responded to a burglary in progress at Dave Orr's Body shop. Upon arrival, they observed Mr. Broach behind a residence adjacent to the business where the burglary was alleged to be occurring. Mr. Broach ran when he saw the officers. Mr. Broach stated he was outside of his pickup truck that was broken down in the driveway of a residence. He stated officers approached him, ordered him to place his hands on his truck and tried to pull his hands behind him and slammed his head into the truck. Officer Olverson and Haynes stated when they approached Mr. Broach he immediately ran. Officer Olverson pursued him on foot until he entered a wooded area. Officer Olverson stopped and maintained his position until Officer Ader and his canine arrived and began the track into a wooded area. Officers Haynes and Olverson stated no officers had contact with Mr. Broach until the canine tracked him.

When Officer Ader arrived, he placed his canine on a thirty feet lead and began a track into a heavily wooded area. Shortly thereafter, the lead went limp but Officer Ader could not see the canine because of the thick brush and darkness. When he illuminated his flashlight, he saw the canine had engaged Mr. Broach in his back area and was fighting the canine. Officer Ader yelled for him to stop and Mr. Broach failed to comply and the struggle with the canine continued. Officer Ader approached them and Mr. Broach kicked him in the chest area, knocking him back as he continued to fight the canine. Officer Ader removed his taser and deployed it from a distance of five to seven feet. The taser did not have an affect and Mr. Broach pulled the contact wires loose and continued to fight the canine. Officer Ader reloaded and deployed his taser a second time and again Mr. Broach pulled the contact wires loose. While the confrontation continued, Mr. Broach grabbed the canine by his tracking harness and threw him against a tree.

Officer Ader broadcast an officer needs assistance call and physically engaged Mr. Broach. Sergeant Battison arrived and observed Officer Ader and Mr. Broach physically engaged. He warned Mr. Broach he would be tased and after ignoring the warning, he deployed his taser striking Mr. Broach which had no affect. Sergeant Battison reloaded his taser and deployed it a second time which had the desired affect and Mr. Broach was handcuffed. Mr. Broach stated he was hiding and a canine approached him and Officer Ader repeatedly told

the canine to bite him. Mr. Broach alleged he was tased by five tasers and several officers punched him in the face. This incident occurred in a wooded area and there are no witnesses to support or refute the allegations.

Findings

Officer Jason Ader-Excessive Force-Canine

There were insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED**

Officer Jason Ader and Sergeant Jeffrey Battison-Excessive Force-TASER

There were insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED**

Unknown Officers-Excessive Force-Physical

There were insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED ■**

5

Complaint #	11258
Complainant(s)	Brian Foster
Involved Officer(s)	Jeffrey Shari and Charles Gardner
CCA Investigator	David Moonitz
Director Recommendation	Shari and Gardner: Excessive Force (Physical) - Unfounded
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Mr. Brian Foster alleged Officers Jeffrey Shari and Charles Gardner physically beat him inside the Hamilton County Justice Center after he was arrested by them and taken into the Justice Center for processing on 6/28/11. He filed a Citizens Complaint in person at the CCA office on 9/29/11.

Summary

Officers Shari and Gardner arrested Mr. Foster outside of the Hamilton County Justice Center. Mr. Foster was taken into the Justice Center by way of the sally port without incident. Mr. Foster stated once inside the Justice Center he was taken into a room and physically beaten by the officers. Officers Shari and Gardner stated Mr. Foster was taken into a search room by Corrections Officers after he kicked one in the leg. Neither officer entered the search room at any time. The video recording from the Justice Center confirmed the officer's statements. The Investigator concluded the officers did not violate CPD policy or procedure.

Findings

Officers Jeffrey Shari and Charles Gardner-Excessive Force, Physical

The investigation determined there are no facts to support that the incident complained of actually occurred. **UNFOUNDED ■**

6

Complaint #	11269
Complainant(s)	Breene Ivory
Involved Officer(s)	Carolos Sherman
CCA Investigator	David Moonitz
Director Recommendation	Excessive Force (Physical) – Not Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Breene Ivory alleged on October 8, 2011, Officer Carlos Sherman struck her in the face multiple times, resulting in a scratch on her chin. The incident occurred in the sally port of the Hamilton County Justice Center. The complaint was received by CCA from ETS on October 10, 2011.

Summary

Ms. Ivory stated as she was walking toward the entrance to the jail, Officer Sherman yelled for her to come back. She walked back to the vehicle and he told her to lean against it. Officer Sherman grabbed her by her shirt as she began walking toward the entrance. Although not with a fist, she alleged Officer Sherman struck her twice in her face while he was grabbing her by her shirt. Officer Sherman stated he arrested and transported Ms. Ivory to the Hamilton County Justice Center. Inside the sally port Officer Sherman stated he placed his firearm in the trunk of the CPD vehicle and let Ms. Ivory out of the car. He took his flashlight to check the area where Ms. Ivory had been seated.

Ms. Ivory began walking toward the entry door of the Justice Center and he called for her to come back. She ignored him and continued to walk toward the entrance and he went and escorted her back to the vehicle. This occurred two more times and when he brought her back to the vehicle she began twisting, flailing her body and attempting to pull away. Officer Sherman stated he pressed his forearm against her collar bone to restrict her movements with his flashlight still in his hand. He denies striking her at any time. Both Ms. Ivory and Officer Sherman stated corrections personnel came outside but Ms. Ivory was under control at that time. The investigator attempted to obtain or view the Justice Center video of the incident but it was beyond their retention period. There are no witnesses to the incident, therefore, the Investigator could not determine if the force used by Officer Sherman was excessive.

Findings

Officer Carlos Sherman-Excessive Force-Physical

There were insufficient facts to decide whether the alleged misconduct occurred. **NOT SUSTAINED** ■

7

Complaint #	11290
Complainant(s)	Jamal Owens
Involved Officer(s)	Brandon Connley, and Kevin Broering
CCA Investigator	Dena Brown
Director Recommendation	Connley and Broering: Use of Force (Physical) - Exonerated Broering: Use of Force (Taser) - Exonerated
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Mr. Jamal Owens filed a citizen complaint with the Cincinnati Police Department on October 29, 2011. The incident occurred at a Family Dollar store located at 4219 Colerain Ave. The incident occurred at 4:00 pm on October 29, 2011. The case was referred to CCA on November 3, 2011.

Mr. Owens alleged D-5, Officers Brandon Connley #P408, and Kevin Broering #P262, used excessive force during his arrest. Mr. Owens was tased for 10 seconds and several strikes were delivered to his body.

Summary

Mr. Jamal Owens alleged Officers Brandon Connley and Kevin Broering used excessive force during his arrest. He stated he was tased and had several strikes delivered to his body. Officers Connley and Broering stated while conducting an investigation of a juvenile outside of a Family Dollar store, they recovered a handgun from a juvenile who told them that Mr. Owens was the owner of the gun and was still inside the store. Officer Connley entered the store and confronted Mr. Owens. A struggle ensued that according to the officers and the store employee was initiated by Mr. Owens punching the officer. Officer Connley stated he delivered two strikes to Mr. Owens face after he was punched by him.

Officer Broering entered the store after he noticed a struggle between Mr. Owens and Officer Connley. Once inside, he delivered two strikes to Mr. Owens to stop him from continuing to punch Officer Connley. When the struggle continued, Officer Broering tased Mr. Owens for 10 seconds, however, because of the closeness to him, the taser barb spread was low and only had partial affect. Mr. Owens continued to struggle and was tased long enough for Officer Connley to handcuff him.

Although Officer Broering stated he did not give a verbal warning, Mr. Schilling stated Officer Broering gave two verbal warnings before he tased Mr. Owens. The Investigator concluded the force used by the officers was within CPD policy, procedures and training.

Findings

Use of Force – Physical - Officers Brandon Connley and Kevin Broering

A preponderance of the evidence shows alleged conduct did occur, but did not violate CPD policies, procedures, or training. **EXONERATED**

Use of Force – Taser - Officer Kevin Broering

A preponderance of the evidence shows alleged conduct did occur, but did not violate CPD policies, procedures, or training. **EXONERATED ■**

