



Date: February 21, 2012

To: Board Members, Citizen Complaint Authority
From: Kenneth E. Glenn, CCIA Director
Subject: **CCA Investigative Summaries, Board Meeting / March 5, 2012**

1 OLD BUSINESS

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	Agree (4-0)
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 recommends 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** ■

2

Complaint #	11270
Complainant(s)	Anthony Whitaker
Involved Officer(s)	Joseph Simpson, Oscar Cyranek, and Darrell Beavers
CCA Investigator	David Moonitz
Director Recommendation	Simpson, Cyranek and Beavers: Excessive Force (Physical) - Not Sustained Simpson and Beavers: Discourtesy - Not Sustained Cyranek: Discourtesy - Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Pending

Narrative

Mr. Anthony Whitaker alleged Officers Beavers, Cyranek and Simpson beat him up while affecting his arrest. He was kicked and punched after he was handcuffed. They also made discourteous comments to him after his arrest. The incident occurred on October 7, 2011, at 1990 Millvale Court. The complaint was received by CCA on October 10, 2011.

Summary

Officers Cyranek and Simpson were working an off-duty detail at the Millvale Court apartments and were dispatched to a family trouble run to the apartment of Ms. Westbrook. Both officers stated upon arrival Ms. Westbrook related that her boyfriend, Mr. Whittaker had locked her out and had her keys and she wanted to enter. She informed the officers that he known to carry a weapon. Officers Cyranek and Simpson attempted to communicate with Mr. Whittaker but he did not respond. Officer Beavers responded with Mr. Herald, the CMHA Safety Manager who had a key and gave it to Officer Simpson. Officers Cyranek and Simpson went to the front door and Officer Beavers went to the rear door.

Officer Simpson unlocked and opened the door but remained outside of the apartment. Officer Simpson asked Mr. Whittaker to step outside and he complied. He was told to turn around and Officer Simpson was going to pat him down for weapons. Mr. Whittaker complied but when Officer Simpson began to pat him down, he struck the officer with his elbow and lunged back into the apartment. Officer Simpson's momentum carried him inside the apartment with Mr. Whittaker and he used weight displacement to take him to the floor. He was

on Mr. Whittaker's back trying to control his hands for cuffing but he kept throwing elbow strikes. Officer Cyranek entered at some point to assist and struck Mr. Whittaker in the shoulder one time with a palm strike. Mr. Whittaker was subdued, handcuffed and taken to a marked CPD vehicle. Between the building and the CPD vehicle, Mr. Whittaker was cursing at the officers, continually calling them profane names. Officer Cyranek told him he was a "bit-h. Although force was used by the officers during the struggle with Mr. Whittaker, there are no disinterested witnesses to determine if the force was excessive. The statement made by Officer Cyranek was not within CPD policy, procedures or training.

Findings

Officers Joseph Simpson, Oscar Cyranek and Darrell Beavers--Excessive Use of Force-Physical

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

Officer Joseph Simpson and Darrell Beavers--Discourtesy

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

Officer Oscar Cyranek-Discourtesy

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

3

Complaint #	11279
Complainant(s)	Norbert Kidd
Involved Officer(s)	Ron Dammert
CCA Investigator	David Moonitz
Director Recommendation	Excessive Force (Physical) - Unfounded
Board Recommendation	Agree (4-0)
City Manager Finding	Pending

Narrative

Mr. Norbert Kidd alleged on August 30, 2011, at 805 Sycamore Street, Downtown Services Unit Officer Dammert stomped on his elbow while he was on the ground. The complaint was received by CCA from CPD on October 14, 2011.

Summary

While on bicycle patrol, Officer Dammert observed Mr. Kidd walking on Sycamore Street carrying a container of beer. He stopped and ordered Mr. Kidd to stop. The officer informed Mr. Kidd he was going to be cited for the open container violation. Mr. Kidd was intoxicated and became profane and animated. Officer Dammert could not calm him and decided to physically arrest time. As he was placing the handcuffs on Mr. Kidd, he spat on the officer. Officer Dammert hooked his arm through one of Mr. Kidd's and slid him down into a sitting position. Mr. Kidd alleged Officer Dammert stomped on his elbow, dislocated his shoulder, and spat in his face. Officer Dammert denied the allegation and an unbiased witness, Mr. Jablonsky stated Officer Dammert did not strike Mr. Kidd in any manner and did not spit on him. Based on the observation of Mr. Jablonsky, it was determined that Officer Dammert did not use excessive force against Mr. Kidd.

Findings

Officer Ron Dammert-Excessive Force-Physical

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

4

Complaint #	11283
Complainant(s)	Larry Glenn
Involved Officer(s)	Jacob Mapel, Kimberly Horning, and Alicia Bruewer
CCA Investigator	David Moonitz
Director Recommendation	Mapel: Use of Force (Physical) - Exonerated Horning and Bruewer: Excessive Force (Physical) - Unfounded
Board Recommendation	Agree (4-0)
City Manager Finding	Pending

Narrative

Mr. Larry Glenn alleged Officer Mapel pulled him from his vehicle and he went to the ground and struck his face on the pavement. Officer Mapel was accompanied by Officers Horning and Bruewer, who placed a foot on his shoulder and one in his back. The incident occurred on October 19, 2011, and was reported to CCA in person on October 24, 2011.

Summary

Officer Mapel stopped a vehicle driven by Mr. Glenn for an obscured license plate. A computer check disclosed there was also a capias attached to the car. Mr. Glenn was confronted with the fact and continued to argue with Officer Mapel. Officers Horning and Bruewer responded to the location and Officer Mapel confirmed Mr. Glenn's identity and the active warrant. He repeatedly told Mr. Glenn he was under arrest and to exit the vehicle and he repeatedly refused. Officer Mapel warned him if he didn't exit, he would be physically removed.

As Mr. Glenn continued to argue, Officer Mapel reached into his vehicle, pulled him out and used body displacement to take him to the ground. Officers Horning and Bruewer assisted in handcuffing Mr. Glenn. When he was taken to his feet, the officers observed an abrasion on the side of his face that was against the pavement while he was on the ground. Mr. Glenn stated while on the ground one of the female officers placed a foot against his shoulder and one placed a foot against his back and that Officer Mapel placed a knee in his back. Officer Mapel used his body weight on Mr. Glenn after he was taken to the pavement. The officers involved denied placing a knee in his back, placing a foot against his shoulder or a foot on his back. The DVR's from both Officer Mapel and Horning vehicle's support the events as articulated by the officers.

Findings

Officer Jacob Mapel-Use of Force-Physical

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

Officers Kimberly Horning and Alicia Bruewer—Excessive Use of Force-Physical

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

5

Complaint #	11308
Complainant(s)	Alfred Green
Involved Officer(s)	Hannibal Mayhams
CCA Investigator	Dena Brown
Director Recommendation	Improper Entry (Residence) - Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Pending

Narrative

Alfred Green filed a citizen complaint with the Cincinnati Police Department on November 7, 2011. The incident occurred on the same date, at 3328 Ninann Ct., at approximately 3:20 pm. The case was referred to CCA on November 18, 2011.

Mr. Green alleged his vehicle was improperly searched and Officer Mayhams entered his home without permission or a warrant.

Summary

As Ms. Mitchell returned to her residence and pulled into her driveway, she was approached by Officers Zucker and Greene who stopped to investigate the large wheels on her vehicle. There were several males sitting on a wall next to the driveway so the officers called for assistance when they began to question the stop. As Officer Zucker started to conduct a test of the large wheels on the vehicle, Mr. Green attempted to advise the officers the wheels had been properly fitted. According to the officers, during the investigation, Ms. Mitchell gave a false name and could not be identified. She told the officers that her identification was inside her house and asked Mr. Greene to go inside and retrieve it.

Officer Mayhams stated he did not want Mr. Green to enter the residence by himself because of the type of run he had responded too (disorderly person). Additionally, Mr. Green had a CCW permit and he was unsure of what he would retrieve. Therefore, Officer Mayhams followed Mr. Greene into the basement of the home. Officer Mayhams did not obtain consent to enter from Ms. Mitchell, nor did Mr. Greene state he could not enter as he followed him. After Ms. Mitchell's identification was located, the officers ran a check and found that she did not have a valid driver's license. Mr. Green alleged his vehicle and residence was searched without permission, however, he stated he did not observe the officer search the residence when they went inside. The vehicle was searched incident to the arrest of Ms. Mitchell; therefore, the search of the vehicle was not addressed in the findings because there was no violation. Although the home was not searched by the officer as indicated by Mr. Green, the Investigator concluded Officer Mayhams entered the residence without permission or consent from Ms. Mitchell, the owner of the residence.

Findings

Improper Entry-Home – Officer Hannibal Mayhams

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