

Date: July 25, 2011

To: Board Members, Citizen Complaint Authority
From: Kenneth E. Glenn, CCIA Director
Subject: CCA Investigative Summaries, Board Meeting / August 1, 2011

#1 – OLD BUSINESS: The board did not vote on this case last month, due to lack of quorum.

Complaint #	11006
	Discharge of a Firearm
Involved Officer(s)	Thomas Jones
CCA Investigator	David Moonitz
Director Recommendation	Discharge of a Firearm - Exonerated
Board Recommendation	Pending
City Manager Finding	Pending
<i>Note: Norma Davis, board member, abstained from voting on Case #11006 due to her personal relationship with Mr. Rashand Muhammed. There were not enough board members to vote, therefore, CCA will present this case to the board in September 2011.</i>	

Narrative

On January 12, 2011, Chief Investigator Pychewicz was notified by communication section of a discharge of firearm by Officer Thomas Jones assigned to District 4. The incident occurred in the vicinity of Clinton Springs Avenue at approximately 11pm on January 11, 2011.

Summary

Officer Thomas Jones stated he was taking an auto accident report when he heard gunshots coming from nearby. He notified communication section and walked in the direction from where the shots were believed to have originated. Mr. Phillips came from the rear of some buildings and Officer Jones observed a gun in his hand. He yelled police and for him to get down on the ground. According to Officer Jones, Mr. Phillips ignored his commands and turned the gun toward him. Officer Jones, fearing for his life fired two shots at Mr. Phillips which did not take affect. Mr. Phillips then fled and after a brief foot pursuit lost visual contact with him. Mr. Phillips stated no commands were given and he did not point the gun at the officer until after Officer Jones fired upon him.

Shortly thereafter, and in close proximity, Officer Jones stated a second person, later identified as Mr. Rashand Muhammed was observed with a gun in his hand. Officer Jones stated he ordered him to drop the weapon and to get down on the ground. According to Officer Jones, Mr. Muhammed started to raise the gun toward him and fearing for his life, fired two rounds neither of which took effect. Mr. Muhammed fled and because of the circumstances the officer did not initiate a foot pursuit. Both Mr. Phillips and Mr. Muhammed were subsequently arrested by Homicide Unit Investigators. Both Mr. Phillips and Mr. Muhammed were armed with guns when approached by Officer Jones who articulated a fear of death or serious bodily harm.

Findings

Officer Thomas Jones-Discharge of Firearm

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

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Complaint #	11072
Complainant(s)	Elasha Latham
Involved Officer(s)	Brendon Rock
CCA Investigator	Dena Brown
Director Recommendation	Improper Search (Residence) – Not Sustained Discourtesy – Not Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Elasha Latham filed a citizen complaint with the Cincinnati Police Department on March 22, 2011. The incident occurred on the same date, at 4033 President Drive, at approximately 2:30 am in D-3. CCIA received the complaint on March 23, 2011.

Ms. Latham alleged D-3 Officer Brendon Rock, badge #692 entered her sister's residence and searched it without consent; he was discourteous, rude and failed to investigate the original complaint.

Summary

Ms. Elasha Latham and her sister Valarie Latham alleged Officer Brendon Rock was discourteous and searched their sister Jalisa's residence without permission. Valarie Latham stated Officer Rock placed his taser to Jalisa's neck and Elasha stated he placed it to her head. Officer Rock denied the allegation and stated he was not discourteous and did not search the apartment. He stated he pulled his taser to stop the sisters from fighting. The Investigator could not determine if the officer searched the residence as alleged or if he was discourteous.

Findings

Improper Search (residence) and Discourtesy – Officer Brendon Rock

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

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Complaint #	11076
Complainant(s)	Kenyatte Johnson
Involved Officer(s)	Kyle Strunk and Robert Zeller
CCA Investigator	David Moonitz
Director Recommendation	Strunk: Excessive Force (Physical) - Not Sustained Strunk and Zeller: Discourtesy - Not Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Kenyatte Johnson alleged on March 26, 2011, at 960 Hawthorne Avenue, Officer Strunk used excessive force by pushing her. While writing her a citation, Officers Zeller or Strunk was rude and discourteous. The complaint was retrieved from ETS on March 28, 2011.

Summary

Ms. Johnson stated, in the Form 648, that Officer Strunk pushed her. She did not define at what point in their contact this occurred. Officer Strunk stated he did not have, nor did he see any other officer have any physical contact with Ms. Johnson. Officer Zeller stated his contact with Ms. Johnson was for pedestrian violations. She was cited for disorderly conduct; she and the other three persons were cited for pedestrian violations. All were released and left the area.

Ms. Johnson stated Officers Strunk and Zeller were “very nasty,” and when she went to District 3, Officer Zeller was disrespectful toward her. Officer Zeller stated he did see Ms. Johnson when she was in District 3, but did not have contact with her. Officer Strunk denied being disrespectful or discourteous. The investigation was unable to determine whether or not Ms. Johnson’s allegations were valid.

Findings

Officer Kyle Strunk-Excessive Force - Physical

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

Officers Kyle Strunk and Robert Zeller-Discourtesy

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

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Complaint #	11079
Complainant(s)	Gloria Gordon
Involved Officer(s)	Bryan Scott and Charles Bell
CCA Investigator	Dena Brown
Director Recommendation	Scott: Search – Exonerated Scott and Bell: Improper Procedure (Consent to Search Form) - Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Gloria Gordon filed a citizen complaint with the Cincinnati Police Department on March 16, 2011. The incident occurred at 2715 Harrison Ave #4, D-3 at approximately 9:36 pm. CCIA received the case on March 30, 2011.

Ms. Gordon alleged D-3 Specialist Mark Bemmes, #PS11, searched her residence without permission.

Summary

Ms. Gloria Gordon alleged Specialist Bemmes searched her apartment without consent. The Investigator concluded Specialist Bemmes did not search the residence. Officer Scott searched the apartment. Officers Trabel, Bell, and Scott stated they received permission to enter the apartment from Bryant Gordon, the son of Ms. Gordon who lives at the home. In his interview with the IIS investigator, Bryant confirmed that he answered the door and gave the officers permission to enter and search the residence. Officer Bell entered the apartment and stayed with Bryant while Officer Scott searched it looking for Demarcus Bryant. Officers Scott and Bell followed procedure when they received permission to search the apartment, however, both officers failed to follow CPD policy when they failed to have the consent to search form signed.

Findings

Search – Officer Bryan Scott

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

Improper Procedure (consent to search form) – Officer Bryan Scott and Officer Charles Bell

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 #	11080
Complainant(s)	Sedric Waller
Involved Officer(s)	Charles Utley
CCA Investigator	Dena Brown
Director Recommendation	Discourtesy (Profanity) - Sustained Excessive Force (Taser) - Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Mr. Sedric Waller filed a citizen complaint with the Cincinnati Police Department on April 1, 2011. The incident occurred at 119 W. 68th St., at approximately 6:47 pm, in D-4. The case was referred to CCIA on April 4, 2011.

Mr. Waller alleged D-4 Officer Charles Utley #P788, was discourteous and used excessive force when he tased him for no apparent reason.

Summary

Mr. Sedric Waller alleged Officer Charles Utley was discourteous and used excessive force when he tased him without cause. Officer Utley stated he used profanity but only as verbal stunning. He stated he tased Mr. Waller because he believed his hand in his pocket was a threat and because he did not follow his commands to

place his hands on the fence. The Investigator determined the use of the profane language was not verbal stunning and was not used properly per CPD policy, procedures, or training.

The DVR reflected Mr. Waller walking to the fence and being tased as he placed his right hand on the fence. The officer stated he was only focused on Mr. Waller's hand in his pocket and believed he was a threat based on previous contacts with him and because he was unsure of what he was going to do. Officer Utley stated Mr. Waller was not actively resisting when he was tased but believed he was resisting his order. The Investigator concluded Mr. Waller was complying with the officer as he was placing his hand on the fence when he was tased. Officer Utley's actions were not in compliance with CPD policies, procedures, or training.

Findings

Discourtesy (profanity) and Excessive Force (Taser) - Officer Charles Utley

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