



Date: June 8, 2011

To: Board Members, Citizen Complaint Authority
From: Kenneth E. Glenn, CCIA Director
Subject: **CCA Investigative Summaries, Board Meeting / July 11, 2011**

#1

Complaint #	11002
Complainant	Vicky Vandergriff
Involved Officer(s)	Karoline Harris
CCA Investigator	David Moonitz
Director Recommendation	Use of Force (Physical) - Exonerated
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Vicky Vandergriff alleged on May 23, 2010, District 5 Officer Karoline Harris arrested her when she was attempting to file a report at District 5. Officer Harris allegedly pushed her eight year old son, Anthony Easton, against a wall as she was grabbing her. The complaint was retrieved from ETS by CCA on January 4, 2011. It was reported to District 5 by Ms. Vandergriff on December 21, 2010.

Summary

Ms. Vicky Vandergriff was arrested for disorderly conduct in the lobby of District 5 by Officer Harris. During the arrest, Anthony Easton, Ms. Vandergriff's eight year old son attempted to intervene. Anthony stated he was physically trying to pull the officer from his mother and was attempting to kick her. Ms. Vandergriff, Anthony and Mr. Byrd stated Officer Harris pushed Anthony. Ms. Vandergriff stated he was pushed against a wall. Anthony and Mr. Byrd stated he was not pushed against a wall. Officer Harris did not recall having any physical contact with Anthony while she was trying to handcuff Ms. Vandergriff; Mr. Byrd stated that he grabbed and restrained Anthony after he was shoved by Officer Harris. Although Officer Harris stated she did not recall pushing Anthony during the arrest of Ms. Vandergriff, Anthony admitted that he intervened during the arrest of his mother. Ms. Vandergriff stated Officer Harris used a sweeping motion to push Anthony aside while she was being handcuffed. The preponderance of evidence indicates that force was used by Officer Harris; however, the force was minimal at best to affect the arrest. of Ms. Vandergriff and did not violate CPD policy.

Findings

Officer Karoline Harris-Use of Force-Physical

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

2

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 August 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. Homicide Unit Investigators subsequently arrested both Mr. Phillips and Mr. Muhammed. 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** ■

3

Complaint #	11029
Complainant(s)	Jay Jackson
Involved Officer(s)	Jeffrey Toms
CCA Investigator	Dena Brown
Director Recommendation	Excessive Force (Physical) - Unfounded
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Mr. Jay Jackson filed a citizen complaint with the Cincinnati Police Department on January 1, 2011, from an incident that occurred at approximately 12:50 am, at 3429 Hillside Ave in District 3 on the same date. IIS received the complaint on February 8, 2011 and forward it to CCIA on the same date.

Mr. Jackson alleged D-3, Officer Jeffrey Toms, #P904, forced his head against the trunk of the cruiser causing injury to his lip.

Summary

Mr. Jackson alleged Officer Toms forced his head against the trunk of the cruiser. Officers Toms and Hodges denied the allegation. Mr. Phoenix and several neighbors who did not want to be identified, refuted Mr. Jackson's allegation. The photos revealed no injuries to Mr. Jackson's mouth and the DVR did not capture the incident. The Investigator determined the alleged incident did not occur.

Findings

Excessive Force-Physical – Officer Jeffrey Toms

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

4

Complaint #	11040
Complainant(s)	Kristopher Ward
Involved Officer(s)	Nathan Asbury and Steve Peponis
CCA Investigator	David Moonitz
Director Recommendation	Asbury and Peponis: Excessive Force (Physical) – Not Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Mr. Kristopher Ward alleged on February 10, 2011, he was punched in the head by Officers Asbury and Peponis after he was handcuffed. The complaint was received by CCIA from ETS on February 16, 2011. The incident occurred at 1004 Chapel Street.

Summary

Mr. Ward stated he voluntarily went to the ground and extended his arms after a pursuit as a gesture of surrendering. He alleged Officer Asbury struck him after he was handcuffed. Mr. Ward stated Officer Peponis struck him in the face four or five times. Officers Peponis stated as Mr. Ward was approached, he walked away and was observed throwing a handgun under a parked car. Officer Asbury stated he observed Mr. Ward throw something under a vehicle. Mr. Ward entered a car and attempted to drive into Officer Peponis then drove head-on into the unmarked CPD vehicle. He exited the vehicle and ran and Officers Asbury and Peponis pursued him on foot.

During the pursuit, Officer Asbury deployed his taser twice at Mr. Ward but it did not have any effect. Officer Asbury caught up with Mr. Ward after he fell. Officer Asbury stated he had his hands under him and he grabbed Mr. Ward by his elbows, ordering him to put his hands behind his back. Officer Asbury stated he refused and a struggle ensued and he delivered two fist strikes to the side of Mr. Ward's head and a third strike was delivered with his elbow. Mr. Ward released his hands at that time. Officer Peponis arrived at their location and assisted in handcuffing Mr. Ward. Officer Peponis did not observe Officer Asbury strike Mr. Ward. Officer Peponis stated he did not strike Mr. Ward and Officer Asbury stated he did not see Officer Peponis strike him. CFD checked Mr. Ward for injuries prior to him being transported to District 4. The investigation failed to determine if Officer Peponis struck Mr. Ward or if Officer Asbury struck him after he was handcuffed. The investigation could not determine if the force used by the officers was excessive.

Findings

Officers Steven Peponis/ Nathan Asbury—Excessive Force-Physical

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

5

Complaint #	11051
Complainant(s)	Layne Rice
Involved Officer(s)	Specialist Scott McManis
CCA Investigator	David Moonitz
Director Recommendation	Search (Vehicle) - Exonerated
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Mr. Layne Rice alleged on February 28, 2011, on Forest Avenue, he was stopped while driving his vehicle by District 4 Officer Gerald Hatcher. After being stopped, Canine Unit Specialist Scott McManis arrived on the scene with his canine partner. Mr. Rice alleges the canine failed to alert outside of his vehicle but the dog was still placed inside. He alleged his vehicle was improperly searched by Specialist McManis and he was improperly searched by Officer Schaible and that no contraband was found. The complaint was received by the phone message recorder on March 1, 2011.

Summary

Mr. Rice stated he was stopped by Officer Hatcher while operating his car. A CPD canine unit arrived, did an exterior sniff of his car but did not alert. However, the DVR reflected Specialist McManis assertion that the canine alerted on the driver's door. Based upon that alert, the canine was placed in the car and alerted on two specific areas. Mr. Rice stated he was searched by Officer Schaible, however, the DVR showed a pat down/frisk. Specialist McManis and Officer Schaible searched the vehicle and no contraband was found. Mr. 8/26/2012

Rice was issued a traffic citation by Officer Hatcher and released. The search of Mr. Rice's vehicle and frisk was within CPD policy, procedures and training.

Findings

Specialist Scott McManis-Search (vehicle)

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

6

Complaint #	11058
Complainant(s)	Kristen Conway
Involved Officer(s)	Zachary Sterbling
CCA Investigator	Dena Brown
Director Recommendation	Discourtesy (Profanity) - Not Sustained Improper Entry - Not Sustained Discourtesy (Taking of Cell Phones) - Sustained
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Kristen Conway filed a citizen complaint with the Cincinnati Police Department on March 8, 2011. The incident occurred at 2385 Ferguson Rd, Apt. 1, D-3, at approximately 5:43 pm. The case was referred to CCIA on March 9, 2011.

Ms. Conway alleged D-3 Officer Zachary Sterbling, #P934, searched her home without permission, and was discourteous.

Summary

The CPD complaint received by CCIA stated, Ms. Conway alleged Officer Zachary Sterbling searched her residence without her permission. Officer Sterbling denied the allegation, stating he only entered after she gave him permission to do so. After interviewing Ms. Conway, she stated the officer did not search her residence, only entered it without permission.

Ms. Conway alleged Officer Sterbling was discourteous and threatened to have 241-kids take her son away. Officer Sterbling denied being discourteous and stated Ms. Conway asked what would happen if she went to jail and that is when an officer mentioned 241-kids. He could not recall who mentioned 241-kids.

The Investigator could not determine if the officer was invited inside or if he just followed Ms. Conway inside remaining in the doorway, or if he was discourteous and used profanity.

However, the Investigator concluded Officer Sterbling's actions of taking Ms. Conway phone was a seizure and unnecessary. His contact with her was consensual, because she was not suspected of committing or had committed a crime. She cooperated and brought everyone outside who was in the residence and refused consent to search her home. Officer Sterbling did not conduct a proper investigation when talking to the caller who later upon questioning stated she did not witness the incident involving a gun as she was relating third party information.

Findings

Improper Entry/ Discourtesy (profanity) -Officer Zachary Sterbling

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

Discourtesy (taking of cell phones) - Officer Zachary Sterbling

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

7

Complaint #	11075
Complainant(s)	Vicky Bush
Involved Officer(s)	Zachary Sterbling
CCA Investigator	David Moonitz
Director Recommendation	Excessive Force (Physical) – Not Sustained Discourtesy – Unfounded
Board Recommendation	Agree (4-0)
City Manager Finding	Agree

Narrative

Ms. Vicky Bush alleged on March 25, 2011, District 3 Officer Zachary Sterbling, badge # P-934, told the party with whom she was in Applebee's to shut up and get out. He also used excessive force against Mr. Donald Bush, Sr. and Ms. Kimberly Bush in Applebee's parking lot. The complaint was retrieved from ETS on March 28, 2011.

Summary

Employees at the Applebee's restaurant called the police because they felt the Bush party was disorderly and several people in the party were being disrespectful to the employees. Officer Sterbling was dispatched, and upon arrival didn't see anyone being disorderly. He was approached by management personnel who told him that the Bush family had been disorderly and they wanted them to leave the restaurant. Officer Sterbling approached the family and told them that management wanted them to leave. Family members alleged the officer was discourteous by telling them to shut up which was denied by Officer Sterbling and the employees.

Ms. Vicky Bush alleged Officer Sterbling pushed Mr. Donald Bush Sr.'s arm down as he was video taping the incident. Officer Sterbling stated Mr. Bush put the camera within several inches of his face and after telling him several times to get it out of his face, he pushed his arm in a downward motion. Mr. Gerdy stated there were people with cameras within several inches of Officer Sterbling's face.

Once outside, Officer Sterbling stated he arrested Mr. Bush, Jr., who continued to be loud and disorderly and refused to leave. Ms. Vicky Bush and Mr. Bush, Jr., stated Officer Sterbling pushed Kimberly Bush as she approached them. CCA was unable to interview the two the restaurant employees who watched the interaction as it went outside. From their interviews with CPD, it appears that they did not have a clear view of the entire incident in the parking lot. However, the Applebee's employee's statements were consistent in that Officer Sterbling was not discourteous toward the Bush party. The Investigator does not have enough evidence to prove or disprove that Officer Sterbling used excessive force by pushing Kimberly Bush in the parking lot.

Findings

Officer Zachary Sterbling - Excessive Force -Physical

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

Officer Zachary Sterbling - Discourtesy

There are no facts to support that the incident complained of occurred. **UNFOUNDED** ■
