

Date: February 17, 2023

To: Gabriel Davis, CCA Director

From: Joseph Vesper, CCA Investigator

Subject: **CCA Case No. 22090 - Review of Discourtesy and Improper Stop Allegations by Kish Richardson**

CCA completed an investigation of CCA Complaint No. 22090 by Kish Richardson, M/B/22, alleging Discourtesy and Improper Stop, against Sergeant Mark Schutte, #SO776, M/W/38, this memorandum is intended to convey the conclusions resulting from that investigation and the basis for those conclusions. This memorandum does not purport to summarize all evidence uncovered during the course of the investigation, nor is it intended to summarize the entirety of CCA's file on this matter.

Mr. Richardson alleged that on Monday, April 25, 2022 at 12:15 AM at 2398 Clifton Avenue, Sergeant Schutte, exhibited heinously inappropriate and unprofessional behavior. Mr. Richardson was cited for running a red light and alleged that the stop was illegitimate. Furthermore, Mr. Richardson alleged that Sgt. Schutte failed to identify himself after several requests and felt very uncomfortable and refused to put on his seatbelt when commanded by Sergeant Schutte. Sergeant Schutte eventually told Mr. Richardson to put his seatbelt on or he would cite Mr. Richardson. Mr. Richardson believed the command was in violation of ORC 2905.12 (5) and Sergeant Schutte was discourteous during the entire encounter.

CCA interviewed Mr. Richardson, and Sergeant Schutte about the incident. CCA also reviewed relevant body worn camera (BWC) recordings, records from the Hamilton County Clerk of Courts, relevant police records, and footage that was recorded by Mr. Richardson.

The footage provided no evidence to support the complainant's assertion that Sergeant Schutte was discourteous or that the stop was improper. Sergeant Schutte, and Mr. Richardson's statements to CCA built credence that indicated the stop was legitimate.

Credible evidence, specifically, relevant BWC footage, proves that while Sergeant Schutte stopped Mr. Richardson, the stop itself was not improper. Moreover, CPD Procedure Manual §12.554 Investigatory Stops, CPD Investigations Manual §12.1.2 Terry Stop, and CPD Procedure §12.205 Traffic Enforcement, permitted the stop.

Furthermore, while Sergeant Schutte commanded and conversed with Mr. Richardson, Sergeant Schutte was not discourteous and therefore, did not violate the rules and regulations linked to discourtesy, CPD Manual of Rules and Regulations §1.06 Failure of Good Behavior.

Specifically, the evidence establishes the following:

- Sergeant Schutte had probable cause to stop Mr. Richardson. In Sergeant Schutte's interview with CCA he stated that he witnessed Mr. Richardson pass through a stop light

as it turned red. Mr. Richardson in his statements to CCA stated, "when I was at the yellow light and it was turning red, I had applied my breaks, I was in the intersection, like this was the whole debate of our conversation." The statements from Sergeant Schutte and statements from Mr. Richardson substantiate that the stop was proper.

- Regarding the order given by Sergeant Schutte, If the police officer is, at the time the order at issue is given, authorized to direct, control, or regulate traffic, and if the order itself is "lawful," the plain language of O.R.C. 2921.331(A) states that a person must comply with the order.
- Sergeant Schutte stated in his CCA interview and on Sergeant Schutte's BWC he instructed Mr. Richardson to place his seatbelt on for Mr. Richardson's safety. At the time of the order, Mr. Richardson was sitting in the driver's seat of a car that he had just been operating, with keys in the ignition, on the side of a public roadway while it was dark outside.
- Sergeant Schutte gave the order in the context of Sergeant Schutte's investigation of Mr. Richardson for an observed traffic offense and suspected intoxicated driving. Mr. Richardson was being detained in connection with that investigation.
- Sergeant Schutte refrained from using course, violent, or profane language, and acted civilly and orderly when he talked with Mr. Richardson, and therefore did not violate CPD Manual of Rules and Regulations §1.06 Failure of Good Behavior.

Therefore, the actions of the subject officer were consistent with CPD policy, procedure, and training.

Findings:

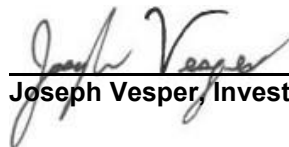
Based on my investigation and review of the evidence uncovered, I recommend the following findings for your endorsement (findings are defined in the attachment to this memorandum):

Original Allegations

No.	Allegation	Subject Officer	Involved Citizen	Finding
1	Improper Stop	Mark A. Schutte	Kish Richardson	Exonerated
2	Discourtesy	Mark A. Schutte	Kish Richardson	Unfounded

Recommendation/Observation:

None



Joseph Vesper, Investigator



Gabriel Davis, Director