

Date: February 22, 2023

To: Gabriel Davis, CCA Director

From: Kerrie Kimpel, CCA Investigator

Subject: **CCA Case No. 22174 - Review of Excessive Force, Improper Search and Discourtesy Allegations by Robert Taylor**

CCA completed an investigation of CCA Complaint No. 22174 by Robert Taylor, (M/B/40), alleging Excessive Force, Improper Search and Discourtesy against Sergeant Nathan Asbury, #S0008, (M/W/42), Specialist Mark Longworth, #PS024, (M/W/48), Officer Charles Knapp, #P0297, (M/W/44), and Officer Cian McGrath, #P0072, (M/W/40). 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. Robert Taylor alleged that on Wednesday, August 3, 2022 at 9:40AM at [REDACTED], Cincinnati Police officers later identified by CCA to be Sergeant Asbury, Specialist Longworth, Officers Knapp and McGrath, used excessive force when arresting him. Sergeant Asbury, Specialist Longworth, and Officers Knapp and McGrath, along with several more members of the Fugitive Apprehension Squad, arrived at [REDACTED] to serve multiple warrants on Mr. Robert Taylor, including warrants for Carrying Concealed Weapon, Improper Handling of a Weapon in a Motor Vehicle, Failure to Comply with a Police Order, Weapons under Disability, Tampering with Evidence and Felony Obstructing Official Business (Hamilton County Common Pleas Case 22CRA11774). Mr. Taylor also alleged that the officers made fun of his prosthetic eye, and they "should have" obtained a "search warrant" to search the residence he was located at because it is his children's residence, and he "does not live there."

CCA interviewed Robert Taylor, Sergeant Nathan Asbury, Specialists Mark Longworth, and Michael Harper, and Officers Charles Knapp, Cian McGrath, Scott Traufler, #P0126, (M/W/39), and Kelly Jackson, #P0635, (F/W/48). CCA also reviewed relevant body worn camera (BWC) recordings, Contact Cards, relevant police records, records from the Hamilton County Clerk of Courts, use of force reports, and computer aided dispatch (CAD) records.

Credible evidence, specifically, relevant BWC footage, proves that Sergeant Asbury, Specialist Longworth, and Officers Knapp and McGrath used force against Mr. Taylor, including an elbow strike by Specialist Longworth, use of Conducted Energy Weapon (CEW) by Sergeant Asbury, and the use of a tactical shield to hold Mr. Taylor to the ground by Officer McGrath. The circumstances surrounding the use of force are as follows:

Officer Knapp had attempted to lay Mr. Taylor in a prone position to detain him, and Mr. Taylor pushed Officer Knapp forcefully to the ground. Specialist Longworth was holding a rifle, so he used an elbow strike against Mr. Taylor as Sergeant Asbury deployed his CEW into Mr. Taylor's back. The CEW was deployed for 4.95 seconds, which had a desired effect of Neuromuscular Incapacitation (NMI), and Mr. Taylor fell to the ground. Mr. Taylor continued to resist and did not

follow orders to put his hands behind his back, so Sergeant Asbury attempted to use it a second time but one of the prongs had come out. Mr. Taylor attempted to push himself up off the ground, so Officer McGrath used the tactical shield to hold him down on the ground while the other officers gained control of Mr. Taylor's arms and placed Mr. Taylor in handcuffs.

However, despite the action taken, CPD Procedure Manual § 12.545, Use of Force, permitted the conduct that occurred, due to Mr. Taylor initially refusing to comply with verbal commands to come down the stairs, and then forcefully pushing Officer Knapp to the ground. Specifically, the evidence establishes that the subject officers' use of force was objectively reasonable in light of the applicable factors for evaluating force under the Fourth Amendment and CPD policy. Therefore, the actions of Sergeant Asbury, Specialist Longworth, and Officers Knapp and McGrath were consistent with CPD policy, procedure, and training.

With respect to the allegation that officers conducted a "search" of the residence, evidence indicates that at minimum, the officers conducted a protective sweep of the residence after arresting Robert Taylor for assaulting a peace officer. The officers knew Mr. Taylor had multiple active arrest warrants, but he refused to identify himself to officers when they requested that he do so. According to the BWC footage, Officer Knapp also believed that Mr. Taylor may have been providing a distraction from someone upstairs, which would tend to support a protective sweep.

Irrespective of whether the "search" was a properly conducted protective sweep, the initial entry into the apartment is at issue in this case. With respect to the initial entry, Sergeant Asbury and Officer Jackson stated the officers entered the apartment to arrest Mr. Taylor after establishing that he lived at the residence and was there at the time. Sergeant Asbury stated to CCA that the officers established this by executing a search warrant for Mr. Taylor's phone records which placed him at the residence for a period of several days or weeks in a row, and officers observed his vehicle at the residence on the day this incident occurred. Despite the facts uncovered during the course of this investigation, no credible evidence that CCA was permitted to view clarifies material facts necessary to prove or disprove Mr. Taylor's claim of Improper Search by a preponderance of the evidence. Specifically, notwithstanding our efforts to obtain such evidence, CCA does not have in its possession the phone records that were, according to Sergeant Asbury, obtained by search warrant, and that are needed to corroborate the information provided by Sergeant Asbury as to the reasonable belief that Mr. Taylor resided at the address in question. Therefore, there are insufficient facts to make a determination as to the Improper Search allegation.

Analysis of Sustained Allegations

Evidence obtained, reviewed and considered during this investigation established the following violations of CPD policy, procedure, or training:

Allegation: Discourtesy

Regarding the discourtesy allegation against the officers for making fun of Mr. Taylor's eye, the exchange of words with Mr. Taylor was as follows:

Mr. Taylor:	"You need to quit working out and go find something else to do. Don't slam me for no reason."
Specialist Harper:	"I don't know if he... Is he looking at you?"
Officer Jackson:	"He's looking at you."

Mr. Taylor: "No, I'm looking at the person who tried to slam me for no reason. Wanna talk about resisting arrest, I got my hands up."
Specialist Harper: "I couldn't tell..."
Mr. Taylor: "Now You don't want to speak? Pulling my boxers out of my ass on some gay shit."
Sergeant Asbury: "Sir, I can't tell who you're looking at, are you looking at me?"
Mr. Taylor: "Yeah, I'm looking at you."
Specialist Harper: "Me?"
Mr. Taylor: "No, the one behind you, tried to slam me for no reason, talking about resisting arrest."
Specialist Harper: "Him."
Specialist Longworth: "You're looking at me. You're looking at me too."

Officer Jackson seemed to be genuinely answering Specialist Harper's question, of who Mr. Taylor was looking at while he spoke. The other officers, considering their tone and repetition of the questions, appeared as though they were being facetious. While all the officers denied making fun of Mr. Taylor's eye in their interviews with CCA, the exchange was reminiscent of a routine in which one participant in a conversation is being ridiculed for the comedic enjoyment of others. CPD Manual of Rules and Regulations states, "Members of the Department shall always be civil, orderly, and courteous in dealing with the public, subordinates, supervisors and associates. The entire conversation was unnecessary, and the officers were not civil or courteous in engaging with Mr. Taylor by mocking his prosthetic eye. Therefore, the actions of Sergeant Asbury, Specialists Longworth and Harper were not within CPD policy, procedure, and training.

Collateral Allegation: Discourtesy

Evidence obtained, reviewed and considered during this investigation established the following violations of CPD policy, procedure, or training:

When officers were leaving the residence, Witness A, the person on the lease at the apartment, asked several questions about her residence being "searched." Officer Jackson attempted to explain the situation and allowed Witness A to photograph the arrest warrants with her phone. However, when Officer McGrath walked by, he said to Witness A, who was standing outside with several of her minor children, "We'll work on getting you put out on the street, alright? Next time, answer the door for the fucking police."

As stated before, CPD Manual of Rules and Regulations, 1.06A states officers shall be "civil, orderly, and courteous" in dealing with the public," Furthermore, 1.06B states "Members of the Department shall avoid the use of coarse, violent, or profane language." Officer McGrath did not need to add to the trauma and stress of the situation by using profane language, especially in the presence of children who were already in tears over the incident. Additionally, Officer McGrath was not civil, orderly, or courteous when he told a member of the public that the police would "work on" ending their living situation. It was an unnecessary, discourteous statement clearly meant to belittle Witness A and advertise the authority of the police by exaggerating it.

Therefore, the actions of the Officer McGrath were not within 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	Excessive Force	Sergeant Nathan Asbury	Robert Taylor	Exonerated
2	Excessive Force	Specialist Mark Longworth	Robert Taylor	Exonerated
3	Excessive Force	Officer Charles Knapp	Robert Taylor	Exonerated
4	Excessive Force	Officer Cian McGrath	Robert Taylor	Exonerated
5	Improper Search	Sergeant Nathan Asbury	Witness A	Not Sustained
6	Improper Search	Specialist Mark Longworth	Witness A	Not Sustained
7	Improper Search	Officer Charles Knapp	Witness A	Not Sustained
8	Improper Search	Officer Scott Traufler	Witness A	Not Sustained
9	Improper Search	Officer Cian McGrath	Witness A	Not Sustained
10	Discourtesy	Sergeant Nathan Asbury	Robert Taylor	Sustained
11	Discourtesy	Specialist Mark Longworth	Robert Taylor	Sustained
12	Discourtesy	Specialist Michael Harper	Robert Taylor	Sustained
13	Discourtesy	Officer Kelly Jackson	Robert Taylor	Not Sustained

Collateral Allegations

No.	Allegation	Subject Officer	Involved Citizen	Finding
14	Discourtesy	Officer Cian McGrath	Witness A	Sustained



Kerrie Kimpel, Investigator



Gabriel Davis, Director

Previous Contacts and Commendations for Officers with Sustained Findings:

Sergeant Nathan Asbury

Previous Contacts with CCA

Sergeant Nathan Asbury had four previous contacts with CCA in the past three years.

Case Number	Allegation	Finding
21013	Improper Search	Exonerated
20235	Harassment	Unfounded
20180	Excessive Force	Sustained
20180	Improper Pointing of a Firearm	Exonerated
20180	Improper Entry	Sustained
20180	Improper Search	Sustained
19223	Excessive Force	Unfounded
19223	Discourtesy	Unfounded
19223	Improper Pointing of a Firearm	Exonerated
19223	Improper Entry	Unfounded
19223	Abuse of Authority	Exonerated

Previous Contacts for CCA Referrals

Sergeant Asbury had no allegations that CCA referred to CPD for investigation in the past three years.

Previous Contact/s with IIS

CCA is unaware of any additional previous contact by Sergeant Asbury with IIS.

Commendations

Sergeant Asbury received no commendations in the past three years.

Specialist Mark Longworth

Previous Contacts with CCA

Specialist Longworth had four previous contacts with CCA in the past three years.

Case Number	Allegation	Finding
22123	Improper Search	Active
22123	Improper Detention	Active
22075	Improper Discharge of a Firearm	Active
21226	Improper Search	Active
21226	Improper Entry	Active
19183	Improper Stop	Exonerated
19183	Improper Search	Exonerated

Previous Contacts for CCA Referrals

Specialist Longworth had one allegation referred to CPD for investigation in the past three years.

Case Number	Allegation	CPD Finding
19218	Lack of Service	Unfounded

Previous Contact/s with IIS

CCA is unaware of any additional previous contact by Specialist Longworth with IIS.

Commendations

Specialist Longworth received no commendation/s in the past three years.

Date	Source of Commendation Received
10/08/2019	CPD
04/18/22	OLE

Specialist Michael Harper

Previous Contacts with CCA

Specialist Michael Harper had three previous contacts with CCA in the past three years.

Case Number	Allegation	Finding
20206	Improper Search	Exonerated
20206	Harassment	Unfounded
20155	Improper Procedure	Active

Previous Contacts for CCA Referrals

Specialist Harper had no allegations that CCA referred to CPD for investigation in the past three years.

Previous Contact/s with IIS

CCA is unaware of any additional previous contact by Specialist Harper with IIS.

Commendations

Specialist Harper received two commendations in the past three years.

Date	Source of Commendation Received
08/19/2019	CPD
08/19/2019	CPD

Officer Cian McGrath

Previous Contacts with CCA

Officer McGrath had three previous contacts with CCA in the past three years.

Case Number	Allegation	Finding
21045	Excessive Force	Exonerated
20156	Improper Procedure	Sustained
20156	Improper Search	Exonerated
20067	Improper Stop	Exonerated
20067	Excessive Force	Exonerated
20067	Discourtesy	Exonerated

Previous Contacts for CCA Referrals

Officer McGrath had no allegations that CCA referred to CPD for investigation in the past three years.

Previous Contact/s with IIS

CCA is unaware of any additional previous contact by Officer McGrath with IIS.

Commendations

Officer McGrath received no commendations in the past three years.