

Case: #19022

Investigator: Jessalyn Goodman

Complaint Received: February 1, 2019

Complainant: Kenyon Barnes

Complaint Summary:

On December 29, 2018, Lieutenant David Schofield initiated a traffic stop of Mr. Kenyon Barnes because Mr. Barnes did not use his turn signal. Mr. Barnes rolled down his windows and complied with Lieutenant Schofield's directives. However, when Lieutenant Schofield asked him to exit the vehicle because he was a "person of interest," Mr. Barnes declined. Mr. Barnes drove away, parked his car, and ran. A couple hours later, the officers located, arrested, and searched him. After he was in custody, the officers located his vehicle and attempted to charge him with "loose" drugs that were found on the ground near his vehicle, even though the officers never observed (and Mr. Barnes was not in possession of) drugs at any time. The police retained possession of Mr. Barnes's property, including money, his driver's license, his vehicle, and its contents.

Mr. Barnes is concerned he is being harassed by CPD officers, including Officer Marc Schildmeyer. He recalled an incident on February 4, 2014, when he was arrested by the "same" officers; they charged Mr. Barnes with contraband he believed was "planted" on him. Additionally, the officers showed him search warrants for other people's homes and subsequently charged him with the contraband located in those homes.

Persons Involved:

Lieutenant David Schofield, #L0187, M/W/37 (CPD, Involved)
Officer Marc Schildmeyer, #P0575, M/W/51 (CPD, Involved)
Officer Kevin Broering, #P0262, M/W/43 (CPD, Involved)
Officer Paul Smith, #P0829, M/W/39 (CPD, Involved)
Officer Christopher Clarkson, #P0405, M/W/36 (CPD, Witness)
Officer Brandon Mentz, #P0924, M/W/36 (CPD, Witness)
Kenyon Barnes, M/B/42 (Citizen, Complainant)

Evidence Reviewed:

Hamilton County Clerk of Courts

- Mr. Barnes was charged with Ohio Revised Code (ORC) §2925.03 Trafficking in Drugs and ORC §2921.21 (A) (1) Tampering with Evidence; these charges were "ignored" by the grand jury. He was also charged with §2921.331 (A) (B) Failure to Comply with the Order or Signal of a Police Officer; this charge was dismissed.

CPD Records Management System (RMS)

- Contact Cards were completed for field interview/contacts with Mr. Barnes:
 - March 10, 2017 (arrested)
 - July 26, 2018 (released)
 - April 8, 2019 (released)
 - June 28, 2019 (citation/released).

Internal Investigation Section (IIS) Report

Computer Aided Dispatch (CAD)

Body-Worn Camera (BWC)

Statements by officers and complainant

Authorities:

CPD Investigations Manual (2018)
CPD Procedure §12.205 Traffic Enforcement (Revised 03/27/2014)
CPD Procedure §12.554 Investigatory Stops (Revised 01/19/2017)
CPD Procedure §12.140 Canine Operations (Revised 10/19/2017)

Analysis:

Original Allegations

Allegation: Improper Stop

On February 1, 2019 at approximately 1:30pm, Lieutenant Schofield (M/W/37) initiated a traffic stop of Mr. Barnes's vehicle when another officer reported observing Mr. Barnes (M/B/42) fail to use his turn signal. CPD Procedure §12.205, Traffic Enforcement, maintains that officers should take appropriate enforcement action whenever a violation is detected. CPD Procedure § 12.554, Investigatory Stops, maintains that when an officer has reasonable suspicion to believe a citizen is committing a crime, the officer may forcibly stop and detain the citizen briefly. To CCA, Officer Broering (M/W/43) stated he conducted surveillance and observed Mr. Barnes, whom is "known...to engage in drug trafficking," enter and exit a nearby residence before leaving in a vehicle. To IIS, Officer Broering indicated he observed Mr. Barnes commit the traffic offense. To CCA, Lieutenant Schofield stated he initiated a stop when Officer Broering advised he had observed Mr. Barnes commit traffic offenses. CCA was unable to verify that Officer Broering observed the traffic infractions and requested the stop through available CPD records; however, BWC footage and Mr. Barnes confirmed that Lieutenant Schofield advised Mr. Barnes the basis of the stop was for not using a turn signal. CCA determined Lieutenant Schofield's stop of Mr. Barnes was within CPD's policy, procedure, and training.

Allegation: Improper Search

After Mr. Barnes fled the initial traffic stop, several officers searched the area for Mr. Barnes. During the search, Officer Broering located Mr. Barnes's vehicle abandoned at the end of a street. Officer Broering's BWC captured his discovery and observations of a crystalline substance on the ground near and inside Mr. Barnes's vehicle; he radioed, "Send a dog up here. There's some crystal stuff all over the ground here; it's all over his seat, too." Lieutenant Schofield authorized the deployment of a canine, which ultimately tracked Mr. Barnes to the rear of a residence in the surrounding area. CPD Procedure § 12.140 Canine Operations states that an on-scene supervisor may authorize the deployment of the canine team to track a suspect in specific situations, including when the suspect is wanted for a felony offense. Once located, the officers immediately handcuffed Mr. Barnes and placed him in custody. As Mr. Barnes fled the initial traffic stop, BWC footage confirmed that the officers did not search Mr. Barnes or his vehicle until after his arrest. CPD Investigations Manual states officers are able to search an individual incident to arrest. Officer Smith (M/W/39) searched Mr. Barnes person and located contraband in his pocket. Officer Smith's search of Mr. Barnes was within CPD's policy, procedure, and training.

After the search of his person, the officers obtained the key to Mr. Barnes's vehicle. Officer Broering used the key to access and search the vehicle, locating drugs and related paraphernalia. In his statement to CCA, Officer Broering identified smashed crystal methamphetamines outside of the vehicle "like [Mr. Barnes] had stepped on it," and noted crystal methamphetamines inside the vehicle, "all over the floor, all over the driver seat, and all over the steering wheel." The search of Mr. Barnes's abandoned vehicle occurred concurrent to their investigation and after Mr. Barnes's arrest. CCA concluded that Officer Broering's search of Mr. Barnes's vehicle was within CPD's policy, procedures, and training.

Allegation: Harassment

Additionally, Mr. Barnes alleged that the "same" officers have harassed him for several years and specifically named Officer Schildmeyer (M/W/51). Officer Schildmeyer confirmed he had previous

interactions with Mr. Barnes due to CPD's drug investigations; BWC footage showed Officer Schildmeyer discuss Mr. Barnes's criminal history with other officers and demonstrated familiarity with him during his arrest. While CPD does not currently define "harassment," CCA has defined it to include "behavior that threatens or torments someone, especially persistently." At a minimum, there must be proof of a pattern of wrongful conduct in order to Sustain a Harassment allegation.

CCA conducted a review of the Hamilton County Court of Records; in December 2011 and February 2013, Officer Schildmeyer filed charges against Mr. Barnes related to drug possession. It is noteworthy that there were additional officers with names similar to "Schildmeyer" that filed drug charges against Mr. Barnes since 2000, and specifically between 2013 and 2015, including: Officers Schrage, Schneider, Smith, and Schiabe. The officers involved in Mr. Barnes's interactions with CPD are assigned to the department that targets the offences with which Mr. Barnes has been charged. Furthermore, RMS showed three subsequent contacts in 2017, 2018, and 2019 by unrelated officers. While Mr. Barnes appears to have had consistent contact with CPD officers, there is no evidence to suggest that any officer involved in this case has exhibited a pattern of wrongful conduct directed toward Mr. Barnes.

Collateral Allegation

Allegation: Improper Procedure (Contact Card)

CPD Procedure §12.554, Investigatory Stops stipulates that a Contact Card must be completed any time an officer stops a motor vehicle; further, it states that the Contact Card is required in addition to any other documentation of the incident (e.g. Form 527, Arrest Report.). Lieutenant Schofield initiated a traffic stop involving Mr. Barnes. A review of the CPD database showed that a Contact Card was not completed involving this traffic stop. CCA determined Lieutenant Schofield's failure to complete a contact card was not in compliance with CPD's policy, procedure, and training.

Note:

Mr. Barnes made additional allegations regarding the incidents that occurred in February 2013 and February 2014; Hamilton County Clerk of Courts showed similar dates between 2011 and 2015 when charges were filed against Mr. Barnes. However, the dates occurred beyond one year that the complaint was received and therefore were outside CCA's statute of limitations for investigation.

Findings:

Original Allegations

Lieutenant David Schofield

Improper Stop – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer Paul Smith
Officer Kevin Broering

Improper Search – The evidence shows that the alleged conduct did occur but did not violate CPD policies, procedures, or training. **EXONERATED**

Officer Marc Schildmeyer

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


Collateral Allegation

Lieutenant David Schofield

Improper Procedure (Contact Card) – The allegation is supported by sufficient evidence to determine that the incident occurred and the actions of the officer were improper. **SUSTAINED**



Jessalyn Goodman, Investigator



Gabriel Davis, Director

Previous Contacts and Commendations:

Lieutenant Schofield

Previous Contacts with CCA

Lieutenant Schofield had two previous contacts with CCA in the past three years.

Case Number	Allegation	Finding
16118	Excessive Force (Taken to the Ground)	Not Sustained
16118	Improper Pointing of a Firearm	Not Sustained
16118	Search (Person)	Exonerated
18211	Discourtesy	Not Sustained

Previous Contacts with IIS

CCA is unaware of any additional previous contact by Lieutenant Schofield with IIS.

Commendations

Lieutenant Schofield received two commendations in the past three years.

Date	Source of Commendation Received
07/06/2016	CPD
09/27/2016	CPD

Officer Smith

Previous Contacts with CCA

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

Case Number	Allegation	Finding
17027	Improper Procedure	Referred (Exonerated)
17189	Discourtesy	Referred (Unfounded)
18183	Search (Vehicle)	Exonerated

Previous Contacts with IIS

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

Commendations

Officer Smith received five commendations in the past three years.

Date	Source of Commendation Received
04/02/2016	CPD
04/02/2016	CPD
10/11/2017	Civilian
06/25/2018	CPD
09/06/2018	CPD

Officer Broering

Previous Contacts with CCA

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

Case Number	Allegation	Finding
16080	Search (Vehicle)	Exonerated
16080	Search (Person)	Exonerated
16080	Improper Procedure (Contact Card)	Sustained
16080	Excessive Force	Not Sustained
16094	Search (Vehicle)	Exonerated
16094	Improper Procedure (Handcuffing)	Exonerated
16094	Harassment	Not Sustained
16153	Discourtesy	Referred (Exonerated)
17137	Search (Residence)	Exonerated
17137	Search (Vehicle)	Exonerated
18004	Search (Vehicle)	Exonerated
18004	Stop (Person)	Exonerated
18031	Discrimination	Not Sustained
18033	Unethical Conduct	Referred (CPD Info File)
18115	Harassment	Not Sustained
18138	Stop (Person)	Exonerated
18138	Procedure (Contact Card)	Sustained
18138	Harassment	Not Sustained
18139	Stop (Person)	Not Sustained
18139	Harassment	Not Sustained
18139	Procedure (Contact Card)	Sustained
18241	Harassment	Not Sustained
18241	Improper Stop	Exonerated

Previous Contacts with IIS

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

Commendations

Officer Broering received five commendations in the past three years.

Date	Source of Commendation Received
06/19/2016	CPD
10/14/2016	CPD
01/16/2017	CPD
06/25/2017	Civilian
12/28/2017	Civilian

Officer Schildmeyer

Previous Contacts with CCA

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

Case Number	Allegation	Finding
16222	Discourtesy	Unfounded

Case Number	Allegation	Finding
16222	Discrimination (Ethnicity)	Unfounded
17165	Search (Vehicle)	Exonerated
17165	Improper Pointing of a Firearm	Not Sustained
17165	Stop (Vehicle)	Exonerated
17165	Harassment	Unfounded
17215	Death in Custody	Unfounded
17215	Procedure (Vehicle Pursuit)	Exonerated
18137	Law Violation	Referred (Not Sustained)
18185	Improper Search (Residence)	Sustained
18185	Procedure (BWC – Turned Off Early)	Sustained
18185	Procedure Violation (Consent to Search Form)	Sustained
18241	Improper Search	Exonerated

Previous Contact/s with IIS

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

Commendations

Officer Schildmeyer received six commendations in the past three years.

Date	Source of Commendation Received
07/06/2016	CPD
11/23/2016	CPD
07/07/2017	CPD
07/07/2017	CPD
06/14/2018	Civilian
08/09/2018	CPD