

Case: #22053

Investigator: Makiedah Messam

Complaint Received: March 4, 2022

Complainant: Demetrius Hill

Complaint Summary:

Date: March 3, 2022

Time: 9:54 p.m.

Location: 500 Walnut Street (Government Square)

Mr. Demetrius Hill complained that on March 3, 2022, at approximately 9:54 p.m. he swiped his card at a Metro ticket machine. The machine debited his card sixteen dollars (\$16) but did not produce the tickets he purchased. Mr. Hill further stated that based on past experiences, he wanted a witness to document that the machine charged his card and failed to produce tickets. He walked to the booth for Metro supervisors where he noticed about six CPD officers inside. He related his predicament to one of the officers, Officer Albert Brown, who advised him to go to a building across the street to resolve the issue. Mr. Hill retorted to Officer Brown that the building was closed. At this retort, Mr. Hill claimed Officer Brown walked away from him. Mr. Hill followed Officer Brown and demanded an answer to his question.

According to Mr. Hill, Officer Brown used profanity and forcefully pushed him to the ground where he struck his head on a column. Mr. Hill complained that Officer Brown assaulted him during an incident which, "there was not one body camera rolling at the time."

Allegations:

Excessive Force
Lack of Service
Discourtesy
Improper Procedure (BWC)

Persons Involved:

Officer Albert Brown, #P0484, M/B/60 (CPD, Involved)
Sergeant Michael Reynolds, #S51, M/W/54 (CPD, Involved)
Officer Carlos Robertson, #P0343, M/B/52 (CPD, Witness)
Officer Curtis Walker, #P0725, M/B/56 (CPD, Witness)
Officer James Mitchell, #P0637, M/B/58 (CPD, Witness)
Demetrius Hill, M/B/34 (Citizen, Complainant)

Evidence Reviewed:

Hamilton County Clerk of Courts
CPD Records Management System (RMS)

CPD Computer Aided Dispatch (CAD)
Use of Force Addendum Report- EVT00016346
Body-Worn Camera (BWC) of Officers Robertson, Walker, Brown, Newman, Hayes,
Sorrels, and Sergeant Reynolds
Statements by officers and complainant

Note:

On March 17, 2022, CCA requested footage from Metro-Government Square CCTV cameras for the incident. Metro responded on March 21st and notified CCA that their cameras had a two-week retention period. Additionally, the angle of the camera at the ticket vending machine points in a south easterly direction, towards Walnut Street, the only image for the time of the incident captured by the camera were multiple police vehicles; no persons were visible.

Authorities:

CPD Manual of Rules and Regulations – Section One – Failure of Good Behavior
CPD Procedure § 12.540 Body Worn Camera System (Revised 01/19/2017)
CPD Procedure §12.545 Use of Force (Revised 2/17/22)

Analysis:

Allegation 1: Excessive Force

Mr. Hill stated that he sought help from CPD officers in a Metro booth. Officer Brown came to his assistance. Officer Brown directed Mr. Hill to seek assistance for his issue at the Metro offices. Mr. Hill regarded Officer Brown's comments as unhelpful and expressed his frustration. According to Mr. Hill, he was unsatisfied with the assistance provided by Officer Brown and expressed this. Officer Brown then turned to walk away from him, Mr. Hill stated, *"[s]o, then he got upset of me saying that and walked off. And I said why you walking away from a citizen. I said I'm having a conversation trying to understand what to do or if there is a supervisor or if you can call a supervisor for Metro because I am quite for sure that you're working for Metro at this point as an off-duty officer. **So, he gets mad I walked up on him cause I'm following him and this point cause I want to know why he walked off from a citizen.** [emphasis added] At that point he turns around and he says you know "don't be walking up on me I'll beat your mother-fucking ass."*

Mr. Hill further stated that he responded to Officer Brown and said, *hold on you'll do what? I said first of all only cause you have a badge on is the reason I don't knock your mother-fucking ass out. I said I don't know who you talking to but that's not how you talk to somebody. **So, at that point that's when he said that if you keep on walking up on me, I'm knock your ass out. So, as I proceed to get closer to him that's when he pushes me on the ground.*** [emphasis added] *I'm talking about forcefully pushing me. I hit my head against a brick wall that's down there at Government Square".*

In his interview with CCA, Officer Brown admitted to using force against Mr. Hill in a manner described by the officer as "shading." When asked to define "shading", Officer Brown responded that it was a push. While CPD does not define "shading," CPD Procedure §12.545 *Use of Force* policy describes force as, "any physical strike, instrumental contact with a person, or any significant physical contact that restricts movement of a person. The term includes, but is not limited to, the taking of the subject to the ground."

The thirty second buffer in the BWC footage showed words being exchanged between Officer Brown and Mr. Hill. Mr. Hill then advanced towards Officer Brown and Officer Brown used two hands and pushed Mr. Hill in his chest. This action caused Mr. Hill to fall to the ground where he hit his head on a concrete pillar. At the time Officer Brown pushed Mr. Hill, he was within arms' length of Officer Brown. By Mr. Hill's own admission, he closed the distance between himself and the officer by "walking up on him" and threatened to hit Officer Brown. Officers Walker, Robertson, and Mitchell corroborated this in interviews with CCA.

In his interview with CCA, Officer Brown stated he felt threatened that Mr. Hill would assault him and, "from my experience of growing up he [Mr. Hill] had a posture that say *[sic]* to me he's capable of doing that right there; almost in a fighting stance without his hands being raised." Officer Brown also believed Mr. Hill was under the influence of alcohol. Officer Walker corroborated this observation and noted that Mr. Hill's speech sounded slurred.

CPD Procedure § 12.545, citing *Graham v Connor*, details that, [t]he decision to use force "requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of officer or others, and whether he is actively resisting arrest or attempting to evade arrest by flight. The 'reasonableness' of a particular use of force must be judged from the perspective of a reasonable officer on the scene..." Section 12.545 details several factors to be taken into consideration to evaluate whether an officer has objectively used reasonable force. Among these factors are:

- The conduct of the person being confronted as reasonably perceived by the officer at the time...;
- The distance between the officer and the subject;
- Time and circumstances permitting, the availability of other options (resources that are reasonably available to the officer under the circumstances; and
- Whether the conduct of the individual being confronted reasonably appears to pose an imminent threat to the officers or others.

BWC footage showed Officer Brown and Mr. Hill were within arms' length of each other and Mr. Hill continued to advance in the direction of the officer. Officer Brown stated that he perceived a threat to himself based on Mr. Hill's words and actions. To avert what he believed could be a potential assault, Officer Brown pushed Mr. Hill away from him. It should be noted that Mr. Hill suffered no injuries as a result of the force used by Officer Brown. The force used by Officer Brown was to the extent necessary to stop what he perceived was a potential assault. Therefore, Officer Brown's action was within CPD's policy, procedure, and training.

Allegation 2: Improper Procedure (Failure to Activate BWC)

Officer Brown failed to activate his BWC, which failed to capture critical portions of his interaction with Mr. Hill. When asked why he did not activate his BWC earlier in the encounter, Officer Brown explained, that because his interaction with Mr. Hill started out as a service call, where he was just helping a citizen, his BWC is not required to be on when he's simply interacting with people. He further stated he had no idea or anticipation that the interaction would escalate from him helping someone with a ticket machine to mention of punching, he was focused more on his safety rather than the activation of his BWC.

Pursuant to CPD Policy §12.540 Body Worn Camera, officers are required to activate their BWC system during all law enforcement-related encounters and activities. However, the policy also stipulates that “Officer safety and public safety take precedence over recording events. Under extenuating circumstances, utilization of the BWC system may not be possible (e.g., ambush/assault on a police officer, compromising the tactical advantage of police)...” Based on Officer Brown’s perception, the incident with Mr. Hill unfolded quickly and he did not have the time to activate his BWC during the critical parts of the interaction.

CPD’s BWC policy aims to promote transparency and accountability. Officer Brown’s failure to capture critical portions of his encounter with Mr. Hill on his BWC recording undermines this policy. However, Officer Brown was within CPD’s policy, procedure, and training.

Allegation 3: Discourtesy

In his statement to CCA Mr. Hill alleged that Officer Brown directed profanity at him. According to Mr. Hill, Officer Brown became irate because he was being followed and, “he turns around and he says you know “don’t be walking up on me I’ll beat your mother-fucking ass”. When questioned by CCA, Officer Brown denied the allegation. CPD Manual of Rules and Regulations §1.06 states, “Members of the Department shall always be civil, orderly, and courteous in dealing with the public... Members of the Department shall avoid the use of coarse, violent or profane language.”

The BWC image of the earliest officer to capture the interaction, Officer Robertson, showed Officer Brown speaking to Mr. Hill in a heated manner. However, due to the technical buffer period of the BWC, what the officer initially said was not captured.

None of the other officers working with Officer Brown stated that they heard him use discourteous language to Mr. Hill. They may not have heard as they did not witness the beginning of the confrontation. In the words of Mr. Hill, “[t]hey didn’t turn their body cameras on until after I was arrested. Until after I was on the ground. So, at this point it is only his word and the other two officers because they didn’t have their body cameras on. ...[b]ecause if the body camera was rolling it would have caught what he said to me that he’d whoop my motherfucking ass”. Because Officer Brown failed to activate his BWC at the start of the confrontation, it cannot be proven that he did not use profane language.

Allegation 4: Lack of Service

According to Mr. Hill, “Sgt. Reynolds didn’t handle the situation properly and then I told Sgt. Reynolds to get everybody’s name that was there because they thought it was funny and they were sitting there laughing the whole time and nothing about the situation I told Sgt. Reynolds, nothing about the situation was funny at all.”

Per CPD Procedure §12.545, for uses of force involving any physical strike, “supervisors will be called to the scene and conduct a supervisory investigation including the supervisor’s narrative description of the events preceding the use of force, the officer(s)’ description of events, and digital audio recorded statements of all witnesses including the officer(s), subject(s), medical treating personnel (if practicable), and third parties.”

Sgt. Reynolds arrived at Government Square. BWC footage showed that upon his arrival he spoke to Mr. Hill and Officer Brown. Sgt. Reynolds is also seen inquiring of Mr. Hill whether he was injured and took pictures of Mr. Hill’s head. Sgt. Reynolds also inquired of Mr. Hill if he was hurt or injured and whether he wanted to make a complaint against Officer Brown. To both

questions, Mr. Hill responded “I don’t want all of that”. Subsequently, no fire/ambulance was called to the scene. In interviews with CCA officers stated that medical help was not called because Mr. Hill refused.

From the review of the BWC, it did not appear that Mr. Brown wanted to make a report. However, he pointed out to Sgt. Reynolds that some officers congregated at the scene but unconnected with the event, were talking and laughing. Sgt. Reynolds addressed Mr. Hill’s complaint telling him *“You’re putting words in their mouth. You say because they are down there laughing, they are laughing at you. They’re not. You don’t have a clue what they’re laughing about but you automatically assume it’s you. You automatically assume that because he remembers you from Shanghai Mama’s last week that he’s begrudging you.”* After this conversation Mr. Hill reiterated his ire at his treatment by Officer Brown. Sgt. Reynolds again invited him to make an official complaint. This time, Mr. Hill acceded to the invitation and Sgt. Reynolds recorded his statement.

A review of the BWCs of officers gathered on the scene did not indicate that they were laughing at Mr. Hill because of the present incident. CPD Manual of Rules and Regulations §1.06 stipulates that member of CPD should conduct themselves in a civil, orderly, and courteous way when dealing with the public. Officers need to be keenly aware of how their actions or reactions on a scene may be perceived by the public and conduct themselves in a more decorous manner. CCA concluded that allegations of lack of service were unfounded.

Findings:

Original Allegations

Officer Albert Brown

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

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

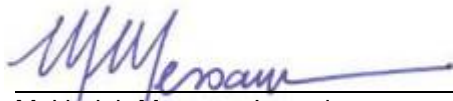
Sergeant Michael Reynolds

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

Collateral Allegation

Officer Albert Brown

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



Makiedah Messam, Investigator



Gabriel Davis, Director

July 15, 2022

Date

Previous Contacts and Commendations:

Albert Brown

Previous Contacts with CCA

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

Case Number	Allegation	Finding
20033	Lack of Service	Pending
19151	Improper Discharge of Firearm	Exonerated
	Excessive Force	Exonerated
19049	Discourtesy	Not Sustained
	Other-CPD Code	Sustained

Previous Contact/s with IIS

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

Commendations

Officer Brown received two commendations in the past three years.

Date	Source of Commendation Received
11/15/2019	CPD-Safe Driving
11/15/2019	CPD- Exemplary Conduct

Carlos Robertson

Previous Contact/s with CCA

Officer Robertson had one previous contact with CCA in the past three years.

Case Number	Allegation	Finding
19239	Discourtesy	Pending
	Lack of Service	Pending

Previous Contact/s with IIS

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

Commendations

Officer Robertson had received no commendation in the past three years.

James Mitchell

Previous Contact/s with CCA

Officer Mitchell had one previous contact with CCA in the past three years.

Case Number	Allegation	Finding
19274	Discourtesy	Pending
	Improper procedure	Pending

Previous Contact/s with IIS

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

Commendations

Officer Mitchell received five commendations in the past three years.

Date	Source of Commendation Received
09/05/2021	CIV
12/19/2020	CPD- Safe Driving
12/19/2019	CIV
12/13/2019	CPD- Safe Driving
02/04/2019	COM- Colerain Police Department

Curtis Walker

Previous Contact/s with CCA

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

Case Number	Allegation	Finding
22035	Lack of Service	Pending
	Improper Procedure	Pending
20046	Lack of Service	Pending
	Improper Procedure	Pending
	Law Violation	Pending
20001	Discourtesy	Pending

Previous Contact/s with IIS

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

Commendations

Officer Walker received two commendations in the past three years.

Date	Source of Commendation Received
01/10/2020	CPD- Exemplary conduct
02/04/2019	COM- Colerain Police Department

Michael Reynolds

Previous Contact/s with CCA

Sergeant Miller had two previous contacts with CCA in the past three years.

Case Number	Allegation	Finding
21146	Improper Procedure	Pending
	Discourtesy	Pending
19166	Improper Procedure	Pending
	Discourtesy	Pending

Previous Contact/s with IIS

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

Commendations

Sergeant Reynolds received one commendation in the past three years.

Date	Source of Commendation Received
02/06/2020	CPD