

Case: #22073

Investigator: Makiedah Messam

Complaint Received: April 27, 2022

Complainant: Jaymes Spencer

Complaint Summary:

Date: March 21, 2022

Time: 11:00 a.m.

Location: Grigg Avenue, Cincinnati, OH 45207

Mr. Jaymes Spencer drove along Interstate 71 South en route to Texas when his vehicle was struck by another motorist. The offending motorist did not stop but continued to drive. Mr. Spencer believed the motorist was evading taking responsibility for the collision and so he followed until the motorist exited the interstate. Once the motorist stopped, Mr. Spencer approached the vehicle of the offending motorist, a black female. As he approached the vehicle, he heard the female screaming into her phone. Mr. Spencer used his phone and started to record the female. According to Mr. Spencer, once the female saw him, "she immediately started making all kinds of racist remarks towards me and she threatened to shoot me. ...[S]he got out of the vehicle, and I tried to get away and she punched me in my back and then spit on me and continued to come after me."

At this, Mr. Spencer went back to his vehicle and dialed 911 for assistance. While on the phone with the 911 operator the female motorist continued to scream and yell racist comments at him and jumped on the front bumper of his vehicle. The first police to arrive on the scene was a black officer and on seeing this, the female motorist said, "[expletive] you white boy these are my people. We're gonna see what happens now." Mr. Spencer believed that because of his race, Officer Murphy failed to take seriously the threat to his life from the female motorist and that the police officers who arrived on the scene were aggressive towards him when he pressed them to do more.

Allegations:

Discrimination
Lack of Service
Discourtesy

Persons Involved:

Officer Walter Murphy, #P475, M/B/63 (CPD, Involved)
Officer Roger Noe, #P854, M/W/49 (CPD, Involved)
Specialist Regina Scott PS009, F/W/52 (CPD, Witness)
Jaymes Spencer, M/W/44 (Citizen, Complainant)
Witness A, B/F/30 (Citizen, Involved)

Evidence Reviewed:

Hamilton County Clerk of Courts, Case No.: 22CRB/6025
CPD Records Management System (RMS)
CPD Computer Aided Dispatch (CAD)
Body-Worn Camera (BWC) of Officers Murphy and Noe
Emergency Communications Center (ECC) Audio Recordings
Cellular phone video recording provided by Jaymes Spencer
Statements by officers and complainant

Authorities:

Ohio Revised Code 2903.22 Menacing
Ohio Rules of Criminal Procedure Rule 4 Warrant or Summons; Arrest
City of Cincinnati – Code of Ordinances – Article IV – Section 4-A Duties with Respect to Racial Profiling
CPD Procedure § 12.400 Incident Reporting (Revised 04/04/19)
CPD Procedure § 15.101 Bias Free Policing (New 3/07/2019)
CPD Manual of Rules and Regulations – Section One – Failure of Good Behavior

Analysis:

Allegation 1: Discrimination

Officer Walter Murphy was dispatched by the Emergency Communications Center (ECC) to a service call on Grigg Avenue in relation to a vehicular accident. In his interview with CCA, Officer Murphy remarked that when he arrived at the scene, he saw Mr. Spencer in a black truck and Witness A standing outside the truck pacing back and forth. Officer Murphy's BWC was activated for the entirety of his interaction with both motorists. BWC footage showed that Officer Murphy tried to calm the situation by keeping the parties apart. The parties were yelling insults at each other. Officer Murphy believed the two were about to fight so he called for the assistance of another officer.

Officer Murphy inquired of Witness A if she had a gun to which she replied, "not on me." He also asked, "did you threaten to shoot him?" Witness A answered "no" and started providing a narrative. Officer Murphy ordered Witness A to return to her vehicle and interviewed Mr. Spencer to get his account of the event.

Mr. Spencer showed Officer Murphy his vehicular damage and played a recording of Witness A's previous behavior prior to the officer arriving on scene. Officer Murphy addressed the damage by telling Mr. Spencer that what was disturbed was the "clear coat" and it is "not something we would make a crash report for..." The officer further stated "...this is not what we would call damage." During the conversation, Mr. Spencer expressed concern that Officer Murphy turned his back to the female; "she threaten *[sic]* to shoot me and you have your back to her and she's in her [expletive] car." The officer, "I will deal with that, where are you from?" To this question, Mr. Spencer retorted, "I see what's going on here." He began to suggest that Officer Murphy acceded to Witness A's actions because of race.

Officer Noe, a white officer, arrived on the scene to assist Officer Murphy. Officer Murphy asked Mr. Spencer to whom he would wish to speak. Officer Murphy also told Mr. Spencer, "What is wrong is wrong, no matter what color you are." In an interview with CCA, Witness A admitted that

her exchange with Mr. Spencer on the morning of the incident was “heated.” She also admitted she said, “stuff like white cracker, just to push his [Mr. Spencer’s] buttons.” She stated that she believed the police officers treated both parties equally; “they were trying to get us both to calm down.” She believed they showed what she described as “normal police behavior.” She also stated that Mr. Spencer started attributing race as a factor when “he saw things not going his way [sic].”

In an interview with CCA, Officer Murphy concurred with Mr. Spencer that upon his arrival, Witness A, upon seeing Officer Murphy, uttered “[expletive] you white boy these are my people.” CPD Procedure § 15.101 commits the Department to provide services and enforcement fairly and without discrimination toward any individual or group of people. The sentiments of Witness A cannot be imputed to Officer Murphy. A review of CPD’s RMS database showing contact cards for Officer Murphy did not reveal a pattern of discrimination based on race. During the interaction with Mr. Spencer, there is no evidence to suggest Officer Murphy used Mr. Spencer’s race as a basis on which to provide service or act. CCA concluded Officer Murphy’s actions were within CPD’s policy, procedure, and training.

Allegation 2: Lack of Service

Officers Noe and Murphy responded to a call for service from ECC. Both officers had their BWC activated for the entirety of the run. Officer Murphy arrived first, and Mr. Spencer’s account was told to Officer Murphy. Officer Noe arrived later and began speaking with Witness A. She related that she left the house in a hurry after an argument with her partner, dressed only in a bra, leggings, and yellow socks. (Video evidence provided by the complainant recorded Witness A’s attire).

Witness A further stated to Officer Noe that while on the highway she experienced a flat tire and while trying to reach the nearest exit, she noticed a truck following her. She believed this was a fellow motorist who saw her flat and was trying to direct her to safety. She explained to Officer Noe, that after she parked, she was on the phone, still in a heated argument with her partner. She looked up to see a white man with a phone recording her while she was half naked. Seeing this, she told the person on the phone “I’m gonna shoot this man in the face.” ECC recording evidenced that both Mr. Spencer and Witness A made 911 calls regarding the same incident. Both parties sounded irate about the situation and attributed fault to the other.

In his interview with CCA, Mr. Spencer stated that he did not believe that Officer Murphy was taking his situation seriously, “...he didn’t want to charge her with a crime, he didn’t want to write up an action report, he just basically refusing to do anything while letting this woman who threatened to shoot me, and said she had a gun in the vehicle continue to do what she wanted.”

In his statement Officer Murphy insisted that though he did not search her vehicle, he queried Witness A and saw nothing related to a weapon. Officer Murphy further stated that he filed a report to have Witness A charged with menacing and provided proof of same to Mr. Spencer.

CPD Procedure § 12.400 provides that, “Officers will conduct a preliminary investigation when called to the scene of an offense. They will fairly and impartially record all facts and actions. They will provide the required police service and complete an accurate and thorough report, submitting reports for serious offenses immediately. All other offense reports will be submitted before the completion of the reporting officer’s shift.”

Specialist Regina Scott when interviewed by CCA, stated that based on the report submitted by Officer Murphy she was assigned to investigate the incident. PS Scott further stated that following her investigation, she charged Witness A with assault and aggravated menacing. She also stated that she believed that there was sufficient probable cause to allow the officers to arrest Witness A at the scene.

Officer Murphy filed an incident report as directed by CPD policy. In the report, he indicated that Witness A committed the offense of menacing as defined under Ohio Revised Code (ORC) 2903.22. Menacing is defined by ORC 2903.22 is a fourth-degree misdemeanor. This carries a penalty of a maximum 30 days' jail time and a \$250 fine. Misdemeanors, other than minor misdemeanors, are arrestable offenses. Ohio Rules of Criminal Procedure Rule 4 (3) states that:

In misdemeanor cases where a law enforcement officer is empowered to arrest without a warrant, the officer may issue a summons in lieu of making an arrest, when issuance of a summons appears reasonably calculated to ensure the defendant's appearance. The officer issuing the summons shall file, or cause to be filed, a complaint describing the offense. No warrant shall be issued unless the defendant fails to appear in response to the summons, or unless subsequent to the issuance of summons it appears improbable that the defendant will appear in response to the summons.

Additionally, according to CPD Procedure § 12.400, when an officer is called to the scene of an offense, if an “investigation reveals probable cause, the officer *will* file appropriate criminal charges and prepare the case for presentation through the court system” (emphasis added).

Based on a review of the BWC evidence, the evidence presented by Mr. Spencer at the scene, which provided probable cause that a menacing offense was committed, was summarily ignored by Officer Murphy. It appeared that Officer Murphy only agreed to file a complaint against Witness A at Mr. Spencer's strident insistence. In execution of his duties, Officer Murphy should have either arrested Witness A or issued her a summons. He did neither. CCA concluded that Officer Murphy's failure to arrest or cite Witness A constituted a failure to act in accordance with the quality of service required by CPD policy.

Allegation 3: Discourtesy

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.” A review of both officers' BWC did not provide evidence that either officer was uncivil or used any profanity when dealing with either motorist. However, Mr. Spencer alleged that the officers treated him in an aggressive manner and were dismissive of his complaint.

Although Mr. Spencer viewed the officers' actions as dismissive of his complaint, CCA concluded, Officers Murphy and Noe were within CPD's policy, procedure, and training.

Officers should be mindful when treating with victims of crime, to demonstrate requisite concern and empathy. Officers need to ensure that victims' concerns about safety are addressed, and that victims are given the opportunity to express their emotions and feel heard. Officers should be careful not to cut-off victims in the expression of their emotions and not to take the expressions personally.

Findings:

Officer Walter Murphy


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

Officer Walter Murphy

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

Officer Walter Murphy
Officer Roger Noe

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



Makiedah Messam, Investigator



Gabriel Davis, Director

July 15, 2022

Date

Previous Contacts and Commendations:

Walter Murphy

Previous Contacts with CCA

Officer Murphy had no previous contact with CCA in the past three years.

Previous Contacts with IIS

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

Commendations

Officer Murphy received 4 commendations in the past three years.

Date	Source of Commendation Received
04/11/2019	COM- Civilian
03/04/2020	COM- Civilian
03/05/2020	COM- Civilian
11/14/2020	COM (Exemplary Conduct)- CPD

Roger Noe

Previous Contacts with CCA

Officer Noe had no previous contact with CCA in the past three years.

Previous Contacts with IIS

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

Commendations

Officer Noe received 1 commendation in the past three years.

Date	Source of Commendation Received
11/23/2019	COM- Civilian

Specialist Regina Scott

Previous Contacts with CCA

Specialist Scott had no previous contact with CCA in the past three years.

Previous Contacts with IIS

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

Commendations

Specialist Scott received 1 commendation in the past three years.

Date	Source of Commendation Received
09/09/2019	COM-Civilian