

Date: June 17, 2024

To: Dena Brown, Interim Director

From: Joseph Vesper, CCA Investigator

Subject: **CCA Case No. 24091 - Review of Excessive Force Allegation by Robert Dickenherr on behalf of Nathan Dickenherr**

CCA completed an investigation of CCA Complaint No. 24091 by Robert Dickenherr, M/W/58, on behalf of Nathan Dickenherr, M/W/Age Unknown, alleging Excessive Force against Officer Jeffery Ertel, #P0217, M/W/49. 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 Dickenherr alleged that on Thursday, March 28, 2024, at approximately 2:00 PM, his son, Nathan Dickenherr ("Mr. Dickenherr"), while departing from the opening day parade at 201 E 4th Street, encountered a vehicle exiting a parking garage. The driver, later identified as Officer Carroll Todd (#P0312, M/B/53), sounded the horn. In response, Mr. Dickenherr made an obscene gesture and continued to walk across the vehicle's pathway. The passenger officer, identified as Officer Ertel, exited the vehicle and approached Mr. Dickenherr. Mr. Dickenherr stated that, "I was walking across the street, and with no warning I was grabbed from behind thrown into a glass wall, slammed on the ground, jumped on top of and beat on the ground before being handcuffed and detained." (...) "The officer dropped an elbow on me, dug his knee in my back, all kinds of stuff for walking across the street." This use of force was entirely unwarranted.

CCA interviewed Messrs. Robert and Nathan Dickenherr, and Officers Ertel and Todd. CCA also reviewed records from the Hamilton County Clerk of Courts.

In contrast Officer Ertel stated, "When I caught up to him, I tried to turn him around, right hand to left shoulder, I went to turn him, and he lost his balance into the doorway. He immediately began screaming that this was excessive force and that he could not be slammed." Officer Ertel further asserted that no joint manipulation, hard hand strikes, or other forceful measures were used against Mr. Dickenherr. Regarding his intentions, Officer Ertel explained, " My intention was to have him under arrest for DCI (Disorderly Conduct Intoxication). (However), after talking to my coworkers who explained the gravity of the situation and it was opening day it would be better handled with a jaywalking ticket." Consequently, Mr. Dickenherr was issued a jaywalking ticket.

Despite the facts uncovered during the investigation, neither BWC footage nor any other credible evidence clarifies material facts necessary to prove or disprove Mr. Dickenherr's claim of excessive force by a preponderance of the evidence.

Specifically, notwithstanding CCA's efforts to obtain such evidence, CCA does not have in its possession any recordings (BWC, MVR) to evaluate and clarify the allegation of Excessive Force. Officer Todd was amidst parking the vehicle when the incident happened, after Officer Ertel exited

the passenger seat to address Mr. Dickenherr, and CCA was unable to identify and interview additional non-biased witnesses. Moreover, there are insufficient facts to determine if force was used and to what degree, whether it was objectively reasonable or not.

Collateral Allegations

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

Allegation: Improper Procedure (BWC)

CPD Manual of Rules and Regulations §2.18 Neglect of Duty, states that, “Members of the Department shall not fail to activate their Body Worn Camera (BWC) system except for a good cause.” CPD Procedure §12.540 Body Worn Camera System states that, “Officers are required to activate their BWC system during all law enforcement-related encounters and activities as defined in this procedure. Officers will deactivate the BWC system only at the conclusion of the event, during transports with an activated DVR, or with supervisor approval.” More specifically under section (A)(2), “Officer will use BWC equipment to record all calls for service and self-initiated activities listed below. (...) The BWC must be activated when the officer arrives on scene or announces he/she is on scene in the area and must be recorded in its entirety.”

In this case, neither Officer Ertel nor Todd activated their BWCs before, during, or after their self-initiated contact with Mr. Dickenherr. When Officer Ertel was asked why he did not activate his BWC he responded, “this is what I normally wear and it wasn’t even in my mind, (and) we don’t have one (MVR), it’s an unmarked car.” Officer Todd added, “Typically when you get out of a car, you’re not under an investigative, I didn’t know it was going to be, the sure speediness of it, never turned it on.” Regardless of the normality and speediness of the incident, neither BWCs were ever activated, and these explanations are not ample excuses that exonerate either officer from failing to activate their BWCs. Therefore, Officers Ertel and Todd were not within CPD’s policy, procedure, and training.

Allegation: Improper Procedure (Failure to Report)

CPD Procedure §12.545 Use of Force states in-part, “All members have a duty to ensure all use of force incidents and any citizen allegation of excessive force are reported to the Police Department. Whenever employees use any type of force; or confront resistance that results in an injury or complaint of injury to a citizen; or have knowledge of any of the above; or are aware of a citizen complaint of excessive force, they will promptly notify a supervisor.” (Emphasis added).

In this case, Officer Ertel admitted in his CCA interview that he heard Mr. Dickenherr say, “this is excessive force, you cannot slam me!” This was said after Mr. Dickenherr ended up against the barber shop’s glass doorway. Officer Todd stated he was parking the vehicle when this happened and was not aware of any use of force allegation. No supervisor was alerted to the allegation of excessive force. No paperwork was completed regarding use of force. No use of force report was given to CCA by CPD Records. The statements above prove that at the very least there were allegations of excessive force that warranted further investigation. Officer Ertel offered a possible reason, stating that he believed there was no use of force used against Mr. Dickenherr, therefore, the report was not required.

CPD Procedure §12.545 Use of Force, merely requires an allegation of excessive force to prompt the notification of a supervisor. To CCA’s knowledge no supervisor was notified at the time of the

incident nor explanation of how a citizen could file a complaint against an Officer for allegedly using excessive force.

Therefore, Officer Ertel was not within CPD's 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 Allegation

No.	Allegation	Subject Officer	Involved Citizen	Finding
1	Excessive Force	Jeffery Ertel	Nathan Dickenherr	Not Sustained

Collateral Allegations

No.	Allegation	Subject Officer	Involved Citizen	Finding
2	Improper Procedure (BWC)	Jeffery Ertel	Nathan Dickenherr	Sustained
3	Improper Procedure (Failure to Report)	Jeffery Ertel	Nathan Dickenherr	Sustained
4	Improper Procedure (BWC)	Carroll Todd	Nathan Dickenherr	Sustained

Observation

It is observed and recommended that all police officers in **unmarked vehicles** be required to activate their body-worn cameras (BWCs) during all self-initiated activities. This policy enhances transparency, provides critical evidence for accountability, and ensures the protection of both officers and the public during interactions. Especially in cases that involve the allegation of excessive use of force where recordings are paramount in establishing objectionable reasonableness of an officer's actions.



Joseph Vesper, Investigator



Dena Brown, Interim-Director

Previous Contacts and Commendations for Officers with Sustained Findings:

Officer Jefferey Ertel

Previous Contact/s with CCA

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

Case Number	Allegation	Finding
24074	Lack of Service	Pending

Previous Contacts for CCA Referrals

Officer Ertel 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 Ertel with IIS.

Commendations

Officer Ertel received two commendations in the past three years.

Date	Source of Commendation Received
09/07/23	CPD
08/18/21	CPD

Previous Contacts and Commendations for Officers with Sustained Findings:

Officer Carrol Todd

Previous Contact/s with CCA

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

Previous Contacts for CCA Referrals

Officer Todd 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 Todd with IIS.

Commendations

Officer Todd received four commendations in the past three years.

Date	Source of Commendation Received
01/07/2024	CPD
01/07/2024	CPD
01/07/2023	CPD
01/07/2023	CPD