

Date: June 10, 2022
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary – July 11, 2022 Board Meeting

RECOMMENDATION SUMMARIES

1

Topic	Tracking System: Contact Card Policy/Procedure
Recommendation #	R2205
Case #	20170

#R2205 - Tracking System: Contact Card Policy/Procedure

CCA recommends that the Cincinnati Police Department update its Procedure Manual to require the completion of Contact Cards in all cases where a Cincinnati Police Officer detains an individual or has direct contact with a person whose detention has been aided by an officer, including detentions occurring in a private setting such as a residence, and not limited to pedestrian stops or traffic stops.

INVESTIGATION SUMMARIES

1

Complaint #	20022
Complainant	Landon Horton
Incident Date	January 27, 2020
CCA Investigator	Jessalyn Goodman
Allegation	<u>Original Allegations</u> Improper Stop Excessive Force Excessive Force Improper Procedure (Use of Force) Discourtesy

COMPLAINT SUMMARY

Date: January 27, 2020

Time: 6:38 pm

Location: 4879 Reading Road

Per CPD: Officers Jerome Herring, Jr. and Myles Abt were called to Quick-Stop Market at 4879 Reading Road reference [sic] several subjects trespassing. Upon arrival, they stopped Mr. Landon Horton, known to the officers for carrying firearms. As Officer Herring was patting Mr. Horton down for weapons, Mr. Horton grabbed Officer Herring's hand as it neared his waistband. Mr. Horton then fled on foot. The officers gave chase and both officers exhausted their TASER cartridge supply attempting to stop the fleeing Mr. Horton. None of the TASING attempts had the desired effect. Officer Herring then conducted a take down and successfully brought Mr. Horton to the ground. Mr. Horton continued to ignore the officers' commands to give up his hands and submit to arrest. Fearing Mr. Horton was armed as Officer Herring struggled to gain control of his hands, Officer Abt delivered four closed fist strikes to Mr. Horton's right thigh. The strikes had minimal effect and Mr. Horton continued to struggle away from the officers attempting to roll onto his side. Officer Abt then delivered a knee strike to Mr. Horton's left abdomen which had the desired effect and Mr. Horton submitted to handcuffing. Mr. Horton only sustained a minor abrasion to his right knee and left hand during his arrest. The officers were uninjured.

Sergeant Sterbling arrived to conduct the use of force investigation and Mr. Horton alleged Officer Herring choked him with both hands during his arrest.

OBSERVATION

In the past, CCA has recommended that CPD consider a revision of CPD Procedure §12.545 Use of Force that would bring that policy into greater alignment with CPD's Tactical Patrol Guide by adopting the Patrol Guide's instruction that officers should not withdraw their TASERS from their

holsters under circumstances where the discharge of those TASERs would be impermissible or before it would be permissible to discharge a TASER. Such a revision would address concerns noted in this case and in other similar complaints, specifically overreliance on TASERs as an enforcement tool. CCA’s understanding is that CPD is considering adopting CCA’s recommendation on this topic. CCA will continue to monitor any corresponding changes in police policy.

FINDINGS

Original Allegations:

Officer Myles Abt
 Officer Jerome Herring, Jr.
Improper Stop - EXONERATED
Excessive Force - EXONERATED
Excessive Force - NOT SUSTAINED

Collateral Allegations:

Officer Myles Abt
 Officer Jerome Herring, Jr.
Improper Procedure (Use of Force) - SUSTAINED

Officer Jerome Herring, Jr.
Discourtesy - SUSTAINED

Witness B

Officer Myles Abt
Improper Stop - SUSTAINED
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2

Complaint #	20023
Complainant	Lorenzo Thomas
Incident Date	<u>Incident Date #1</u> December 26, 2019 <u>Incident Date #2</u> January 14, 2020
CCA Investigator	Jessalyn Goodman
Allegations	<u>Original Allegations</u> Improper Entry Improper Pointing of a Firearm

Excessive Force

Collateral Allegation

Improper Procedure (Body Worn Camera)

**COMPLAINT
SUMMARY**

Incident #1:

Date: December 26, 2019

Time: 5:13am

Location: 500 E 13th Street, #3

While at his residence, Mr. Lorenzo Thomas was in the main room with his minor son and two other minor children. Officers Daniel Wuest and Bryan Scott “kicked the door down” and entered with their firearms pointed. The officers arrested Mr. Thomas and transported him to Hamilton County Justice Center (HCJC) for Criminal Trespassing.

Incident #2:

Date: January 14, 2020

Time: 10:14am

Location: 500 E 13th Street, #3

Officers Jeffrey Ruberg and Jermaine Carter knocked at the door of Ms. Witness A’s residence; in her apartment were three minor children and Mr. Lorenzo Thomas. She spoke to the officers and allowed them to enter “after they threatened to take her children away.” As they entered, Officers Ruberg and Carter pointed their firearms; prior to their entry, Mr. Thomas hid under the kitchen table. After he was located, Officer Ruberg “grabbed” Mr. Thomas and pulled him out, ultimately hitting his hand “against a wall and pole.” Officer Carter may have pointed his taser at him.

Officer Ruberg arrested Mr. Thomas and transported him to HCJC; he was refused due to “lack of charges” and taken to University of Cincinnati Medical Center (UCMC) for a dislocated right hand. While at the hospital, Mr. Thomas was charged with Criminal Trespassing and Obstructing Official Business and transported to the HCJC.

FINDINGS

Original Allegations

Officer Daniel Wuest
Officer Bryan Scott

Improper Entry - NOT SUSTAINED
Improper Pointing of a Firearm - NOT SUSTAINED

Officer Jermaine Carter
Officer Jeffrey Ruberg

Improper Entry - EXONERATED
Improper Pointing of a Firearm - EXONERATED
Excessive Force - NOT SUSTAINED

Collateral Allegation

Officer Jeffrey Ruberg
Improper Procedure (BWC) - SUSTAINED

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3

Complaint #	20170
Complainant	Lillian Bedell
Incident Date	August 23, 2020
CCA Investigator	Joseph Vesper
Allegations	<p><u>Original Allegations</u> Improper Pointing of a Firearm Discourtesy Lack of Service Discrimination</p> <p><u>Collateral Allegation</u> Improper Procedure (Body Worn Camera)</p>

**COMPLAINT
SUMMARY**

Date: August 23, 2020

Time: 03:00 AM – 03:40 AM – 05:00 AM

Location: 208 Lyon Street, Cincinnati, OH 45219.

CCA Receipt: August 27, 2020

On 08/23/2020, around 2:30 AM, Ms. Lillian Bedell (Ms. Bedell) and her roommates contacted 911 when they discovered five unknown males in their residence. Several officers responded and cleared the upper floors while they held their firearms. It was determined that earlier that evening Witness A, another roommate, invited the unknown males to the residence.

The officers did not question or identify the unknown males and allowed them to leave the scene. Additionally, Ms. Bedell believed that the officers were dismissive, belittled her, and discriminated against her based on her and her roommates age when they made several comments such as, “this is typical college behavior” and the roommates “needed to communicate better amongst themselves.”

The officers then left the scene. However, it became apparent to the roommates that Witness A was heavily under the influence of something and may need medical attention. The roommates contacted 911 for a second time and officers and an ambulance squad responded around 3:40 AM. However, Witness A refused medical attention and the responding officers and ambulance squad left the scene a second time that night.

The roommates took Witness A to UC Medical Center because they feared Witness A may have been assaulted by the unknown males. Witness A could not clearly communicate or make rational decisions.

Around 5:00 AM another roommate, Witness B was cleaning the living room when she found marijuana and two firearms. She contacted the police a third time and officers responded. The officers found contraband that included two firearms and a bag of marijuana.

Ms. Bedell believed she and her roommates might have been victims of officer discourtesy, age discrimination, and that officers were too dismissive of the situation which might have led to an on-the-spot arrest of the unknown males.

RECOMMENDATION

Recommendation #R2205

Tracking System: Contact Card Policy/Procedure

CCA recommends that the Cincinnati Police Department update its Procedure Manual to require the completion of Contact Cards in all cases where a Cincinnati Police Officer detains an individual or has direct contact with a person whose detention has been aided by an officer, including detentions occurring in a private setting such as a residence, and not limited to pedestrian stops or traffic stops.

Current CPD policy appears to limit the requirement to complete a Contact Card to situations involving traffic stops or pedestrian stops, and does not appear to require the completion of a Contact Card for investigatory detentions occurring at a private residence in response to a call for service. A broader requirement that officers attempt to obtain and record contact information for any detained persons could prove to be invaluable to CPD in serving citizens who are crime victims, should those detained persons become suspects or witnesses in a future investigation that relates to the initial detention. Such information could be used to solve cases, develop evidence, locate additional

witnesses, or spot crime trends. The information tracked by such Contact Cards would also aid in the completion of investigations and post-incident reviews addressing complaints pertaining to those detentions. Finally, extending the requirement to complete Contact Cards to all detentions would serve the same goals of bias-free policing that are served by the current policy's requirement that Contact Cards are completed for pedestrian and traffic detentions.

FINDINGS

Original Allegations

Sergeant Jefferey Scholl
 Officer Ar'Mon Shack
 Officer Joshua Flora
 Specialist Kenneth Byrne
Improper Pointing of Firearm - EXONERATED

Sergeant Jefferey Scholl
Discourtesy - NOT SUSTAINED

Officer John Neal
Discourtesy - SUSTAINED

Sergeant Jefferey Scholl
 Officer John Neal
 Officer Nicolino Stavale
 Officer Corey Jones
 Officer Todd Pierson
Lack of Service - EXONERATED

Officer John Neal
Discrimination - UNFOUNDED

Collateral Allegations

Officer John Neal
Improper Procedure (BWC) - SUSTAINED

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4

Complaint #	20206
Complainant	Carmen Jordan on behalf of Kenneth O. Webb
Incident Date	August 15, 2019
CCA Investigator	Makiedah Messam
Allegation	<u>Original Allegations</u>

Improper Stop
Improper Search
Harassment

COMPLAINT SUMMARY

Ms. Jordan alleged that on August 15, 2019, CPD officers improperly entered and searched Mr. Kenneth O. Webb's apartment. Mr. Kenneth O. Webb was arrested and charged with two felonies as a result of this search.

On October 1, 2020, CPD officers initiated a traffic stop where they arrested Kenneth O. Webb and brought him to [REDACTED] where they improperly entered and searched Apt. 1. Ms. Jordan averred that Mr. Kenneth O. Webb did not live at [REDACTED] which was occupied by their son, Kenneth R. Webb. Kenneth O. Webb, however, used the basement of the house as a workshop and storage for his lawn care equipment and other tools, which he accessed daily.

Ms. Jordan alleged that the arrest of Mr. Kenneth O. Webb on October 1, 2020, was without cause and that the entry and search of [REDACTED] after his arrest was illegal. Ms. Jordon also stated that she believed Mr. Webb is being harassed by CPD officers.

FINDINGS

Original Allegations

Officer Oscar Cyranek
Officer Kevin Kroger
Officer Jacob Hicks
Officer Christopher Manson
Improper Stop - EXONERATED

Lt. Shannon Heine
Officer Kerri Maloney
Officer Eric Schaible
Officer Christopher Clarkson
Officer Oscar Cyranek
Specialist Thomas Wells
Specialist Michael Harper
Improper Search - EXONERATED

Lt. Shannon Heine
Officer Kerri Maloney
Officer Eric Schaible
Officer Christopher Clarkson
Officer Oscar Cyranek
Officer Kevin Kroger

Officer Jacob Hicks
 Officer Christopher Manson
 Specialist Thomas Wells
 Specialist Michael Harper
Harassment - UNFOUNDED



5

Complaint #	20235
Complainant	Leontre Edwards
Incident Date	December 3, 2020
CCA Investigator	Makiedah Messam
Allegations	<u>Original Allegations</u> Improper Search Improper Seizure Harassment

COMPLAINT SUMMARY

On December 3, 2020, Mr. Leontre Edwards reported that he was stopped for a traffic light violation by two Cincinnati Police Department officers. The officers searched him and his vehicle. The officers arrested him and took possession of two mobile phones found in the vehicle “for investigation,” towed the vehicle and placed Mr. Edwards in custody. Mr. Edwards also alleged that the confiscation of his property was unjust, and his detention was unnecessary as he was recently released from jail based on the warrant found by the officer. Mr. Edwards further alleged that this stop, and arrest, forms a pattern of harassment by CPD District Four officers because of his past. *“I be on parole and every time they let me out of jail, they try their hardest to get me back in jail. Like [with] regular traffic stops they pull me out without asking me my name. [They] always take phone and say it’s under investigation. They always bother me, they have me flagged in the system as armed and dangerous.”* This harassment has been constant over the last six years.

FINDINGS

Original Allegations

Officer Myles Abt
Improper Search - EXONERATED

Officer Nicolas Casch
Improper Search - SUSTAINED

Officer Kelly Reindl
Improper Search - UNFOUNDED

Officer Myles Abt
Officer Nicolas Casch
Improper Seizure - EXONERATED

Officer Kelly Reindl
Improper Seizure - UNFOUNDED

Sergeant Nathan Asbury
Harassment - UNFOUNDED

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6

Complaint #	21004
Complainant	Travale Grigsby
Incident Date	January 8, 2021
CCA Investigator	Kerrie Kimpel
Allegations	<u>Original Allegations</u> Improper Pointing of a Firearm Improper Procedure Discourtesy Excessive Force Improper Stop <u>Collateral Allegations</u> Improper Procedure (Body Worn Camera) Improper Procedure (Contact Card)

**COMPLAINT
SUMMARY**

Date: January 8, 2021

Time: 4:24 PM

Location: 2439 Gilbert Ave

CCA Receipt: January 11, 2021

On January 8, 2021, Mr. Travale Grigsby responded to Cincinnati Police Department (CPD) District Four to file a complaint against unknown officers. Mr. Grigsby stated during an arrest, an officer, who was later determined to be Officer Jerome Herring Jr., improperly pointed a firearm at his head, was discourteous, and stepped on his cell phone, resulting in damage. Mr. Grigsby also alleged an officer later determined to be Officer Condon assisted in the stop.

OBSERVATION

CPD Manual of Rules and Regulations states that officers should avoid the use of coarse, violent, or profane language. While reviewing BWC footage, Officer Condon uttered to himself, “[expletive] dumb, dude”, using profanity when referring to the actions of Mr. Grigsby. Though the comment was not within earshot of Mr. Grigsby, and was likely not even heard by other officers, since BWCs are accessible by the public, officers should be reminded that their actions – both verbal and physical – are representative of the CPD and subject to public scrutiny.

FINDINGS

Original Allegations

Officer Jerome Herring
Officer Marc Schildmeyer
Officer Thomas Back
Officer Joshua Condon

Improper Pointing of Firearms - EXONERATED

Officer Jerome Herring
Improper Procedure - UNFOUNDED
Discourtesy - NOT SUSTAINED
Excessive Force - UNFOUNDED

Officer Marc Schildmeyer
Officer Jerome Herring
Sergeant James Davis
Officer Katelyn Hoffbauer
Improper Stop - EXONERATED

Officer Joshua Condon
Improper Stop - UNFOUNDED

Sergeant James Davis
Improper Procedure - NOT SUSTAINED

Collateral Allegations

Officer Tyler Lane
Officer Thomas Back

Officer Jerome Herring
Improper Procedure (BWC) - SUSTAINED

Officer Jerome Herring
Officer Katelyn Hoffbauer
Improper Procedure (Contact Card) - SUSTAINED

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7 CCA Review Memo

Complaint #	21030
Complainant	Christopher Eastin Jr.
Incident Date	February 18, 2021
CCA Investigator	Kerrie Kimpel
Allegation	<u>Original Allegation</u> Excessive Force

COMPLAINT SUMMARY

CCA completed a review of CCA Complaint No. 21030 by Christopher Eastin Jr., M/W/48, alleging Excessive Force against Officer Ross McNicol II, #P0375, M/W/47, Officer Whittley Nelson, #P0152, F/B/32, Officer Samuel Bailey, #P0099, M/W/22, and Officer Sarah Cronin, #P0504, F/W/24.

Mr. Christopher Eastin Jr. alleged that on February 18, 2021, at 411 Gest St, Officers Ross McNicol II, Whittley Nelson, Samuel Bailey, and Sarah Cronin used excessive force when arresting him.

On February 18, 2021, the Emergency Communication Center (ECC) received a call from an employee of the Drop-Inn Center at 411 Gest St, regarding a subject who had been banned from the Center and was refusing to leave. Officers McNicol, Nelson, Bailey, and Cronin responded to the run, and when they arrived on scene, they spoke to the employee who called 911, Witness A, who advised them that there was a subject refusing to leave. Witness A led the four officers to the subject, later identified as Mr. Christopher Eastin Jr., who was squatting against a wall. Officer Nelson told Mr. Eastin that he needed to leave the facility and to stand up. Mr. Eastin made no effort to stand and questioned the officers as to why he needed to leave. Mr. Eastin smelled of alcohol and his speech was slurred. Officer Nelson ordered Mr. Eastin to stand several more times; Mr. Eastin remained seated.

Officers Nelson and Bailey approached Mr. Eastin and both officers grabbed an arm and pulled him to his feet. Mr. Eastin tried to pull away from the officers' grip, and he was ordered to place his hands behind his back. Mr. Eastin was not specifically informed that he was under arrest, but officers were giving him orders to get up and to leave the premise, with which he did not comply. Ohio Revised Code §2935.07, states, "when an person is engaged in the commission of a criminal offense, it is not necessary to inform him of the cause of his arrest." Mr. Eastin brought his hands to the front of his body. Officers Nelson and Bailey attempted to put Mr. Eastin's arms behind his back to handcuff him, but he tensed his body and refused to give them his arms. Officers Cronin and

McNicol assisted Officers Nelson and Bailey by taking Mr. Eastin to the ground. The officers continued trying to gain control of Mr. Eastin's arms, as he continued to pull them to his chest and refused to allow officers to handcuff him. The officers continued to give Mr. Eastin verbal commands to put his hands behind his back, and he continued to refuse to do so. Officer McNicol was concerned that Mr. Eastin could have had a knife in his jacket, which he has experienced before with transient individuals. Officer McNicol delivered two light closed fist strikes to Mr. Eastin's side and two "light" knee strikes to his lower back, while aiming for his gluteal muscle, in an attempt to gain pain compliance. The strikes did not have any effect on Mr. Eastin. Officer McNicol placed his baton underneath Mr. Eastin's arm and used it as leverage to pry his arm out so the officers could handcuff him. Officers handcuffed Mr. Eastin's right hand, but then he pulled it away from them toward the front of his body again. The officers rolled Mr. Eastin over onto his stomach and handcuffed his left hand.

As soon as both handcuffs were in place, the officers stopped applying force or pressure to Mr. Eastin, and searched him, incident to arrest. Officer Nelson requested a supervisor respond due to using hard hands during the arrest. Officers Bailey and Nelson escorted Mr. Eastin to the cruiser. Mr. Eastin was charged with Criminal Trespass and Resisting Arrest. Officer Nelson transported to the Hamilton County Justice Center (HCJC).

According to CPD Policy and Procedure Manual §12.545, the use of physical strength or skill that causes pain or leaves a mark, leverage displacement, joint manipulation, pain compliance and pressure point control tactics are defined as Hard Hands. The policy further states, "Officers have the right to use whatever force is reasonably necessary to apprehend the offender and affect the arrest and no more." The strikes to gain pain compliance were ineffective, and the baton was not used as a weapon, but as a lever. Once Mr. Eastin was handcuffed, the force and pressure used to affect the arrest stopped immediately.

CCA interviewed Officers McNicol, Nelson, Bailey, and Cronin, and reviewed the relevant footage. CCA attempted to reach Witness A to obtain a statement but was unsuccessful. CCA was unable to reach Mr. Eastin, and he declined to speak with CPD when a Sergeant attempted to interview him at the time of the incident. When interviewed, the officers on scene at the time all stated that they believed the force was reasonable. The BWC footage corroborated the officers' version of what occurred as stated above. The facts do not establish that Officers Ross McNicol, Whittley Nelson, Samuel Bailey or Sarah Cronin used excessive force against Christopher Eastin Jr. as alleged. CCA has concluded the amount of force used was objectively reasonable for the level of resistance Mr. Eastin displayed.

FINDINGS

Original Allegations

Officer Ross McNicol II
Officer Whittley Nelson
Officer Samuel Bailey
Officer Sarah Cronin

Excessive Force - EXONERATED

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8

Complaint #	21066
Complainant	Tara McRae
Incident Date	March 29, 2021
CCA Investigator	Robert Stephens
Allegations	<u>Original Allegations</u> Discrimination Lack of Service <u>Collateral Allegation</u> Discourtesy

COMPLAINT SUMMARY

Date: March 29, 2021

Time: 10:30 AM

Location: 617 Vine St Suite B

Ms. Tara McRae reserved rooms at Homewood Suites on Vine St. for her daughter's birthday. After suffering a medical emergency, she extended her stay. She returned to the room on March 29th, 2021, to find \$1,000 worth of property missing from her room. Ms. McRae called the Emergency Communications Center (ECC) to report the theft. Three officers responded and refused to take a report. Those officers were later identified by CCA as Officers Graening, Brogan, and Finley. She indicated that all three officers were rude and called her nasty. They gave each other "looks" and accused her of leaving her daughter in the room alone. She felt they were treating her poorly and refused take the report because of her race. Sergeant Murray responded after the officers departed.

FINDINGS

Original Allegations

Officer Craig Graening
Officer Michael Brogan
Officer Thomas Finley

Discrimination - UNFOUNDED

Officer Craig Graening
Officer Michael Brogan
Officer Thomas Finley

Lack of Service - UNFOUNDED

Collateral Allegation

Officer Michael Brogan

Discourtesy - SUSTAINED

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9 CCA Review Memo

Complaint #	22065
Complainant	Katherine Kelley
Incident Date	October 28, 2021
CCA Investigator	Robert Stephens
Allegations	<u>Original Allegations</u> Improper Procedure Lack of Service

COMPLAINT SUMMARY

CCA completed a review of CCA Complaint No. 22065 by Katherine Kelley, F/W/44, alleging Improper Procedure and Lack of Service against Officer Taylor Howard, #P0180, M/W/31 and Officer Sean O'Connor, #P0449, M/W/26.

Ms. Kelley alleged that on October 28, 2021, at approximately 8:50 AM the corner of Gurley Ave and Glenway Officers Howard and O'Connor were in an active police vehicle pursuit headed southbound on Glenway. Upon crossing the intersection of Gurley Ave and Glenway, Ms. Kelley and the fleeing suspect collided. Ms. Kelley advised the officers did not have their lights or sirens on. Ms. Kelley and her son were injured as a result of the accident, and no officer assisted her. She and her son were later transported for treatment by her son's father.

Officer Howard explained in his CCA interview that there was an active investigation for a wanted suspect who had open warrants for felony offenses. The suspect was identified, and Officer Howard attempted to conduct a traffic stop on the suspect. The suspect fled from Officer Howard, initiating a pursuit that lasted less than three blocks. Officer Howard stated he used lights, sirens, and horns during his pursuit. The suspect ran a red light in an intersection and collided with another vehicle. Officer Howard advised Emergency Communication Center (ECC) of the crash and to get medical assistance for the crash and suspect. Once the Fire Department arrived, they assisted Ms. Kelley.

CCA reviewed the relevant footage; according to the BWC and MVR footage, lights, sirens, and horns were being used during the pursuit of the suspect. The pursuit lasted less than one minute before the collision. The suspect ran the red light and caused the vehicle collision. Immediately upon seeing the crash Officer Howard advised the ECC that there was a crash. Within one minute of the crash Officer Howard also requested the fire department respond. This was directly after apprehending the fleeing suspect. Additional officers and the Cincinnati Fire Department arrived and provided assistance to Ms. Kelley.

The BWC and MVR footage corroborated the officer's version of what occurred as stated above. There is no information to indicate that Officers Taylor Howard or Sean O'Connor acted improperly in their vehicle pursuit or service provided.

NOTE

CCA was unable to interview Officer Sean O'Connor, he is no longer employed with CPD.

FINDINGS

Original Allegations

Officer Taylor Howard

Officer Sean O'Connor

Improper Procedure - UNFOUNDED

Lack of Service - UNFOUNDED

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