

Date: May 19, 2022
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary – June 6, 2022 Board Meeting

RECOMMENDATION SUMMARIES

1

Topic	Courteous & Professional Behavior and Corrective & Disciplinary
Recommendation Nos.	R2203 and R2204
Case #	21061

#R2203 - Courteous and Professional Behavior

CCA recommends CPD create one all-encompassing off-duty-conduct policy that regulates off-duty enforcement action, covers other off-duty incidents, and contains reporting requirements sufficient to trigger appropriate oversight in the event of such off-duty enforcement action or incidents. Such a policy should adopt elements found in those from other police departments, such as the Cambridge Police Department’s “Off-Duty Police Powers & Conduct Policy” and the “Off-Duty Arrests” model policy proposed by the International Association of Chiefs of Police.

#R2204 - Corrective and Disciplinary

Given recurring violations of police policy by Police Officer Marc Schildmeyer during a consecutive multi-year period—including repeated improper enforcement activity that resulted in (3) Sustained findings from CCA for Improper Search in 2018 and 2019, as well as numerous Sustained findings in the present 2021 case for inappropriate off-duty enforcement action—CCA recommends that CPD review Officer Schildmeyer’s performance, begin Supervisory Monitoring, and take all appropriate corrective or disciplinary action.

INVESTIGATION SUMMARIES

1

Complaint #	19160
Complainant	LaKisha McMillan
Incident Date	June 6, 2019
CCA Investigator	Ikechukwu Ekeke
Allegation	Excessive Force

COMPLAINT SUMMARY

Date: June 6, 2019

Time: 9:30 p.m.

Location: 3159 Montana Ave -YMCA

CCA Receipt: July 12, 2019

On June 6, 2019, Ms. Lakisha McMillan stated her son, Mr. Durrell Nichols, entered the Young Men's Christian Association (YMCA) on Montana Ave. and played basketball with an unidentified friend. YMCA Management contacted CPD. When Officers Douglas Utecht and Casey Carver arrived, they asked Mr. Nichols to leave. Mr. Nichols did not understand why he had to leave. CPD officers did not attempt to speak to Mr. Nichols or de-escalate the situation, but instead, Officer Utecht punched Mr. Nichols from behind and choked him. Mr. Nichols was unable to breathe and fought back. Officers Utecht, Carver, Andrew Snape, Joshua Wallet, and Jerome Herring, Jr. tased Mr. Nichols repeatedly. Mr. Nichols sustained injuries to his arms, stomach, and back from the TASER barbs. Officers arrested Mr. Nichols, failed to read Mr. Nichols his rights, and charged Mr. Nichols excessively.

FINDINGS

Officer Douglas Utecht
Officer Casey Carver
Officer Joshua Wallet
Officer Jerome Herring, Jr.
Officer Andrew Snape
Officer Myles Abt

Excessive Force¹ – EXONERATED

¹ The findings for this allegation correspond to the use of “hard hands” that began before the other uses of force analyzed.

Officer Douglas Utecht
Officer Casey Carver
Officer Joshua Wallet
Officer Jerome Herring, Jr.
Officer Andrew Snape

Excessive Force² – EXONERATED

Officer Douglas Utecht

Excessive Force³ – EXONERATED

Officer Douglas Utecht
Officer Casey Carver

Excessive Force⁴ – UNFOUNDED

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2

Complaint #	20070
Complainant	Timothy Hawkins
Incident Date	April 20, 2020
CCA Investigator	Kerrie Kimpel
Allegations	Improper Stop Improper Search Improper Procedure

**COMPLAINT
SUMMARY**

Date: April 20, 2020

Time: 8:56PM

Location: 3075 Moosewood Ave.

CCA Receipt: April 27, 2020

² The findings for this allegation correspond to the use of TASERS by the officers.

³ The finding for this allegation corresponds to the use of a baton by police.

⁴ The finding for this allegation corresponds to the alleged use of a chokehold by police.

Mr. Timothy Hawkins stated he was pulled over for tinted windows on April 20, 2020. Officer Charles Knapp asked to see his keys, and when he showed Officer Knapp the key fob, Officer Knapp took the keys, and pulled him out of his vehicle to be handcuffed. Mr. Hawkins was arrested for a capias warrant from North College Hill Police Department (NCHPD), his vehicle was searched without his permission, and during the search, the officers broke his passenger seat.

FINDINGS

Lieutenant David Schofield

Improper Stop – EXONERATED

Improper Search – EXONERATED

Improper Procedure – UNFOUNDED

Officer Charles Knapp
 Officer Christopher Clarkson
 Officer Deon Mack
 Officer Justin Gottmann

Improper Search – EXONERATED

Improper Procedure – UNFOUNDED

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3

Complaint #	20138
Complainant	Dwan Seymour
Incident Date	July 19, 2020
CCA Investigator	Makiedah Messam
Allegations	<p><u>Original Allegation</u> Excessive Force</p> <p><u>Collateral Allegations</u> Improper Procedure (Use of Force)</p>

COMPLAINT SUMMARY

Date: July 19, 2020

Time: 1:51 AM

Location: 4907 Hamilton Avenue

CCA Receipt: July 22, 2020

Mr. Dwan Seymour stated when the police arrived, Officer Guy Abrams, driver of the cruiser, walked up to him. While he was trying to talk to Officer Abrams, Officer Kevin Holmes reached for his weapon. The complainant further alleged that in his interaction with the officers, the officers' use of force when placing him inside the cruiser was excessive and resulted in injuries to his head, elbow, leg, and ankle.

FINDINGS

Original Allegation

Officer Guy Abrams
Officer Michael Morrissey

Excessive Force – EXONERATED

Collateral Allegations

Officer Kevin Holmes

Improper Procedure (Use of Force) – NOT SUSTAINED

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Complaint #	20144
Complainant	Ashton Swann
Incident Date	July 27, 2020
CCA Investigator	Jessalyn Goodman
Allegation	Excessive Force

**COMPLAINT
SUMMARY**

Date: July 27, 2020

Time: 4:30 am

Location: 619 Central Avenue #301

Per CPD: While responding to a dispatch request at Witness A’s apartment, Officer Ronald Johnson closed her apartment door. Mr. Ashton Swann “believed it was his right to be able to open the door” and opened the door one time. Officer Johnson “pushed him with one hand” to his chest. Mr. Swann alleged he was pushed to the tile floor, struck the floor with his face, and sustained a laceration to the upper lip.

FINDINGS

Officer Ronald Johnson

Excessive Force – EXONERATED

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5

Complaint #	20168
Complainant	Amber Wilson
Incident Date	July 29, 2020
CCA Investigator	Robert Stephens
Allegations	Improper Detention Improper Search Lack of Service

**COMPLAINT
SUMMARY**

Date: July 29, 2020

Time: 1:30 pm

Location: 883 Ridgeway Avenue

On 07/29/20, Officer Nicholas Casch, arrived at Ms. Amber Wilson's, residence with a search warrant. Ms. Wilson was handcuffed and placed in a cruiser while he and additional officers searched her residence. The officers located several items, including speakers, liquor, money, and marijuana. When Ms. Wilson

reviewed the search warrant, she noted the officers did not find the items they claimed to be looking for (such as firearms or weapons). The officers arrested her son's father, Witness A, for an open warrant.

On 07/30/20, Officer Casch served Ms. Wilson with a Motion Nuisance Abatement. He explained that her residence had been seized and she must vacate her residence because it would be boarded up. Ms. Wilson called CPD to have access to her residence and obtain some belongings, Officer LaDon Laney, responded.

In June 2020, Officer Laney responded to a noise complaint regarding Ms. Wilson's home. Ms. Wilson explained the complaint was from a relative who wanted Ms. Wilson evicted. Later, she attempted to report telephone harassment, but CPD did not follow up regarding her complaint.

As a result of CPD's actions, Ms. Wilson and her minor children are homeless. Ms. Wilson noted CPD has not attempted to evict other families from their home despite criminal behavior.

FINDINGS

Officer Nicholas Casch

Improper Detention – EXONERATED

Improper Search – EXONERATED

Officer LaDon Laney

Lack of Service – UNFOUNDED

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6

Complaint #	20223
Complainant	Antonio Huff
Incident Date	November 2, 2020
CCA Investigator	Robert Stephens
Allegations	Improper Stop Improper Search Discourtesy Excessive Force

COMPLAINT SUMMARY

Date: November 2, 2020

Time: 7:19 PM

Location: 311 Martin Luther King (MLK) Drive

CCA Receipt: November 05, 2020

On November 2, 2020, Mr. Antonio Huff drove along MLK then onto Jefferson Ave. and was followed by a marked CPD cruiser. After approximately one mile, the officers activated their sirens and claimed he made a marked lanes violation. When the officers approached the vehicle, they "grabbed" Mr. Huff out of the vehicle, placed him in handcuffs, and searched him locating crack. The officers "roughed him up," as they handcuffed him. He did not sustain any injuries.

Mr. Huff estimated there were at least 20 officers on the scene, both uniformed and in plainclothes. The officers searched Mr. Huff's vehicle without his consent. The officers used profanity and spoke "nasty" towards him, although he could not recall any specific remarks. Mr. Huff was charged with a marked lanes violation and possession of drugs and transported to the Hamilton County Justice Center (HCJC).

FINDINGS

Officer Jerome Herring

Improper Stop – EXONERATED

Improper Search – EXONERATED

Excessive Force – UNFOUNDED

Discourtesy – SUSTAINED

Officer Thomas Chiappone

Excessive Force – UNFOUNDED

Officer Thomas Chiappone
 Officer Sean O'Connor
 Officer Jason Wallace
 Officer Michael B. Smith
 Officer Joshua Condon
 Specialist Kevin Newman

Improper Search – EXONERATED



7

Complaint #	21021
Complainant	Mario Baker
Incident Date	February 4, 2021
CCA Investigator	Morgan Givens
Allegations	Improper Search Discourtesy Lack of Service

COMPLAINT SUMMARY

Mr. Baker alleged that on February 4, 2021, at approximately 8:00 PM, he observed Officers Mullis and Scalf looking through the window of his friend’s rented vehicle. Mr. Baker exited the residence to inquire as to why the officers were looking at the vehicle. The officers explained that they saw marijuana in plain view in the cup holder of the vehicle. Mr. Baker explained that the vehicle was not rented in his name, but that the marijuana was his and that he would accept the citation. Mr. Baker was ultimately arrested for Ohio Revised Code (ORC) 2925.03 Trafficking in Drugs, his money seized, the vehicle towed, and his acquaintance’ residence was searched.

Mr. Baker was released from the Hamilton County Justice Center (HCJC) after the laboratory determined that the substance Officers Mullis and Scalf recovered was not methamphetamine as believed. Mr. Baker alleged Officer Mullis was rude and did not return his belongings promptly after being dismissed from the HCJC.

FINDINGS

Officer Cameron Mullis
Officer Dylan Scalf

Improper Search – EXONERATED

Improper Search – NOT SUSTAINED

Officer Cameron Mullis

Discourtesy – EXONERATED

Lack of Service – EXONERATED

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8

Complaint #	21061
Complainant	Michael Kennedy
Incident Date	April 5, 2021
CCA Investigator	Morgan Givens
Allegations	<u>Original Allegations</u> Improper Stop Improper Seizure Improper Pointing of a Firearm <u>Collateral Allegation</u> Improper Procedure

COMPLAINT SUMMARY

Date: April 5, 2021

Time: 11:45 PM

Location: 7807 Asbury Hills Drive

CCA Receipt: April 12, 2021

On April 5, 2021, at approximately 11:45 PM, Officer Marc Schildmeyer (P.O. Schildmeyer) observed a minivan which he alleged moved at a fast rate of speed through a residential neighborhood. P.O. Schildmeyer was off-duty, in plain clothes, but armed with his duty weapon which was in his front right or left pant pocket. He pursued the vehicle and found it stopped at a stop sign at the intersection of Asbury Hills Drive and Asbury Road.

P.O. Schildmeyer parked diagonally in front of the van and approached the driver's side window. An argument ensued between three teenage occupants of the minivan, Witness A, B, and C and P.O. Schildmeyer who stated he was a police officer but did not show his badge nor any city-issued identification. Rather, he brandished his firearm. As the argument continued, P.O. Schildmeyer grabbed Witness A and held on to him by the shirt. All three occupants of the minivan exited the vehicle and P.O. Schildmeyer was struck in the head. Both parties eventually retreated, and the minivan fled the scene prior to the Hamilton County Sheriff's Office (HCSO) arriving on scene.

The complainant, Michael Kennedy, alleged P.O. Schildmeyer stopped Witnesses A, B, and C improperly, brandished his firearm unnecessarily, and refused to provide anything to verify that he was CPD.

RECOMMENDATIONS

Recommendation #R2203

Courteous and Professional Behavior

CCA recommends CPD create one all-encompassing off-duty-conduct policy that regulates off-duty enforcement action, covers other off-duty incidents, and contains reporting requirements sufficient to trigger appropriate oversight in the event of such off-duty enforcement action or incidents. Such a policy should adopt elements found in those from other police departments, such as the Cambridge Police Department's "Off-Duty Police Powers & Conduct Policy" and the "Off-Duty Arrests" model policy proposed by the International Association of Chiefs of Police.

Presently, some off-duty conduct is addressed by CPD Procedure § 12.205 Traffic Enforcement; § 12.555 Arrest/Citation: Processing of Adult Misdemeanor and Felony Offenders. Off-duty conduct is also addressed by the Manual of Rules and Regulations among other policies. These policies and procedures require off-duty officers to contact ECC to request a CPD supervisor who is prompted to initiate an investigation in the event of an off-duty "enforcement action." However, limiting those requirements to an "enforcement action" leaves many other critical scenarios unaddressed. As demonstrated by this case, the physical altercation in July 2020 may not be considered an enforcement action, but it resulted in an off-duty CPD officer striking a person, and it resulted in a law enforcement response, none of which was apparently required to be reported to CPD under current policy.

The creation of an all-encompassing off-duty conduct policy could close gaps in existing police policy by requiring officers to report all off-duty conduct where an officer asserts themselves as a police officer, in addition to other conduct bearing on an officer's fitness for service. For instance, even if no enforcement action is taken, such a policy should require officers to report all off-duty self-activations; all off-duty involvement in physical altercations; all off-duty incidents involving a response by outside law enforcement officers (in their professional capacity); domestic violence accusations against officers; and

any incidents where officers learn they are the subject of a criminal complaint or investigation.

Recommendation #R2204

Corrective and Disciplinary

Given recurring violations of police policy by Police Officer Marc Schildmeyer during a consecutive multi-year period—including repeated improper enforcement activity that resulted in (3) Sustained findings from CCA for Improper Search in 2018 and 2019, as well as numerous Sustained findings in the present 2021 case for inappropriate off-duty enforcement action—CCA recommends that CPD review Officer Schildmeyer’s performance, begin Supervisory Monitoring, and take all appropriate corrective or disciplinary action.

Monitoring is particularly important given the similarities between the off-duty incident which is the subject of this report and the off-duty incident which took place in July 2020. CCA is concerned about Officer Schildmeyer’s pattern of behavior and the resulting violence.

FINDINGS

Original Allegations

Officer Marc Schildmeyer

Improper Stop – SUSTAINED

Improper Seizure – SUSTAINED

Improper Pointing of a Firearm – SUSTAINED

Collateral Allegations

Officer Marc Schildmeyer

Improper Procedure – SUSTAINED

Improper Procedure – SUSTAINED

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9 CCA REVIEW MEMO

Complaint #	21144
Complainant	Regina Tucker
Incident Date	July 7, 2021

CCA Investigator	Dena Brown
Allegations	Improper Seizure Lack of Service

COMPLAINT SUMMARY

On July 7, 2021, Ms. Tucker was involved in an incident with Witness A at their apartment complex. Witness A called the Emergency Communications Center (ECC) to report that he had been threatened with a baseball bat by Ms. Tucker. Ms. Tucker also called ECC to report Witness A was kicking her door. Officers Harris and Mason Hctor, M/W/28, were dispatched to the scene. Ms. Tucker alleged that Officer Harris improperly seized her and failed to provide service to her.

FINDINGS

Officer Dave Harris

Improper Seizure – UNFOUNDED

Lack of Service – UNFOUNDED

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