

Date: January 7, 2022
To: Board Members, Citizen Complaint Authority
From: Gabriel Davis, Director
Subject: Investigation Summary Memo – January 10, 2022 Board Meeting

RECOMMENDATION SUMMARIES

#1

Topic	Use of Force Policy/Procedure
Recommendation #	R2136
Case #	19190

CCA recommends CPD revise its use of force policies to clarify what qualifies as a “choke hold” under its Procedure Manual, including by stating what kinds of neck restraints or neck holds qualify as choke holds or are otherwise prohibited. CCA recommends that such a revision incorporate standardized language such as from the National Consensus Policy on Use of Force or another comparable source providing national best practices.

**Excerpt only. See Investigation Summary below for full text of recommendation.*

INVESTIGATION SUMMARIES

1

Complaint #	19007
Complainant	Lance Gaines
Incident Date	January 13, 2019
CCA Investigator	Jessalyn Goodman
Allegations	Excessive Force <u>Collateral Allegation</u> Improper Procedure Lack of Service Discourtesy

COMPLAINT SUMMARY

Date: January 13, 2019

Time: 11:04 p.m.

Location: 1000 Sycamore Avenue

CCA Receipt: January 14, 2019

Complainant: Lance Gaines, M/B/28

Per CPD: After Sergeant Zachary Sterbling, M/W/37, arrested Mr. Lance Gaines and transported him to Hamilton County Justice Center (HCJC), Mr. Gaines claimed, "You punched me in my face."

FINDINGS

<i>Sergeant Zachary Sterbling</i>	Excessive Force – SUSTAINED
<i>Sergeant Zachary Sterbling Officer Douglas Utecht</i>	<u>Collateral Allegations</u> Improper Procedure – SUSTAINED Lack of Service – SUSTAINED
<i>Sergeant Zachary Sterbling</i>	<u>Collateral Allegations</u> Discourtesy – SUSTAINED

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Complaint #	19040
Complainant	Robert Jennings
Incident Dates	February 23, 2019
CCA Investigator	Morgan Givens
Allegations	Excessive Force Discourtesy

**COMPLAINT
SUMMARY**

Date: February 23, 2019

Time: 12:04 p.m.

Location: 600 Gest Street

CCA Receipt: February 27, 2019

Complainant: Robert Jennings

On 2/23/19, four plain-clothed officers followed Mr. Robert Jennings, M/B/23, in an unmarked vehicle. Mr. Jennings attempted to elude them and crashed his vehicle. Mr. Jennings attempted to leave the scene as the officers did not identify themselves and therefore, Mr. Jennings did not know they were CPD. The officers “roughed up” Mr. Jennings and he sustained a busted lip. He was threatened with a taser and ultimately arrested.

Mr. Jennings alleged that the officers were discourteous and used excessive force when he was ultimately arrested.

FINDINGS

<i>Officer Charles Knapp</i>	Excessive Force - EXONERATED Discourtesy - SUSTAINED
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3

Complaint #	19043
Complainant	Kaniesha Gray
Incident Date	March 2, 2019
CCA Investigator	Morgan Givens
Allegations	Excessive Force

**COMPLAINT
SUMMARY**

Date: March 2, 2019

Time: 4:11 PM

Location: 710 Clark Street

CCA Receipt: March 4, 2019

Complainant: Kaniesha Gray

On March 2, 2019, Ms. Kaniesha Gray, F/B/24, became involved in a dispute with her roommates which resulted in Officers Shayna Norman, F/W/33, and Michael Lowe being dispatched to the scene. The tension at the scene continued to mount after the officers' arrival; as they took control of the scene, parties were made to separate, and Ms. Gray was asked to leave the residence.

Ms. Gray alleged that Officer Norman assaulted, choked, and threw her to the ground prior to her transport to the Hamilton County Justice Center (HCJC).

FINDINGS

<i>Officer Shayna Norman</i>	Excessive Force – EXONERATED
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Complaint #	19090
Complainant	Michael Broxterman and Linda Holloway
Incident Date	May 2, 2019
CCA Investigator	Dena Brown
Allegations	Excessive Force Discourtesy <u>Collateral Allegation</u> Improper Procedure (BWC)

COMPLAINT SUMMARY

Per CPD: The statements below were provided to CPD's Lieutenant Matthew Hammer on the day of the incident.

On May 2, 2019, at 3:34 pm. at [REDACTED] Mansion Ave, Mr. Michael Broxterman left his residence and walked to a store. When he returned to his residence, Officer Oscar Cyranek, M/W/45, was outside of his cruiser and asked Mr. Broxterman to confirm his name, which he did. Officer Cyranek advised Mr. Broxterman he had a warrant for his arrest for violating his probation. Mr. Broxterman tried to set his food down on a vehicle, but Officer Cyranek told him not to move. Mr. Broxterman expressed to the officer he wanted to eat his food before being handcuffed. Officer Cyranek "snatched and twisted" his arm. Mr. Broxterman spun around because his arm was hurting. Officer Cyranek said quit resisting. Mr. Broxterman replied, "he was not resisting and that the officer was just trying to hurt him." Mr. Broxterman stated he weighed 123 pounds; Officer Cyranek weighed 190 pounds. Officer Cyranek placed him in a chokehold, put his knee between his legs and stepped on his feet. Mr. Broxterman told Officer Cyranek he could not breathe. Mr. Broxterman moved again and said, "you're not choking me out!" Officer Cyranek then tried to "slam him to the ground," but Mr. Broxterman would not allow him. Officer Cyranek stepped on his feet. Mr. Broxterman did not believe he had a warrant because it had been a long time. Mr. Broxterman advised Lieutenant Hammer that his leg was scraped, and his neck hurt, but did not need medical treatment.

Ms. Linda Holloway stated while standing outside on her porch approximately 20-30 feet away, she observed Officer Cyranek exit his vehicle and ask Mr. Broxterman for his name. Mr. Broxterman gave his name. Officer Cyranek asked Mr. Broxterman if he knew he had a warrant out for his arrest. Mr. Broxterman replied he did not know. Mr. Broxterman asked if he could eat his food. Officer Cyranek "slammed" Mr. Broxterman up on a vehicle and had his arm around Mr. Broxterman's neck choking him. Mr. Broxterman asked Officer Cyranek to get off of him because he was choking him and gasping for air. Officer Cyranek would not let him go and he was struggling to breathe. Her son Michael Holloway told Mr. Broxterman to calm down. Mr. Broxterman replied, "but he's choking me son, tell him to stop." Ms. Holloway asked Officer Cyranek to stop choking Mr. Broxterman. Officer Cyranek got "rough" with Mr. Broxterman "slammed" him on the vehicle again and knocked his bag out of his hand. Mr. Broxterman tried to explain that he would not be able to eat at the justice center [sic]. Officer Cyranek called for back-up and several officers arrived on scene. Mr. Broxterman was eventually handcuffed and arrested for a

probation violation. Ms. Holloway alleged Officer Deon Mack who transported Mr. Broxterman called her a [expletive] and drove off.

FINDINGS

<i>Officer Oscar Cyranek</i>	Excessive Force (Broxterman) - NOT SUSTAINED
<i>Officer Deon Mack</i>	Discourtesy (Holloway) - SUSTAINED
<i>Officer Oscar Cyranek</i>	<u>Collateral Allegation</u> Improper Procedure (BWC) - SUSTAINED

RECOMMENDATION

CCA recommends CPD revise its use of force policies to clarify what qualifies as a “choke hold” under its Procedure Manual, including by stating what kinds of neck restraints or neck holds qualify as choke holds or are otherwise prohibited. CCA recommends that such a revision incorporate standardized language such as from the National Consensus Policy on Use of Force or another comparable source providing national best practices.

In CPD Procedure §12.545 Use of Force, the definition section provides the following with respect to choke holds: “The courts could consider a choke hold or other similar type of holds as deadly force. Choke holds are prohibited unless a situation arises where the use of deadly force is permissible under exhibiting law and Department policy.” However, the section does not define with specificity what a “choke hold” or “similar type of hold” would be. Neither does the policy say, on its face, whether other neck holds or neck restraints that CPD does not consider to be “choke holds” are permitted.

In this case, due in part to a lack of adequate BWC evidence, credible witness accounts, or other evidence, CCA was unable to clearly determine the type of neck hold that an officer used to restrain an arrestee. At a minimum, however, the available BWC footage revealed that the officer placed one of his arms across the chest of the arrestee from behind and anchored his hand from the other arm to the back of the arrestee’s neck in what IIS described as a “Nelson type restraint hold.” Even assuming that the description of that hold as a “Nelson type restraint hold,” is accurate (a conclusion CCA does not necessarily share), it is not clear whether the choke hold ban in CPD’s Procedure Manual would have prohibited or permitted a Nelson hold, since the Procedure Manual appears to prohibit holds that are “similar” to choke holds, without clarifying what holds fall under that definition. The policy would benefit from an update to clarify the restraints that are banned.

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Complaint #	19132
Complainant	Ronald Spikes
Incident Date	June 10, 2019
CCA Investigator	Ikechukwu Ekeke
Allegations	Improper Stop Discourtesy Improper Search

**COMPLAINT
SUMMARY**

Per CPD: Mr. Ronald Spikes, M/B/32 alleged that on June 10, 2019, Officer Michael Smith, M/W/31, improperly stopped him, used profanity after approaching his vehicle, and searched the vehicle without probable cause.

FINDINGS

<i>Officer Michael B. Smith</i>	Improper Stop - EXONERATED Discourtesy - SUSTAINED Improper Search - EXONERATED
<i>Officer Gregory Harmon</i>	Improper Stop - EXONERATED

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Complaint #	20057
Complainant	Alvin Bailey and Nathaniel Davis
Incident Date	March 22, 2020
CCA Investigator	Morgan Givens
Allegations	Excessive Force Improper Procedure (BWC) <u>Collateral Allegations</u> Improper Procedure (Failure to Report Use of Force)

COMPLAINT SUMMARY

CCA Receipt: 24 March 2020

Complainant: Alvin Bailey

On March 22, 2020, at approximately 5:30 A.M, Mr. Alvin Bailey, M/B/65, and several others were inside the foyer of Shelterhouse, formally, the Drop Inn Center, located at 411 Gest Street. They were asked to leave by Shelterhouse employees, but due to frigid temperatures they refuse to leave when asked; consequently, the police were called. Officer Smith, M/W/47, responded to the scene and attempted to physically remove them from the shelter foyer; Officer Smith pushed Mr. Nathaniel Davis, M/B/27, who fell into Mr. Bailey and caused Mr. Bailey to hit his head on the wall. When the men exited the foyer, Officer Smith pushed Mr. Davis again.

Mr. Bailey alleged Officer Smith used excessive force and failed to activate his Body Worn Camera (BWC) during their interaction.

FINDINGS

<i>Officer Michael R. Smith</i>	Excessive Force – NOT SUSTAINED Improper Procedure (BWC) - UNFOUNDED <u>Collateral Allegations</u> Improper Procedure (Failure to Report Use of Force) - SUSTAINED
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7

Complaint #	20126
Complainant	Chanel Willis
Incident Date	July 4, 2020
CCA Investigator	Jessalyn Goodman
Allegations	Discourtesy Excessive Force

COMPLAINT SUMMARY

On July 4, 2020, Ms. Chanel Willis, F/B/41, was on her way to an event when she saw a crowd surrounding a vehicular accident on May Street and McMillian Street. Ms. Willis entered the crowd because she recognized the vehicle. Her brother was there because his daughter had been involved in the accident; Ms. Willis described her brother as “in shock” and “overwhelmed” with emotion.

Officer Cameron Mullis, M/W/24, was on scene had control over the crowd. Shortly afterwards, Sergeant Adrian Miller, M/B/39, arrived and yelled at members of the crowd to “Get back!” Sergeant Miller “chest-bumped” Ms. Willis’s brother; he did not resist but did not comply with Sergeant Miller. Sergeant Miller responded, “I could have slammed you.” When Ms. Willis intervened between Sergeant Miller and her brother, Sergeant Miller “chest-bumped” her, causing Ms. Willis to catch her balance on the wall of a hardware store. Sergeant Miller grabbed her hand and yelled again for her to get back. Eventually, Ms. Willis left, and her brother accompanied his daughter to the hospital.

Ms. Willis described Sergeant Miller’s attitude as “aggressive” and “could have escalated” the situation unnecessarily. She believed Sergeant Miller may require empathy training.

FINDINGS

<i>Sergeant Adrian Miller</i>	Discourtesy – SUSTAINED Excessive Force - UNFOUNDED
<i>Officer Cameron Mullis</i>	<u>Collateral Allegation</u> Excessive Force – UNFOUNDED