



AGENCY REPORT

TO: OAKLAND POLICE COMMISSION

DATE: August 23, 2018

FROM: Anthony Finnell

SUBJECT: Item 13a – Discussion – Community Police Review Agency Case Closure

The following investigations were closed between July 23, 2018 and August 20, 2018:

Case No. 14-0695, Complainant Taytiana Brown

DESCRIPTION OF COMPLAINT:

This complaint initiated in the field with Oakland Police Department (OPD) officers. The complainant alleges officers failed to provide emergency first aid to a bleeding shooting victim and allowed the victim to bleed out. She also alleges the officers would not let her assist the victim by applying pressure to the victim's wound.

ALLEGATIONS:

1. MOR Violation 314.39 – Performance of Duty

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

2. MOR Violation 314.39 – Performance of Duty

Finding – Exonerated: The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

Case No. 17-0802, Complainant John Doe¹

DESCRIPTION OF COMPLAINT:

OPD received a 911 call on August 20, 2017, reporting that Complainant was in the marina threatening people with violence and boarding occupied, residential boats. The call was dispatched as a 5150B (mental health hold - violent), and several officers responded to the scene.

Officers located Complainant on one of the docks. This contact was initially cordial, but as the incident continued Complainant became moderately agitated, refused to comply with officer requests, and spoke as if he may be having delusions. When Complainant appeared to punch at officers and take a fighting stance, one of the officers tased Complainant. Officers then restrained Complainant, detained him under a 5150 hold, and had medical transport Complainant from the scene.

Before Complainant left the scene, he spoke to the Sergeant who had been dispatched to investigate the taser use of force. Complainant stated that he didn't want to make a complaint about the incident, but told the Sergeant that he thought the tasing was excessive and officers didn't need to tase him because he would have complied. IAD opened this case based on that allegation.

ALLEGATIONS:

1. MOR 370.27 – Use of Physical Force

Finding – Exonerated: The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

Case No. 17-0803, Complainant Cedric Thomas

DESCRIPTION OF COMPLAINT:

Complainant Cedric Thomas alleged that he was illegally stopped and detained by Subject Officer #1. Complainant alleged that Subject Officer #1 illegally searched his person.

¹ The CPRA does not identify complainants who have a medical matter related to the incident under review.

Complainant alleged that Subject Officer #1 directed Subject Officer #2 to illegally search his vehicle. Complainant alleged that Subject Officer #1 racially profiled him by stopping and detaining him because of his race.

ALLEGATIONS:

1. MOR Violation 314.39-2 – Performance of Duty – Unintentional Search, Seizure, or Arrest

Finding – Exonerated: The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

2. MOR Violation 314.39-2 – Performance of Duty – Unintentional Search, Seizure, or Arrest

Finding – Not Sustained to the allegation as the investigation did not disclose sufficient evidence to determine whether or not the alleged conduct occurred.

3. MOR Violation 314.04 – Conduct Towards Others – Harassment and Discrimination

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

Case No. 17-0811, Complainants Carlyn Gaylord and Elise Gaylord

DESCRIPTION OF COMPLAINT:

Complainants alleged that Oakland Police officers stole approximately \$4,215 from their home during a search warrant service, and that OPD's actions of breaking their doors to gain entry to execute a search warrant caused their elderly dog to die.

ALLEGATIONS:

1. MOR Violation 314.39 – Performance of Duty – Care of Property

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

2. MOR Violation 314.39 – Performance of Duty

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

3. MOR Violation 314.39 – Performance of Duty

Finding – Exonerated: The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

Case No. 17-0827, Complainant Jarryd Smith

DESCRIPTION OF COMPLAINT:

This complaint originated in the field with Oakland Police Department (OPD) Officers. The complainant alleges that an officer failed to remove the complainant's property from the vehicle the complainant was inside after the complainant was removed from the vehicle and arrested. The OPD Internal Affairs Division (IAD) forwarded the complaint to the Community Police Review Agency (CPRA) and the case was assigned for investigation.

ALLEGATIONS:

1. MOR Violation 314.39 – Performance of Duty – Care of Property

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

Case No. 17-0859, Complainant Jane Doe²

DESCRIPTION OF COMPLAINT:

While on duty on September 6, 2017, officers heard what they believed to be a traffic accident; then witnessed a car drive away at a high rate of speed, followed by an SUV with bumper damage; then witnessed the SUV cut the car off, which the officers interpreted as the SUV attempting to stop the car from fleeing the scene of the accident. After the vehicles stopped, the officers contacted the driver of the car (Complainant) and the occupants of the SUV, and conducted a preliminary investigation while they waited for a patrol unit to arrive to investigate the accident.

At various points during the incident, officers smelled alcohol coming from Complainant or her vehicle and observed other indications that Complainant was intoxicated. When the patrol unit arrived, they administered field sobriety tests to Complainant and then requested that California Highway Patrol respond to administer a breath test. CHP officers responded, and the patrol unit arrested Complainant for a DUI offense once the breath test was complete. The patrol unit then

² The CPRA does not identify complainants alleging sexual assault and/or sexual contact or domestic violence involving sworn members of the Oakland Police Department.

transported Complainant from the scene to the CHP office, where CHP administered an additional breath test. After this, patrol officers also placed Complainant under arrest for a second DUI offense and a misdemeanor hit and run.

Complainant spoke to a Sergeant on scene, both before and after her initial arrest. She alleged that officers had racially profiled her; had wrongly arrested her; and had been rude to her. Complainant also told one of the officers on scene that she was raped by a police officer in a prior incident, and IAD included that allegation when it generated this case.

ALLEGATION:

1. MOR Violation 314.04 – Conduct Toward Others – Harassment and Discrimination

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

2. MOR Violation 314.39 – Performance of Duty

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

3. MOR Violation 314.07 – Conduct Toward Others – Demeanor

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur.

4. MOR Violation 314.42 – Obedience to Laws

Finding – No Finding. Complainant's allegation is credible, but CPRA staff have not been able to get basic information about this incident that would allow them to investigate this allegation and come to a finding.

Case No. 17-0888, Complainant Dwitt Jackson

DESCRIPTION OF COMPLAINT:

On August 24, 2017, a man reported to OPD officers that he was the victim of an armed kidnapping for ransom after he was in a minor car accident with two black males driving a white Mazda van.

On September 6, 2017, an officer from OPD's Robbery division sent an email to officers alerting them to the incident and providing a description of the two suspects and their vehicle. The Daily Police Bulletin two days later contained a similar item alerting officers to the incident.

On September 13, 2017, officers saw a van matching the suspect vehicle - driven by a black male generally matching one of the suspect descriptions (Complainant) and occupied by two other

black males - fail to come to a complete stop at a stop sign. Officers initiated a stop, called the men out of the van, handcuffed and searched them for weapons, and detained them while officers cleared the van for additional occupants and searched the van for drugs. Officers then released the men, and Complainant made his complaint to a Sergeant who was called to the scene.

ALLEGATIONS:

1. MOR Violation 000.000 No MOR Violation

Finding – No MOR Violation: Officers are not required to initiate a stop within a specific amount of time after observing a traffic violation.

2. MOR Violation 370.27 – Use of Physical Force

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

3. MOR Violation 314. 07 – Conduct Toward Others – Demeanor

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

4. MOR Violation 370.36 – Custody of Prisoners

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

5. MOR Violation 370.27 – Use of Physical Force

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

6. MOR Violation 370.27 – Use of Physical Force

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

7. MOR Violation 314.39 – Performance of Duty

Finding – Exonerated: The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

8. MOR Violation 314.39 – Performance of Duty

Finding – Exonerated: The investigation revealed that the act or acts which provided the basis for the complaint occurred; however, the acts were justified, lawful and proper and not violations under law and/or departmental policy.

9. MOR Violation 314.39 – Performance of Duty

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

Case No. 17-0891, Complainant Darold Williams and Anonymous

DESCRIPTION OF COMPLAINT:

On September 15, 2017, Mr. Darold Williams (he will be referred to as Complainant in this report) alleged he was unlawfully detained. Complainant alleged that the officer used excessive force and intentionally tried to break his wrist and arm. Complainant alleged the handcuffs were too tight. Complainant alleged that the officers were rude.

On December 19, 2017, an anonymous Complainant alleged the officers did not leave the any identifying paperwork with the patient (Complainant).

ALLEGATIONS:

1. MOR 314.07-2 Conduct Toward Others

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

2. MOR Violation 314.39 – Performance of Duty

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

3. MOR 314.07-2 Performance of Duty – Intentional

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

4. MOR 314.39-2 Performance of Duty – General

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

5. MOR 370.27-1 Use of Physical Force Comparable to Level 4

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

6. MOR 370.27-1 Use of Physical Force Comparable to Level 2

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

7. MOR 314.39-2 Performance of Duty – General

Finding – Unfounded: The investigation disclosed sufficient evidence to determine that the conduct did not occur for the officers listed above.

RECOMMENDATION

Staff recommends that the Oakland Police Commission accept this information report.

Anthony W. Finnell
Interim Executive Director
Community Review Police Agency