



City of Boston, Massachusetts
Office of Police Accountability and Transparency
Stephanie Everett, Executive Director

CIVILIAN REVIEW BOARD - CASE #131

INVESTIGATOR: Diana Vergara

DATE OF INCIDENT: October 21, 2022

DATE OF FILING: October 21, 2022

COMPLAINT SUMMARY:

Complaint alleges unnecessary force, disrespectful treatment, and BPD Officer's failure to communicate names and badge numbers.

DISTRICT: Boston Police District D-4 (South End)

ALLEGED VIOLATION OF RULE:

Rule 304 § 2 Use of Non- Lethal Force
Rule 102 § 9 Respectful Treatment
Rule 102 § 20 Self Identification

RULE 304 Sec. 2 USE OF NON- LETHAL FORCE : The policy of the Boston Police Department is to use only that amount of force that is reasonably necessary to overcome resistance in making an arrest or subduing an attacker. The right to use non-lethal force is extended to Police Officers as an alternative in those situations where the potential for serious injury to an Officer or civilian exists, but where the application of lethal force would be extreme. The availability of a variety of non-lethal weapons is necessary to provide the Police Officer with a sufficient number of alternatives when presented with a physical confrontation. However, since such force will not likely result in serious injury and the close public scrutiny that accompanies the use of deadly force, this availability may also increase the possibility for overzealous and inappropriate use of force. Therefore, application of non-lethal force will generally be limited to defensive situations where (1) an Officer or other person is attacked, or (2) an Officer is met with physical resistance during an encounter. 4An Officer may also use non-lethal force if, in the process of making an arrest, the Officer is met with passive resistance, i.e., an individual who refuses to get out of an automobile, or a protester who is illegally occupying a particular place. Such force should be a reasonable amount required to move the subject based on the totality of the circumstances. An Officer who encounters resistance should be assisted by any other Officers present. Two or more Officers may affect an arrest, without the use of force which one Officer cannot complete without resorting to the use of force.



City of Boston, Massachusetts

Office of Police Accountability and Transparency
Stephanie Everett, Executive Director

Sec. 9 RESPECTFUL TREATMENT: Employees shall, on all occasions, be civil and respectful, courteous and considerate toward their supervisors, their subordinates and all other members of the Department and the general public. No employee shall use epithets or terms that tend to denigrate any person(s) due to their race, color, creed, gender identity except when necessary in police reports or in testimony.

Sec. 20 SELF IDENTIFICATION: General Law, Chapter 41, Section 98D, requires every Officer to carry his identification card with photograph and exhibit this card upon a lawful request for purposes of identification. Any Officer, acting in his official capacity, shall give his name, rank and badge number, in a civil manner to any person who may inquire unless he is engaged in an undercover police operation and his physical safety or the police operation would be jeopardized by his making such identification. Civilian employees, while engaged in their Departmental duties, shall identify themselves in a civil manner to any person who may inquire as to their identity and status within the Department.

OPAT FINDINGS AND RECOMMENDED DISPOSITION:

Rule 304 § 2 Use of Non- Lethal Force -Unfounded
Rule 102 § 9 Respectful Treatment - Unfounded
Rule 102 § 20 Self Identification - Unfounded

Based on all of the evidence presented and reviewed, the CRB voted unanimously (8-0) that the complaint be considered **Unfounded** on Rule 304 §2, Rule 102 §9 and Rule 102 §20 against the officers named in the complaint. After reviewing several surveillance video footage, it was observed that BPD did not use unnecessary force. Also, the surveillance video footage could prove that BPD Officers communicated names and badge numbers.

INVESTIGATION SUMMARY

Discovery List

1. Surveillance footage from Muji.	2. Surveillance footage from Planet Fitness.	3. Video footage provided by Complainant
4. City of Boston cameras	5. Arrest Report	6. Police Report



City of Boston, Massachusetts
Office of Police Accountability and Transparency
Stephanie Everett, Executive Director

7. Dispatch Records	8. Body-worn camera footage	9. Body-worn camera footages (9 video Footages)
10. Interview with employee 1 of The Trend Store	11. Interview with employee 2 of The Trend Store	

Case Summary:

On October 10, 2022, the Office of Police Accountability and Transparency (OPAT) received an allegation from the “Complainant” regarding seven (7) Boston Police Department Officers. The Complainant stated they were walking outside on Newbury Street at approximately 12:30 p.m. when they witnessed an interaction with police officers and three (3) people who appeared to be minors. The Complainant stated that they were not aware of what transpired prior to their arrival but described a large scene including four Boston Police Department police vehicles.

The Complainant stated that the minors were sitting on the sidewalk in handcuffs for about 15 minutes before Officers separated them. One of the minors was allegedly taken off to the side by multiple Officers who were all holding the minor as they were walking.

The Complainant stated that at the end of this interaction, when one of the Officers was getting in the car, the Complainant approached them for their badge number. The Complainant stated that they were unable to get any information on the Officers who arrested one of the minors. The Complainant stated that one of the officers would only mumble their badge number or not repeat it to avoid giving the spelling of their name. The Complainant added that one Officer gave them a three digit badge number, which they did not believe was accurate. When the Complainant asked the Officer to repeat the number, they started driving away with the Complainant still holding onto the car. Video footage shared by the Complainant depicts this encounter. The Complainant was not otherwise directly involved in the incident.

Document/Video/Other Investigation Technique Summary:



City of Boston, Massachusetts

Office of Police Accountability and Transparency
Stephanie Everett, Executive Director

The Complainant provided video footage taken by another unnamed witness. The video shows a teenage male and a teenage female sitting down on the sidewalk surrounded by five Boston Police Officers. At the 0:10:07 mark, it is observed that three BPD Officers were searching the first teenage male's jacket, then walking towards the intersection of Massachusetts Avenue and Newbury Street. At the 0:11:33 mark, two BPD Officers are observed performing a search of the second teenage male, who was in handcuffs. Also observed are two BPD Officers handcuffing the teenage female. BPD Officers then walk the second teenage male and teenage female to different police cruisers. At the 0:13:39 mark, while the police cruisers were departing the area, the Complainant is observed approaching two police cruisers, then screaming "What the f***, you f***** pig". Additionally in the video, four police cruisers, one unmarked police vehicle and a Boston Fire Department truck are observed on the scene. In total, there were seven BPD Officers observed on the scene.

Investigator Vergara received and reviewed video footage from Planet Fitness. At the 1:03:02 mark, a BPD Officer is observed running towards the three individuals that are themselves running. There is no Police Officer observed with their firearm out. The BPD Officer is then observed handcuffing the first teenage male from the back while the teenage female was on the ground, face down with her hands to the back. The second teenage male is observed running away across the street. The first teenage male is observed sitting down on his own without any problems. The BPD Officer is observed prompting the teenage female to sit down on the sidewalk next to the first male teenager. At the 1:06:10 mark, an unmarked police SUV is observed arriving with two undercover BPD Officers. At the 1:10:42 mark, the second male teenager is observed standing alone a couple feet away from the scene while using a cellphone. At the 1:12:31 mark, a BPD Officer is observed attempting to apprehend the second teenage male by reaching towards him as he is seen backing away and resisting the Police Officer. Two more BPD Officers walked towards him to assist the Officer. At the 1:13:30 mark, the second teenage male was being brought next to the other individuals with six Police Officers surrounding them.

At the 1:18:41 mark, the first teenage male is observed getting up while there were three BPD Officers around him. It is observed from the video surveillance that the Officers were searching the teenage male and then being removed from the scene, while the other two individuals were still sitting down. At the 1:19:46 mark, the Officers assisted the second teenage male with standing up. At the 1:20:10 mark, the teenage female stood up, then two



City of Boston, Massachusetts
Office of Police Accountability and Transparency
Stephanie Everett, Executive Director

Police Officers were observed placing handcuffs on her. At the 1:20:37 mark, Officers escort the second teenage male and the teenage female to a police cruiser. At the 1:22:07 mark, BPD cruisers depart the area.

Investigator Vergara received and reviewed the police report, dispatch records, and an arrest report. Investigator Vergara did not observe any information that was inconsistent with what was shared by the Complainant or any witnesses. Investigator Vergara concluded that BPD Officers responded to the call in a respectful manner and nothing out of the ordinary was captured.

Investigator Vergara spoke to a witness, Witness 1. Witness 1 stated that BPD Officers were on scene because three individuals stole two jackets from the store. Witness 1 was unable to identify the individuals. Witness 1 did not know how many Police Officers showed up and couldn't identify the BPD Officers. Witness 1 added that he did not see any police misconduct.

Investigator Vergara spoke to Witness 2 who stated that he doesn't remember much about the incident, but stated that there were three individuals in the store. Witness 2 stated that one individual struck him in the back of the head and all three individuals ran out with two jackets. Witness 2 stated that he did not witness any police misconduct or any Officer taking their firearm out. Witness 2 stated that he doesn't remember how many Police Officers were present.

Investigator Vergara viewed BWC footage and observed at the 11:08 mark, two BPD Officers arresting the teenage female then placing her inside a police cruiser. At the 12:38 mark, the Complainant asked an Officer for their badge number to which the Officer provided it.

Investigator Vergara viewed the body-worn camera video footage and at the 01:25 mark, the first teenage male stated that the Officer who stopped him had a gun out. Video footage collected from Planet Fitness shows that Officers did not have any guns out during the encounter with the individuals. At the 4:19 mark, the first teenage male stated that BPD pushed him to the ground. The Planet Fitness video shows that BPD did not push the individual to the ground during the encounter. At the 05:15 mark, a BPD Officer is observed apprehending the second teenage male that was standing next to the other



City of Boston, Massachusetts

Office of Police Accountability and Transparency

Stephanie Everett, Executive Director

individuals. At 09:44 mark, the first teenage male stated that one of the BPD Officers put his gun to his face. The Planet Fitness video shows that the BPD Officer did not put his gun to their face during the encounter with the individuals. At the 27:40 mark, the Complainant asks for the Officer's badge number and name, which the Officer provided.