



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

CIVILIAN REVIEW BOARD - CASE #172

INVESTIGATOR: Michel Toney

DATE OF INCIDENT: February 10, 2023

DATE OF FILING: February 24, 2023

COMPLAINT SUMMARY:

Complainant alleges BPD used undue use of force in directing traffic.

DISTRICT: Boston Police District A-1

ALLEGED VIOLATION OF RULE:

Rule 304 § 2 Use of Non- Lethal Force

Rule 102 § 3 Conduct

RULE 304 – Use of Non-Lethal Force § 2 GENERAL CONSIDERATIONS: 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.



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RULE 102 § 3 CONDUCT: Employees shall conduct themselves at all times, both on and off duty in such a manner as to reflect most favorably on the Department. Conduct unbecoming an employee shall include that which tends to indicate that the employee is unable or unfit to continue as a member of the Department, or tends to impair the operation of the Department or its employees.

OPAT FINDINGS AND RECOMMENDED DISPOSITION:

Rule 304 § 2 Use of Non-Lethal Force- Insufficient Evidence to Make a Finding
Rule 102 § 3 Conduct- Insufficient Evidence to Make a Finding

Based on all of the evidence presented and reviewed, the CRB voted unanimously (8-0) that the complaint be considered **Insufficient Evidence to Make a Finding** on allegations of violating BPD Rules and Procedures Rule 304 §2 and Rule 102 §3, against the BPD officers named in the complaint. An OPAT investigation was conducted by Investigator Toney. After a thorough investigation, Investigator Toney was unable to identify the Officer based on the information provided by the complainant, as well as documents obtained from the Boston Police Department. From surveillance footage from the city cameras of where the alleged incident took place, OPAT observed none of the interactions reported by the Complainant. It is unclear whether or not the alleged officer involved in the incident is an employee of the Boston Police Department, or another Massachusetts Law Enforcement agency such as the Massachusetts State Police.

INVESTIGATION SUMMARY

Discovery List:

1. Interview w/Complainant	3. Duty Roster for February 10, 2023
2. Video footage of the intersection(s) of where incident happened	

Case Summary:



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On February 24, 2023 the Office of Police Accountability and Transparency received a complaint filed by the “Complainant”, regarding an officer using undue use of force in directing traffic.

Document/Video/Other Investigation Technique Summary:

On February 27, 2023 Investigator Toney conducted a telephone interview with the Complainant. The Complainant stated that they were driving on Martha's Road and had come to a complete stop due to oncoming traffic exiting a garage. The Complainant estimates not moving for approximately twenty (20) minutes due to the ongoing traffic outflow of the garage and the lack of attention from the drivers in front of his vehicle. At some point the Complainant honked his horn to alert drivers to proceed since the light was green. The Complainant said after honking the horn an officer came rushing through while cars were in front of him, and started banging on his window yelling “What do you think that you are doing?”. The Complainant said the officer was intimidating along with his body language. The Complainant said he feared for his safety and believed that the Officer would shoot him.