



City of Boston, Massachusetts
Office of Police Accountability and Transparency

CIVILIAN REVIEW BOARD - CASE #205

INVESTIGATOR: Michel Toney

DATE OF INCIDENT: June 9, 2023

DATE OF FILING: June 12, 2023

COMPLAINT SUMMARY: Complainant alleges a BPD officer threatened and assaulted him.

DISTRICT: Boston Police Department Headquarters

ALLEGED VIOLATION OF RULE:

1. BPD Rule 102 §3: Conduct
2. BPD Rule 102§9: Respectful Treatment
3. BPD Rule 304§2: Use of Force

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.

RULE 102 § 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 or sexual orientation except when necessary in police reports or in testimony

RULE 304, §2: USE OF NON-LETHAL FORCE states: 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



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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.

OPAT FINDINGS AND RECOMMENDED DISPOSITION:

1. BPD Rule 102 §4: Neglect of Duty/ Unreasonable Judgment: **Not Sustained**
2. BPD Rule 102§9: Respectful Treatment: **Not Sustained**
3. BPD Rule 304§2: Use of Force: **Not Sustained**

Based on all of the evidence presented and reviewed, the CRB voted unanimously (6-0) that the complaint be considered **Not Sustained** on the alleged violations of BPD Rules and Procedures against the officer named in the complaint. An OPAT investigation was conducted by Investigator Toney. After reviewing the video made available by the Complainant, Investigator Toney did not witness any of the reported allegations in the complaint. There was no evidence discovered that supports the Complainant's allegations.



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Discovery List:

1. Interview w/Complainant
2. Tik Tok Video of Alleged Incident

Case Summary:

On June 12, 2023 the Office of Police Accountability and Transparency received a complaint filed by the “Complainant” regarding an Officer threatening and assaulting them.

According to the Complainant, on June 9, 2023, he was present at a press conference outside of Boston Medical Center’s Emergency Room where Commissioner Cox and Mayor Wu were discussing the status of a BPD officer that was shot that evening.

The Complainant stated he showed up to the press conference to protest. The Complainant said that he called Commissioner Cox a few vulgar names during the press conference, repeatedly shouting “c*** sucker”, as the Commissioner was speaking to the assembled press. The Complainant said the Officer named in the complaint "rushed him like a football player." The Complainant stated he said "Don't put your f***** hands on me" and stated that he saw the Officer reach into his jacket as if he was going to grab his firearm. The Complainant said the Officer shoved his body into him and chased him around the area. The Complainant was not arrested during the incident.



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Document/Video/Other Investigation Technique Summary:

On June 12, 2023 Investigator Toney reviewed a Tik Tok video of the alleged incident that was reported on June 9, 2023.

After a review of the video, Investigator Toney did not observe any misconduct by the BPD Officer. The Officer named attempted to remove the Complainant from the area since he was causing a disturbance to the press conference taking place. BPD Rule 113 states, “Police officers shall use only that amount of force reasonably necessary to achieve their lawful purpose. Excessive or unauthorized force is never justified and every officer not only has an affirmative duty to intervene to prevent such violence, but also to report any such instances that may come to their attention.” The Complainant was being disruptive to the press conference by shouting expletives at the Commissioner which resulted in his removal from the area. During the course of the investigative interview with the Complainant, they stated that the sole purpose of using expletives was so that the media could not use the video of Commissioner Cox addressing the public.

Further, the Officer named did not violate BPD Rule 304§2: Use of Force. BPD Rule 304 – Use of Non-Lethal Force § 2 GENERAL CONSIDERATIONS states: “An 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.” The Officer named attempted to remove the Complainant as he was met with passive resistance.