

ST. LOUIS COUNTY DEPARTMENT OF POLICE
BUREAU OF PROFESSIONAL STANDARDS
SUMMARY REPORT

CASE NUMBER: 11-183

DATE OF OCCURRENCE: July 26, 2011

EMPLOYEE(S): Police Officer [REDACTED], DSN 3579
City of Jennings Detail

Police Officer [REDACTED], DSN 3955
City of Jennings Detail

ALLEGATION: Oppressive Conduct, Articles 14.2, 14.5

COMPLAINANT: Mr. [REDACTED]
[REDACTED] St. Louis, MO 63137

LOCATION: Lewis and Clark (Hwy 367) @ Jennings Station Road

BPS INVESTIGATOR: Sergeant Eric Walley

Summary

The Bureau of Professional Standards received notification of a complaint by Mr. [REDACTED] through a completed Citizen Complaint Statement form received in person by Bureau of Professional Standards Investigator, Sergeant Eric Walley. Contained within the written statement, Mr. [REDACTED] alleged that during a traffic on July 26, 2011, Police Officer [REDACTED], DSN 3579 and Police Officer [REDACTED], DSN 3955 unlawfully searched his vehicle. During the search, Officer [REDACTED] located a dildo and subjected him to taking a humiliating photograph with the object.

Internal Findings

During the course of the investigation, Bureau of Professional Standards Investigator, Sergeant Eric Walley reviewed the complaint submitted by Mr. [REDACTED]. The following account is a synopsis of the allegations. Mr. [REDACTED]'s entire written statement is contained within the "Complaint/Notification(s)" section of this package.

Mr. [REDACTED] indicated on July 26, 2011, he was stopped by Officer [REDACTED] for a traffic offense and pulled over on the Phillip's 66 gas station lot at the intersection of Lewis and Clark (Hwy 367) and Jennings Station Road. Mr. [REDACTED] indicated Officer [REDACTED] approached the vehicle and told him a seatbelt violation was the reason for the traffic stop and then proceeded to request his driver license

and insurance card. After receiving the items, Officer [REDACTED] returned to his patrol unit. Shortly afterwards, Officer [REDACTED] and Officer [REDACTED] arrived on scene. Officer [REDACTED] approached and reminded him of a previous encounter they had in January 2011. Mr. [REDACTED] indicated he was handcuffed without delay and his vehicle was searched without permission. During the search, Officer [REDACTED] found a dildo/fake penis in the trunk. The object was placed against his facial area and a picture was snapped by Officer [REDACTED] using the camera feature on his cell phone. Officer [REDACTED] then stated "This photo will be sent to all of the St. Louis County Officers to humiliate you". Mr. [REDACTED] indicated at the conclusion of the traffic stop, he was released from handcuffs and allowed to return to his vehicle. Upon entering, he noticed five citations written by Officer [REDACTED] which was placed within the passenger's compartment of the vehicle.

It was Mr. [REDACTED]'s belief that he did not commit all of the violations for which he was written citations. Mr. [REDACTED] also believed a subsequent ruthless encounter with St. Louis County Police Officers (refer to BPS Case #11-181) was a direct result of Officer [REDACTED]'s distribution of the embarrassing picture.

In continuance of the investigation, Bureau of Professional Standards Investigator, Sergeant Eric Walley, contacted the Phillip's 66 gas station store clerk who was on duty at the time of the traffic stop. This was done to obtain an eyewitness account of the incident. Mr. [REDACTED] (store clerk) advised, on the date in question, he observed police activity on the lot; however he was busy with customers and did not see the police interaction with the complainant. He further advised there was no obtainable video surveillance recording of the incident.

On November 4, 2011, Bureau of Professional Standards Investigator, Sergeant Eric Walley, met with Police Officer [REDACTED], DSN 3579, at the Bureau of Professional Standards to conduct an interview. The interview was digitally recorded and is on file in the office of the Bureau of Professional Standards.

Prior to the commencement of the interview, Officer [REDACTED] was afforded an opportunity to review the complainant's written statement and he recalled the traffic stop. Officer [REDACTED] advised he is the "Traffic Enforcement Officer" within the City of Jennings and was tasked with additional enforcement in the area of Highway 367 and Jennings Station Road due to speed complainants and injury accidents. Officer [REDACTED] stated while on patrol his mobile radar unit was functioning and locked in on a vehicle traveling in excess of the posted speed limit. As he closed the gap on the vehicle, the violator committed a lane use violation so a traffic stop was initiated. Officer [REDACTED] stated the violator pulled onto the lot of the Phillip's 66 gas station where contact was established.

Upon approaching the vehicle Officer [REDACTED] recognized the driver as Mr. [REDACTED] and was familiar with his extensive criminal history which included drug distribution charges. There was also familiarity with the rear seat passenger's drug arrest history as well. Officer [REDACTED] stated, while conversing with Mr. [REDACTED], he made furtive movements reaching down with his arm towards the floorboard. When confronted with the movements, Mr. [REDACTED] explained he was attempting to get his insurance card. Officer [REDACTED] advised he obtained identification from all occupants and returned to his patrol unit to conduct record checks.

Meanwhile, Officer [REDACTED] and Officer [REDACTED] arrived on scene to assist. All of the occupants were removed from the vehicle and based upon the furtive movements and nervous behavior of the rear seat passenger; an outer clothes frisk of the occupants and a search of the vehicle's interior area where Mr. [REDACTED] had reached was conducted. Officer [REDACTED] advised, prior to searching the passenger's compartment, he asked Mr. [REDACTED] if there was anything illegal in the vehicle to which

he replied "There's nothing here, check if you want". Officer [REDACTED] stated the result of the search revealed material commonly used to package drugs so he extended to the search to other areas of the passenger's compartment as well as the trunk.

While exploring the trunk, he discovered a dildo object. The object was brought into view and the occupants of the vehicle caught a glimpse. They immediately burst into laughter and teased Mr. [REDACTED] about his sexuality. At that time, Mr. [REDACTED] blurted, the object was a "Whizzinator" and he used it to pass drug tests. Officer [REDACTED] advised he replaced the object and moved it to one side of the trunk so that he could continue the search for contraband.

Upon completion of the search, which yielded negative results, he returned to his patrol unit to further inspect the arrest histories of the occupants. Officer [REDACTED] advised while seated in his patrol unit, he observed Officer [REDACTED] standing near the trunk of Mr. [REDACTED]'s vehicle with the dildo object in one hand and his cell phone in the other. Officer [REDACTED] was physically positioned in a manner that one would assume in order to snap a picture but he (Officer [REDACTED]) did not know a picture was taken until he was informed by Officer [REDACTED] at a later time. Officer [REDACTED] advised at the conclusion of the traffic stop, Mr. [REDACTED] was released from the scene with citations for the traffic infractions committed.

Officer [REDACTED] advised he never saw the picture and, to his knowledge, the picture was never distributed to anyone. Officer [REDACTED] further advised that Officer [REDACTED] told him the picture was taken as a means to alert Mr. [REDACTED]'s probation officer of the deception Mr. [REDACTED] resorted to in order to defeat drug tests. After it was learned Mr. [REDACTED] was not on probation, Officer [REDACTED]'s related to him the image was deleted.

On November 4, 2011, Bureau of Professional Standards Investigator, Sergeant Eric Walley, met with Police Officer [REDACTED], DSN 3955, at the Bureau of Professional Standards to conduct an interview. The interview was digitally recorded and is on file in the office of the Bureau of Professional Standards.

Prior to the commencement of the interview, Officer [REDACTED] was afforded an opportunity to review the complainant's written statement and he recalled the traffic stop. Officer [REDACTED] advised on July 26, 2011, he responded to assist Officer [REDACTED] with a traffic stop. Upon arriving, he immediately recognized Mr. [REDACTED] from prior encounters. Officer [REDACTED] stated Officer [REDACTED] informed him of the earlier furtive movements and commenced to performing a frisk of Mr. [REDACTED]. After the frisk was completed, the mentioning of Mr. [REDACTED]'s nefarious past cautioned them to secure him in handcuffs for officer safety. Mr. [REDACTED] was asked if there was anything illegal in the vehicle to which he responded negatively and then willingly provided consent to search.

The search commenced within the passenger's compartment of the vehicle which led to the discovery of several clear empty plastic baggies. With the correlation drawn from the discovery, the search was broadened to the trunk of the vehicle. While rummaging through the trunk area, a "Whizzinator" was found atop the clutter. The other occupants of the vehicle were amused at the idea of Mr. [REDACTED] possessing such an object and began to give him grief.

Officer [REDACTED] stated, at the time, he presumed Mr. [REDACTED] was under the supervision of Missouri Probation and Parole due to Mr. [REDACTED]'s retort with an explanation for the purpose of the object. Officer [REDACTED] stated he used his cell phone to take a picture of the object with Mr. [REDACTED] in the background as evidence for presentation to Mr. [REDACTED]'s probation officer. Officer [REDACTED] advised when the picture was taken, Mr. [REDACTED] was standing approximately three feet away from him and

after the image was captured, he returned the object to the trunk and Officer [REDACTED] concluded his traffic stop.

Officer [REDACTED] advised he contacted Officer [REDACTED] at some point in time following the traffic stop and learned Mr. [REDACTED] was not under state mandated supervision. At that time, the image was deleted from his cell phone. Officer [REDACTED] also advised the image was never sent to any other person.

Officer [REDACTED] stated his intentions were not to embarrass or humiliate Mr. [REDACTED] and in hindsight, had he known his actions would have resulted in a complaint, he would not have taken the picture.

On November 14, 2011, Bureau of Professional Standards Investigator, Sergeant Eric Walley, met with Police Officer [REDACTED], DSN 4032, at the City of Jennings Police Station to conduct an interview. The interview was digitally recorded and is on file in the office of the Bureau of Professional Standards.

Prior to the commencement of the interview, Officer [REDACTED] was afforded an opportunity to review the complainant's written statement and he recalled the traffic stop. Officer [REDACTED] advised on July 26, 2011, he responded to assist Officer [REDACTED] with a traffic stop. When he arrived on scene, Officer [REDACTED] was inside of his patrol unit and Officer [REDACTED] was searching Mr. [REDACTED]'s vehicle. Officer [REDACTED] stated he was tasked with watching the occupants of the vehicle as the other officers dutifully worked.

Officer [REDACTED] advised he was not on scene when the search of Mr. [REDACTED]'s vehicle was commenced so he could not speculate of the officers' justification. Officer [REDACTED] also advised he noticed Officer [REDACTED] with his cell phone out and the dildo object in his hand but was unaware of a picture being taken.

Continuing with the investigation, both of Mr. [REDACTED]'s passengers, at the time of the traffic stop, were contacted separately and interviewed. Both expressed dislike for the manner in which the traffic stop was conducted and the demeaning act Mr. [REDACTED] was subjected to at the hands of Officer [REDACTED].

Both occupants identified as ([REDACTED] and [REDACTED]) stated Mr. [REDACTED] referred to the dildo object as a "Whizzinator" which he used to defeat drug tests. The occupants indicated they initially found the complainant's possession of the object to be comical and teased him for that reason. Immediately after the razzing, the complainant divulged the actual purpose for the object.

Action Recommended

The Bureau of Professional Standards recommends the allegation of **Oppressive Conduct, Article 14.2**, against Police Officer [REDACTED], DSN 3579 and Police Officer [REDACTED], DSN 3955, be classified as **Exonerated**. Officer [REDACTED]'s observation of the complainant's "furtive type" movements coupled with the nervousness of the passenger, developed reasonable suspicion to warrant a protective search. Upon the discovery of drug related packaging material, a more extensive search was justified. Additionally, Officer [REDACTED] and Officer [REDACTED] advised consent to search was granted.

The Bureau of Professional Standards recommends the allegation of **Oppressive Conduct, Article 14.5**, against Police Officer [REDACTED], DSN 3955, be classified as **Sustained**. Officer [REDACTED] acknowledged using his cell phone to take a picture of a prosthetic penis with the complainant in the background. Officer [REDACTED] advised the picture was not taken to humiliate the complainant but to call attention to the complainant's admitted deceitful practice by providing visual proof of the object's possession. As it turned out, the complainant was not under state mandated supervision so the picture was deleted without being shown anyone. As a consequence, the Bureau of Professional Standards recommends Officer [REDACTED] receive discipline in the form of a written reprimand from his Watch Commander.