



City of Boston, Massachusetts
Office of Police Accountability and Transparency

CIVILIAN REVIEW BOARD - CASE # 143

INVESTIGATOR: Diana Vergara

DATE OF INCIDENT: November 17, 2022

DATE OF FILING: November 17, 2022

DISTRICT: Boston Police District C-11 Dorchester

ALLEGED VIOLATION OF RULE:

Rule 102 § 3 Conduct

Rule 102 § 4 Neglect of Duty

Rule 102 § 9 Respectful Treatment

Rule 102 § 20 Self Identification

RULE 102 Sec. 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 Sec. 4 NEGLECT OF DUTY: This includes any conduct or omission which is not in accordance with established and ordinary duties or procedures as to such employees or which constitutes use of unreasonable judgment in the exercising of any discretion granted to an employee.

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

RULE 102 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



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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 102 § 3 Conduct - **Not Sustained**

Rule 102 § 4 Neglect of Duty - **Not Sustained**

Rule 102 § 9 Respectful Treatment - **Not Sustained**

Rule 102 § 20 Self Identification - **Not Sustained**

Based on all of the information gathered, the CRB voted unanimously (6-0) that the complaint be considered **Not Sustained**. Based on the BWC footage, Investigator Vergara was able to observe that BPD did state the reason why the Complainant was being pulled over. According to the testimony that the witnesses provided and body-worn cameras, the officer named in the complaint (Officer 1) asked the passenger several times to show his identification. In *Commonwealth v. Torres*, 424 Mass. 153, 157-158 (1997)) “A police officer generally has no right automatically to demand identification from a passenger in a motor vehicle, but he may make such a demand if he intends to issue a citation for a seat belt law violation and has a valid basis to do so.” Investigator Vergara also observed the passenger going back to the vehicle as asked by PBD, closing the door, and not wearing a seatbelt. However, based on the BWC footage, Officer 1 failed to communicate the reason why he was asking the passenger for the ID. Investigator Vergara also observed that BPD only gave a warning ticket to the Complainant, who was the driver of the vehicle, and not to the passenger. Investigator Vergara also observed that the Complainant asked Officer 1 to repeat his badge number to which, Officer 1 declined to repeat it. Based on the BWC footage and Officer 1's interview. Officer 1 gave the driver the citation ticket and explained that all his information was in the citation ticket. According to Rule 102 Sec. 20 “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”. Investigator Vergara was able to confirm that the passenger and the Complainant only asked two (2) Boston Police Officers for their ID numbers which the officers provided. Due to the angle of the BWC footage, Investigator Vergara was unable to prove or disprove the allegation of Rule 102 § 9 Respectful Treatment alleging that Officer 1 was smirking. In Officer 1's interview, he stated that he does not remember smirking but if he had smiled it could have been to de-escalate the tension with the passenger. Officer 1 also stated in the interview that he felt that the passenger was slightly arguing with him so he removed himself from the situation to avoid further tension or escalation. Investigator Vergara reviewed all BWC footage and did not see any



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disrespectful treatment toward the occupants of the vehicle. According to the interviews with two other officers on the scene (Officer 2 and Officer 3), Officer 1 was cordial and respectful and never raised his voice. Investigator Vergara was able to disprove the allegation of Neglect of Duty. According to BWC footage, each officer acted under BPD Rules and procedures given the fact that they were canvassing for potential shooters. The Complainant and witness were not able to provide a ring video or any other evidence to support their allegation.

INVESTIGATION SUMMARY

Document list

1. Complainant's interview	2. Witness's interview	3. Turret Tape
4. Police Officer interviews: Officer 3, Officer 2, Officer 1	5. Body-worn cameras for Officer: Officer 3, Officer 2, Officer 1	6. CAD Sheet

Case Summary:

On November 17, 2022, the Office of Police Accountability and Transparency (OPAT) received an allegation from Anonymous (the "Complainant") regarding a Boston Police Department Officer. The Complainant alleged that on November 17, 2022, they drove a friend home after going to the movies together. They alleged that they pulled up to the friend's home, the friend got out, and then they saw BPD lights flash behind them and heard BPD tell their friend to get back into the vehicle. BPD allegedly came up to the passenger window and asked the passenger for their driver's license, and the Complainant stated that the passenger declined to give it to them because they weren't driving and none of this had anything to do with them. The Complainant stated that while one Officer was speaking with them trying to get their license and registration, another Officer kept talking to the passenger. They stated that this Officer kept provoking and agitating the passenger on purpose and alleged that the Officer was smirking about this at one point. The Complainant stated that they had to ask this Officer to stop speaking to the passenger because they could not hear the Officer who was talking to them about their license and registration. The Complainant stated that the Officer said that "asking for ID is part of the procedure" and the Complainant allegedly pointed out that the passenger has the right to decline this question. The Complainant stated that this Officer left for a minute and then came back and gave them a ticket for driving with their car lights off. The Complainant stated that this was the reason they were pulled over, and stated that they did not know that their lights were off because they were driving a rental vehicle. The Complainant felt like



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the Officer was trying to instigate a situation and felt like he was unprofessional in how he handled the interaction. The Complainant believes this amounts to Conduct Unbecoming behavior by this Officer. They stated that none of the BPD officers showed the driver their badges or verbally identified themselves as BPD. They stated the only way they knew this was BPD was because they were wearing the vests. The Complainant stated there were around four or five BPD officers present in total, but stated that only one participated in this behavior. They stated they were unsure if it was one / two / three BPD vehicles behind them because they were on a one-way street and couldn't see

Document/Video/Other Investigation Technique Summary:

On November 28, 2022, Investigator Vergara, spoke to the Complainant who restated what was said on the Intake Form. The complainant also added that Officer 1 was making the situation worse because the passenger told the Officer that he was at his house and Officer 1 told the passenger "You are not at your house, you are outside." The Complainant stated that Officer 1 didn't need to act smart on the passenger. The complainant also stated that she asked Officer 1 for his name and he gave a nickname. The Complainant also added that when she asked for the badge number he said it fast. The complainant stated that she asked him again for the badge number and he said to her that he had said it and then went back to talk to the passenger. She stated that the other Officers were not a problem. The Complainant agrees with the ticket for not having the lights off but she doesn't agree with Officer 1's manners.

On November 29, 2022, Investigator Vergara spoke to the witness. The witness stated that Officer 1 was mishandling the situation when the witness was listening and responding to the questions in a proper manner. The witness stated that he had his seatbelt on then he removed the seatbelt because he was heading out of the vehicle. When the witness was heading inside his house, he heard someone say "Get inside the car" from a black SUV. the witness stated that he got in the vehicle from the passenger side not wearing the seatbelt. the witness stated that he was already out of the vehicle before someone flashed him from the black SUV. The witness stated that the individuals in the SUV did not identify themselves. The witness stated that Officer 1 came to the passenger window demanding him to show his identification. The witness stated that he refused to show his identification and explained to Officer 1 that he was not the one driving. The witness stated that the way Officer 1 came up to him made him not give him his identification. The witness stated that if the Officer was more professional he would have given him the identification. The witness stated that Officer 1 said that " People like you, are known to carry guns". The witness stated that Officer 1 was verbally aggressive. The witness also added that the Complainant had to tell Officer 1 adequately that he needed to stop talking so loud because the Complainant couldn't hear the other Officer speak. The witness stated that Officer 1 walked to the back of the Complainant's vehicle and came back with a citation. The witness stated that Officer 1 gave the Complainant the citation out of anger because the



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Complainant asked him to stop talking. The witness stated that the Complainant asked Officer 1 for his badge number and Officer 1 said it fast. The witness stated that the Complainant asked again for the badge number but Officer 1 ignored her. The witness stated that he is 31 years old with no criminal record. The witness stated that after the whole situation, the Officers told them that they were investigating a shooting. The witness stated that the Officers should have told them the real reason why they were being questioned instead of making it look like a traffic stop. The witness stated that he was going to speak to his neighbors to obtain ringbell video footage.

On February 22, 2023, Investigator Vergara reviewed the body-worn camera footage titled "39 Brent St" uploaded by Officer 3 from the Youth Violence Strike Force. Investigator Vergara observed a white SUV in the middle of the street with the lights off. At the 00:38 mark, an officer later known on the investigation to be a State Police, tells the Complainant that the vehicle lights are off. Investigator Vergara observed when the Complainant told the State Police that the vehicle was a rental and that she was not aware. At the 2:42 mark, the Complainant is observed telling Officer 1 that he was being difficult. At the 03:31 mark, Police Officer 1 stated to Officer 3 that he had asked the passenger for his ID because he didn't have the seatbelt on. Investigator Vergara confirmed on BWC footage that Officer 1 did not tell the passenger why he was asking for the ID. Investigator Vergara was unable to confirm on BWC if the passenger was already out of the white SUV before or after BPD turned the emergency lights.

On February 22, 2023, Investigator Vergara reviewed the body-worn camera footage titled "39 Brent St- Traffic Stop" uploaded by BPD Officer 2 from the Youth Violence Strike Force. At the 0:25 mark, Investigator Vergara noticed BPD turned on the blue lights. At 0:28 mark Investigator Vergara observed the passenger of the vehicle already outside the vehicle with the door closed. At the 00:33 mark, Investigator Vergara observed when Officer 2 asked the passenger standing outside to go inside because it was a traffic stop due to the lights being off. At 8:31 mark, Investigator Vergara observed when Officer 1 asked the passenger for his ID which the passenger refused to provide and said that the driver was not him. On BWC footage, Officer 1 stated to the passenger that the reason why they were asking him for the ID was because they were dealing with him. At the 02:34 mark, the Complainant asked Officer 1 for his badge number which Officer 1 gave. The Complainant asked Officer 1 to repeat the number which Officer 1 refused to provide. Investigator Vergara was able to confirm that BDP never said to the Complainant and the passenger "People like you, are known to carry guns" Investigator Vergara was able to observe at the 05:14 mark when BPD told them that based on their training and experiences, they have had people get out of cars immediately and have firearms. At the 05:57 mark, Police Officer 2 tells the passenger that a shooting had happened down the street. At the 05:57 mark, the passenger told BPD Officer 2 that he was aware that there was a shooting around the area but he wanted BPD to tell him the real reason why they were stopped instead of



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doing all the running around.

On February 22, 2023, Investigator Vergara reviewed the body-worn camera footage titled “39 Brent St- Traffic Stop” uploaded by BPD Officer 1 from the Youth Violence Strike Force. At the 01:10 mark, Investigator Vergara observed when Officer 1 asked the passenger for his ID to which the passenger refused and said that the driver was not him but his friend. Investigator Vergara observed when Officer 1 told him that the reason they were asking for his ID was that they were dealing with him and did not explain why they were asking him for his ID. At the 02:32 mark, the Complainant asked Officer 1 for his badge number which Officer 1 gave. The Complainant asked Officer 1 to repeat the number to which Officer 1 denied. At 03:31 mark, Officer 1 stated to Officer 3 that he had asked the passenger for his ID because he didn't have the seatbelt on. Based on the BWC footage, Officer 1 did not share this reason with the passenger. At the 07:52 mark, Officer 1 gives the Complainant the ticket for driving with no lights.

On May 5, 2023, Investigator Vergara listened to the Turret tapes and did not observe any pertinent information about the case. Investigator Vergara also learned that there was no police report or a 911 call because it was a traffic stop.

On May 8, 2023, Investigator Vergara received and reviewed the CAD Sheet and did not observe any pertinent information about the case.

On August 23, 2023, Investigator Vergara interviewed Officer 3 who stated that on November 17, 2022, he was driving an unmarked cruiser, with another Officer (Officer 4), a State Police officer, and Officer 1. Officer 3 stated that they were canvassing the area for potential shooting suspects based on the description given to them. Officer 3 added that he didn't recall the description of the suspects. Officer 3 stated that the shooting had happened within 30 minutes before they pulled over the Complainant. Office 3 stated that it was dark and they saw a vehicle traveling with no lights on Washington Street, turning on Brent Street. Officer 3 stated that at that time, vehicles needed to have their lights on. Officer 3 stated that they followed the vehicle halfway to Brent Street to initiate the traffic stop. Officer 3 stated that having three (3) to four (4) Officers in the vehicle is normal. Officer 3 stated that they initiated an emergency light siren to stop the vehicle. He stated that the lights were already on when the vehicle was stopping. Officer 3 stated that they got out of the cruiser and approached the vehicle. Officer 3 stated that Officer 1 and Officer 4 were on the passenger side of the vehicle. Officer 3 stated that he was not sure of what Officer 1 and Officer 4 were doing but he believed they were talking to the passenger. Officer 3 stated that he did not have any conversations with the occupants of the vehicle. Officer 3 also stated that he didn't know who might have told the occupants of the shooting. Officer 3 also added that if the passenger is observed out of the vehicle and is asked to go in the car by an officer and forgets to wear a seat belt; an Officer can simply ask the passenger to



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wear the seat belt. Officer 3 also stated that he did not see anyone getting out of the vehicle before turning the lights on. He also added that in a normal traffic stop, if an occupant of the vehicle exits the vehicle before the lights are on, the occupant can leave. Officer 3 stated that since this was not a normal traffic stop due to the shooting, they needed to have the passenger in the vehicle. Officer 3 also added that if the passenger does not want to provide an ID, there is nothing much BPD can do. Officer 3 stated that he had been working with Officer 1 for a couple of years and he would never antagonize, agitate, or provoke anyone. Officer 3 stated that the passenger probably took the conversation with Officer 1 out of context. Officer 3 also stated that all BPD Officers wore a vest that said Boston Police in the front and back and no one asked for his ID or name. Officer 3 stated that there were safety concerns when they stopped the car with no lights near the scene of the shooting and saw someone walk away.

On August 23, 2023, Investigator Vergara interviewed Officer 1 who stated that a violent incident had happened and they saw a car with no lights made them think that it could be involved, but the reason for the stop was because the vehicle had no lights on. Officer 1 stated that they initiated the emergency blue lights and they saw the front passenger door come open and the passenger attempted to get out of the vehicle. Officer 1 stated that it made him believe that the passenger was trying to get away from the traffic stop. Officer 1 stated that there have been times when people tried to flee the traffic stop because they were hiding something or they had a warrant. Officer 1 stated that because they had already initiated the traffic stop, they asked the passenger to get back in the vehicle. Officer 1 stated that he believed he explained to the passenger that he needed to show his ID because he was not wearing a seatbelt. Officer 1 stated that when he asked the passenger for the ID, the passenger stated “You're not stopping me you stopping the operator.” Officer 1 told the passenger that he understood but he was part of the traffic stop. Officer 1 stated that he felt that the passenger was slightly arguing with him so he removed himself from the situation after he provided his badge number and name to avoid further tension or escalation. Officer 1 also added that they have the option to give the passenger a citation. Officer 1 also stated that they could ask for the passenger’s ID if the passenger is wearing a seat belt but it was not mandatory. Officer 1 stated that he was cordial and respectful, never raised his voice, did not use profanity words, and never threatened them. Officer 1 stated that if he did smile, it was to provide a positive response and not a negative response. Officer 1 stated that it is hard to mistake them for not being Police Officers since all BPD officers wore a vest that said Boston Police in the front and back, their department radio on, and their badges properly displayed. Officer 1 also added that when he handed the citation to the driver he explained that his name and badge number were listed on the citation.

On August 23, 2023, Investigator Vergara interviewed Officer 2 who stated that they observed a vehicle with no lights. Officer 2 stated that they immediately turned the emergency lights to conduct the traffic stop. Officer 2 believes that the passenger exited the



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vehicle after the emergency lights were on because the passenger was still in the doorway with the door open when she approached the vehicle. Officer 2 stated that the passenger returned to the vehicle and Officer 1 asked for his ID. Officer 2 stated that they immediately informed the occupants of the vehicle of the reason why they were being pulled over. Officer 2 also added that the passenger was aware that there was a shooting in the area. Officer 2 stated that the passenger was not giving his ID because it was the driver's matter. Officer 2 stated that it is normal to ask the passenger for the ID if they are not wearing a seatbelt, especially since the rental vehicle was operated with no lights on. Officer 2 stated that they needed to identify who was in the vehicle and who had ownership of the rental vehicle. Officer 2 also stated that based on her training experience, people often try to flee the vehicle at traffic stops or have weapons. Officer 2 stated that in this case, it was not the situation but they needed to identify the passenger and driver after the shooting incident. Officer 2 stated that the passenger needed to provide his identification but they didn't want to push the matter since the passenger was irritated at Officer 1 for no reason. Officer 2 stated that Officer 1 acted professionally and respectfully. Officer 4 stated that she did not know why Officer 1 didn't provide his badge number for the second time when asked by the driver. Officer 2 stated that she doesn't remember if the occupants of the vehicle asked for her badge number. Officer 2 stated that the traffic stop went as well as it could go. Officer 2 stated that the passenger didn't get a citation ticket because he refused to identify himself.