

OVERVIEW OF THE INVESTIGATIVE PROCESS

The external review team conducted this investigation between December 4, 2022, through January 10, 2023. The investigation included a review of video recordings that had been recorded by those within proximity of the incident, police radio recordings, police incident reports, and interviews with 15 individuals with knowledge of the matter, including eight (8) witnesses¹, four (4) complainants, the arrestee, and both involved police officers. The investigators conducted their review by video, phone, and in person.

Without exception, each interviewee spoke candidly and fully cooperated in the investigation, providing their perspectives on the incident. The external investigators analyzed the collected information by applying a “preponderance of the evidence” standard. A preponderance of the evidence means the greater weight of the evidence, i.e., that the evidence on one side outweighs, preponderates over, or is more than the evidence on the other side. This is the qualitative standard prescribed by applicable policies.

Conclusion

Based on the information gleaned during this external investigation, a preponderance of the evidence supports the contention that the pedestrian entered the roadway despite the closed sidewalk and the officer’s directions to return to the sidewalk. Multiple witnesses reported observing the pedestrian escalate the encounter with the officer. The police report and statements from the officer and other witnesses were consistent with this account of the incident, and the facts did not support assertions to the contrary.

A preponderance of the evidence supports our findings that the officers did not conduct themselves in a manner inconsistent with Massachusetts state law, department policy, procedure, practice, and directive. Beyond that, the investigation discerned no evidence to support an allegation that the officers’ actions were motivated by a bias or prejudice predicated by any inalienable, overt, inferred, or implied characteristic against the pedestrian.

Collateral Issues

The purpose of an internal affairs investigation is not limited to resolving complaints by narrowly focusing on whether the subject/principal officer(s) engaged in misconduct. In many cases, examining collateral issues presented by the complaint can be as critical as resolving the allegation itself. Every incident represents an opportunity for organizational learning, notably within the areas of leadership, management, and supervision. Moreover, it is equally important that

¹Five (5) witnesses outside of UMPD and three (3) witnesses within UMPD.

the investigation adequately address any issues about policy changes, training, weapons or equipment, or corrective action borne through the investigative efforts.

1. Use of Discretion / Basis for Arrest: To the extent that it does not already exist, the department should develop a policy relating to officer conduct in such scenarios. Opportunities for Diversion Programs (e.g., student conduct) and officer discretion should be considered for future policy and training initiatives by UMPD and similar future encounters.
2. Pedestrian Detour Plan: Traffic control signs or signals must follow the standards outlined in the United States Department of Transportation's Manual on Uniform Traffic Control Devices and the State of Massachusetts's Department of Transportation regulations. Policy amendments should be considered to delineate officers' responsibilities on traffic control assignments and require a supervisor or officer trained in basic traffic engineering to conduct regular documented inspections of traffic work zones during their tour of duty.
3. De-escalation Training: UMPD provides de-escalation training to department members. At the time of this report, more than half the department has completed this training. The review team recommends that the department further this important initiative by adopting a training program that addresses volatile situations involving persons behaving erratically and emphasizes integrating critical thinking, crisis intervention, communications, and tactics in a cohesive, comprehensive training curriculum.
4. Body Worn Cameras (BWCs): BWCs record information related to motorist contacts and other patrol-related activities, providing valuable instructional material that can be utilized for in-service training exercises. The review team recommends that UMPD strongly consider the purchase and deployment of such technology to supplement, not supplant, current accountability and transparency measures of its officers.
5. Mobile Video Cameras / Mobile Video Recorders (MVRs): MVR equipment can provide a recorded account of patrol activities and motorist and investigative contacts made by officers. The department has equipped its patrol vehicles with MVR equipment for this purpose. The department should consider amending its MVR Directive (TRF-4) to require officers to activate the body-worn microphone to record community interactions when the officer uses constructive authority or force or reasonably believes they will use constructive authority or force in any encounter or situation.

6. Active Bystandership for Law Enforcement Training²: The review team recommends that UMPD strongly consider the ABLE program as an opportunity to create a culture of peer intervention. ABLE is a national hub for training, technical assistance, and research, intended to create a police culture wherein officers routinely intervene—and accept interventions—as necessary to prevent misconduct and avoid police mistakes, as well as promote officer health and wellness.

²<https://www.law.georgetown.edu/cics/able/>

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