



CITY OF MIDDLETOWN POLICE DEPARTMENT

2 James street Middletown, NY 10940
(845) 343-3151 FAX (845) 343-2660



Intra Agency

Memo

To: Chief Bethencourt

From: Lt. Metakes

Date: August 20, 2012

Re: Personnel complaint, Jose Velez

On May 25, 2012 I received a Personnel complaint that had been filed by Jose Velez who had complained that he was stopped without cause while operating a vehicle and then was subjected to a search of his person and vehicle without cause.

Pursuant to General Order AGO-026-06 I attempted to contact the complainant to verify receipt of the complaint, to discuss the possible resolution of the case through mediation or explanation and/or explain the process to the complainant and answer any questions he might have. I called the complainants home phone number. The call would only ring through without an answer and there was no answering machine. I called the complainants work phone number and left a voice mail message. I did not, and as of this date, still have not received a return phone call from the complainant. I then forwarded the complaint to Sgt. Magsamen for follow up.

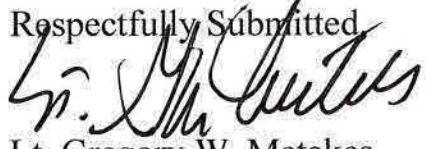
I am in receipt of Sgt. Magsamen's follow up to this complaint. The follow up is included with this memorandum packet. Sgt. Magsamen made numerous attempts to interview the complainant, including setting up appointments which were later skipped by the complainant, and going to the complainants residence. As of this date, the complainant has refused to follow up.

Sgt. Magsamen's interviews of Officers who were present at the scene of the vehicle stop revealed that the complainant was stopped by PO Ahmed Artola, PO Michael Ribeiro, and PO Scott Gallagher. PO Artola stated that he did stop the complainant on the date indicated in the personnel complaint. PO Artola states the complainant was stopped for vehicle and traffic infractions. PO Artola states that the complainant had a bulge in his pockets and PO Artola conducted a pat down for Officer safety. PO Artola states he removed two cell

phones from the complainants pockets and looked and opened the phones but did not examine any stored information. PO Artola further states that he did search the reachable areas around the complainants seat as during a vehicle stop leading to the complainants most recent arrest, a concealed compartment was located within the complainants vehicle (not the same vehicle as was being operated on this date).

Based on all available information, Officers present at the scene of this stop conducted themselves in a professional manner and took all considerations of Officer safety into account. For each allegation of misconduct alleged by the complainant (that being a vehicle stop without probable cause and unlawful search) I would deem the Officers indicated EXONERATED.

Respectfully Submitted



Lt. Gregory W. Metakes

Paperwork included in this packet:

- Copy of personnel complaint
- Sgt. Magsamen's memorandum



CITY OF MIDDLETOWN POLICE DEPARTMENT PERSONNEL COMPLAINT

The City of Middletown Police Department encourages citizens to report legitimate complaints against employees of this Department. As a result, a thorough, impartial and confidential investigation will be conducted. If this complaint leads to a formal charge against the employee, you will be asked to participate in the hearing and/or arbitration process.

Date of Report: 5/23/12		Time: 8:15 PM		Event No.: 12-14548		Case No.: (If Applicable)	
Type of Complaint:	External	Internal	Other	If Other, please explain:			
How Received:	Phone	Walk-In	Other	If Other, please explain:			
Date of Incident: 5/23/12		Day of Incident: WEDNESDAY		Time of Incident: Approx 7:00pm			
Location of Incident: WASHINGTON ST				Nature of Complaint: Unnecessary Stop / Search			

Complainant: JOSE VELEZ			Date of Birth:		
Address:		City: Middletown		State: NY	Zip Code: 10940
Home Phone #:		Work Phone #:		Other Phone #:	
Employer: _____			Occupation:		
Employer's Address: _____			Employer Telephone No.:		

Details of Incident: (ADDITIONAL SPACE AVAILABLE ON BACK OF FORM, IF NEEDED)

I WAS DRIVING ON SPRAGUE AVE AND I STOPPED AT THE STOP ON SPRAGUE AVE AND WASHINGTON ST. I MADE A RIGHT TURN ONTO WASHINGTON ST. AS I PASSED THE RAILROAD TRACKS ON WASHINGTON I GOT STOPPED BY THE BLACK POLICE CHARGER. THREE GUYS GOT OUT OF THIS CAR. THE DRIVER OF THE CAR CAME TO MY WINDOW AND SAID TO ME "I DONT REMEMBER IF YOUR LICENSE IS CLEAN". I →

Personnel Complained Of: (NAME OR PHYSICAL DESCRIPTION, BADGE #, CAR #, ETC.) THE COPS WHO WERE IN BLACK CHARGER. DRIVER - TALL SPANISH GUY WITH CURLY HAIR WEARING A BASEBALL CAP.

Witness Info: (NAME, D.O.B., ADDRESS, TELEPHONE NUMBERS, ETC.)
 NELIDA MANGOLIA -
 ANGELINA SHIPMAN -

NOTE: PURSUANT TO SECTION 210.45 OF THE PENAL LAW OF THE STATE OF NEW YORK, ANY INCORRECT OR FALSE STATEMENT ATTRIBUTED TO YOU AND CONTAINED HEREIN IS PUNISHABLE AS A CLASS "A" MISDEMEANOR.

Reporting Officer's Signature:	Location Report Taken: 2 JAMES ST.	Complainant's Signature:	Date: 5/23/12
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ADMINISTRATIVE USE ONLY		No Further Action Needed: _____	
Reviewed By: _____	Name & Rank	Shield No.	Investigation Assigned To: _____
Date Reviewed: _____	MPD-II #: 12-005-12		

Details of Incident. (CONTINUED)

HANDLED HIM MY LICENSE AND HE TOLD ME TO GET OUT OF THE CAR AND PUT MY HANDS ON THE BACK WINDOW OF THE CAR. HE PATTED ME DOWN AND SHOOK MY PANTS AND TOLD ME TO STAND IN FRONT OF THE POLICE CAR. TWO OF THE COPS STAYED BY ME AND THE OTHER ONE WHO TOOK MY LICENSE SEARCHED MY CAR. BEFORE, WHEN THE OFFICER WAS PATTING ME DOWN HE TOOK TWO PHONES OUT OF MY POCKET. HE SAID "YOU ARE STILL CARRYING TWO PHONES HUH" I SAID YES AND HE LOOKED THROUGH THE PHONES FOR ABOUT 30 SECONDS. THEN HE PUT THE PHONES BACK IN MY POCKET. I SAID TO ONE OF THE OFFICERS WHO WAS WATCHING ME "WHY IS HE STOPPING ME"? HE SAID I DONT KNOW YOU HAVE TO ASK HIM. THE SHORTER COP WHO WAS THERE RAN MY LICENSE AND SAID "HE'S CLEAN" HE HANDLED MY LICENSE TO THE OFFICER WHO SEARCHED MY CAR AND THAT OFFICER HANDED ME BACK MY LICENSE AND SAID "HAVE A NICE DAY". I FEEL LIKE I WAS STOPPED AND SEARCHED FOR NO REASON AND THAT IS WHY IM HERE TO COMPLAIN.

Jose Velez

CITY OF MIDDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Gregory Metakes

From: Sgt. Ronald Magsamen

Date: 7/20/2012

Re: Personnel Complaint (Jose Velez)

I am submitting the following memo for review regarding the Personnel Complaint made by Jose Velez on 5/23/2012 against members of the Narcotics Unit.

After receiving a copy of the Personnel Complaint from Lt. Metakes, I was able to read the complaint in its entirety in order to get an understanding of the nature of the complaint. I was also able to locate the incident in IMPACT that Mr. Velez was referring to (blotter #12-14545 vehicle stop). The blotter showed that the following officers were involved in the incident: PO Artola, PO Gallagher and PO Ribeiro. The officers were assigned to the Narcotics Unit and were operating Unit #50

I was able to interview all three officers separately regarding the specifics of the incident. Due to the description of the officer referred to in the complaint resembling PO Artola, I interviewed him first. PO Artola informed me that he did in fact stop Jose Velez for a V&T infraction, and that he was the officer who approached the vehicle and made contact with Velez. PO Artola stated that he did conduct a safety pat down on Velez due to a large abnormal bulge appearing in Velez's front left pants pocket. PO Artola did recover two cell phones. According to PO Artola, he did inspect the phones for officer safety reasons, but did not look at or go through any of the phones stored information. After a quick inspection of the phones, PO Artola gave them back to Velez. This is consistent with what Velez stated in his initial complainant. PO Artola is familiar with Velez and his most recent arrest, where Velez was arrested for PL 220.16-1 CPCS 3rd after officers found a concealed compartment in Velez's vehicle. PO Artola further informed me that a visible search of Velez's reachable areas was conducted, and not a complete search of the auto. After checking Velez's NYS license, PO Artola sent Velez on his way. No further action was taken by PO Artola.

