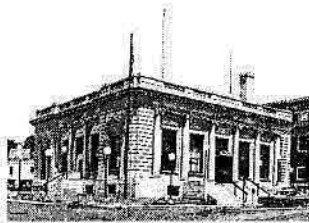


MATTHEW T. BYRNE
CHIEF OF POLICE



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City of Middletown Police Department

2 JAMES STREET
MIDDLETOWN, NEW YORK 10940
Established 1888

To: Chief Matthew T. Byrne – Chief of Police

From: Lt. Paul J. Rickard – Bureau Commander of Operations

Date: April 3, 2009

Re: Artola MVA Investigation

I have reviewed the supervisor's investigation of the motor vehicle accident that PO Artola was involved in on March 27, 2009. PO Artola was not at fault for the accident. PO Artola did fail to follow some notification procedures in that he did not notify a supervisor or the communications center of an accident occurring. He has been counseled by Lt. Schuh and Sgt Kassel about this lapse in procedure.


After reviewing the incident it appears that a policy failure may have contributed to this incident. PO Artola was responding to a panic alarm and was traveling to the alarm with his emergency lights activated. He did not have his siren activated. This is currently permissible under OGO-05-007 Police Vehicles. The alarm in which Artola was responding to later was confirmed to be a false alarm. Currently department policy allows for emergency response to a panic alarm. Based on the high false alarm rate and the limited improved response time that emergency lights might have, I think that we should examine our current policy.

If you have any questions, please let me know.

Rickard
4/6/09
PJB

CITY OF MIDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Paul Rickard
From: Lt. Mark L. Schuh 
Date: March 29, 2009
Re: MVA - Blotter No. 8785-09

I have reviewed Sgt. Kassel's memorandum pertaining to the above incident along with supporting documents. I have also reviewed the video described in Sgt. Kassel's memorandum.

Based upon all information presently available, I believe the accident was not reasonably avoidable or foreseeable by MPD personnel. PO Artola made a reasonable judgment by activating his emergency lights without activating his siren as the siren could have created a danger to potential victims seeking assistance by activating a panic alarm. This decision is support by MPD policy (see OGO-005-07, p. 10, paragraph 2(b.)) It appears the sole cause of the accident was Gipson failing to keep a proper lookout and following the Ortega vehicle too closely (for which he was ticketed.)

Based on the videotape, which clearly shows PO Artola's lights activated, Gipson's allegation that Artola did not activate his emergency lights is, intentionally or otherwise, untrue.

I do believe a policy/training issue with respect to PO Artola was identified by the incident. PO Artola was aware of an MVA but neither stopped to render aid nor notified the desk so that another unit could be dispatched. I believe this was a poor judgment. Both I and Sgt. Kassel counseled PO Artola on this lapse in judgment.

CITY OF MIDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Schuh

From: Sgt. Kassel

Date: March 28th, 2009

Re: MVA - Blotter # 8785-09

On March 27th, 2009 I was working as the Field Supervisor for the 4:00 PM to 12:00 AM Shift. At approximately 8:45 PM I was dispatched to the intersection of North St. and Wickham Ave. for a reported motor vehicle accident. The caller stated that the accident was a result of a marked City of Middletown Unit passing through a red light. I was also advised that Unit 16 (PO Artola) was already out at the scene.

At the scene I spoke with PO Artola. PO Artola advised me that he was traveling north bound on North St. and approaching the intersection of Wickham Ave. PO Artola was responding to a panic alarm at 249 North St. PO Artola states that the light for north bound traffic had just turned red and he stopped at the intersection. PO Artola noticed that the west bound vehicles on Wickham Ave. had not yet started to move. He then activated his emergency lights and began to enter the intersection. He did not activate his siren based on the nature of the call he was responding to and his proximity to the incident location. As he began to enter the intersection he observed the west bound Wickham Ave. traffic begin to roll forward before stopping again. He then verified that the intersection was clear of any traffic before passing through it. As he passed through he observed a west bound vehicle as it approached and collided with a west bound vehicle that had stopped for his emergency lights. The collision occurred in the right lane of west bound Wickham Ave. PO Artola pulled to a stop and ascertained that there were no injuries and that no airbags had deployed. PO Artola continued north bound on North St. and handled the panic alarm call at 249 North St. Shortly thereafter he responded back to the motor vehicle accident to gather information.

The driver of the vehicle that was struck is Sergio Ortega and the front seat passenger is Mayra Reyes. Both parties spoke limited English but I was able to ascertain the following information. Both parties stated that they were west bound on Wickham Ave., approaching the intersection at North St. They observed a police car heading north bound on North St. They both stated that the police vehicle had its emergency lights activated. Sergio Ortega states that he stopped the car he was driving to let the police car go through the intersection. He was then struck from behind by the other vehicle. Ortega states that he was not hurt in the accident. Mayra Reyes states that she felt pain in her lower back but she did not need medical attention. She stated that if the pain persisted then she would go to the hospital.

CITY OF MIDLETOWN POLICE DEPARTMENT

The driver of the vehicle that collided into Ortega's vehicle was Norris Gipson. Gipson advised me that he was traveling at around 5 miles per hour in a westerly direction on Wickham Ave. He noticed that he had a green light as he approached the intersection at North St. According to Gipson, the vehicle in front of him slammed on his brakes. Gipson slammed on his brakes but did not have enough time. Gipson's vehicle then collided with Ortega's vehicle. Gipson states that vehicle in front of him had stopped due to the fact that a Middletown Police car had passed through the red light at the intersection. Gipson states that he did not hear any sirens and that the emergency lights on the police vehicle were not activated. Gipson stated that another male subject had witnessed the police car driving without emergency lights. He stated that the subject gave Gipson his phone number in case the police wished to speak to him. Gipson advised me that he tried to call the subject but it appeared that it was not the correct number. He advised me that he knows who the subject is and that he will call me when he gets the correct information. Gipson states that he was not injured in the accident and that he was wearing his seatbelt.

Gipson, Ortega and Reyes all responded to 370 to give written statements. PO Vasquez took the written statements from Ortega and Reyes due to the language barrier. I took photographs of the damage to both vehicles. The digital memory card was then placed into evidence. I reviewed the footage from Public Camera System, Camera #7 with Det. Byrne. The camera was pointing north bound towards Wickham Ave. at the time of the accident. The footage showed the following:

8:29:29 – N/B traffic light turns red.

8:29:33 – N/B Unit 16 is at the intersection with the brake lights activated (behind the stop line). The emergency lights are not activated.

8:29:35 – Unit 16 enters the intersection with the emergency lights activated. W/B Wickham Ave. vehicles are now visible on the screen.

8:29:45 – Unit 16 has finished passing the intersection.

The collision is not visible on Camera #7. I have not had a chance to review alternate cameras as of the time of this report. Digital Evidence Request forms have been submitted for Camera #7 and for Camera #8.

An MV-104A report was completed.

After speaking with all parties and reviewing the video footage I feel that PO Artola's actions were justified. PO Artola visually checked the intersection and activated his emergency lights before passing through the intersection. Based on the camera footage it appears that it took PO Artola 10 seconds to pass through the intersection. This leads me to believe that he was not traveling at a high rate of speed. It also appears that PO Artola was not driving recklessly and was in complete control of the vehicle as he passed through the intersection. I also agree with PO Artola's decision in not activating his emergency siren. If he had activated the siren it would have been heard by any possible suspects involved with the panic alarm. I feel that Gipson is responsible for the accident and that he may have been following too closely behind Ortega.

CITY OF MIDLETOWN POLICE DEPARTMENT

I spoke with PO Artola regarding his decision to leave the accident scene after determining that there were no injuries. I advised PO Artola that he should have either stayed at the accident scene or radioed the Communications Center of the accident.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'N. Kassel', written in a cursive style.

Sgt. Neil Kassel

