



CITY OF MIDDLETOWN POLICE DEPARTMENT

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



Intra Agency

Memo

To: Chief Bethencourt

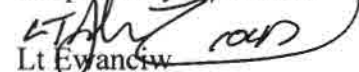
From: Lt Ewanciw

Date: August 3, 2010

Re: Supervisors Investigation Ref: PO Berman's Injury 10-4959

On Monday August 2, 2010 I received a supervisor's investigation from Lt. Graziano and Sgt Jahrling, in reference to an incident which occurred on Thursday July 29, 2010 at 10:39pm, in which Officer Berman sustained an injury to his left elbow/arm. While attempting to affect the arrest of a Tyrone Malcom Jr for petit larceny (10-4959), Malcom became combative and resisted Officer Berman's efforts to take him into custody. After reviewing the reports related to this incident, I find that Officer Berman had reasonable suspicion to approach and conduct a field interview with Malcom, and that Malcom's actions lead to the probable cause for Officer Berman to arrest him. I also find that Officer Berman's injury was directly related to Malcom being combative and refusing to follow Officer Berman's verbal orders. I do not find that Officer Berman violated any departmental policies and I feel that he responded appropriately and professionally to this incident. As a result of said incident Officer Berman sustained an injury to his left elbow/arm that required him to seek medical treatment at Horton Hospital. Officer Berman was examined by Dr Silva and diagnosed with a sprained elbow. At the time of this report Officer Berman has not missed any time from work as a result of this injury. Upon review of this incident I classify this case as "Closed".

Respectfully Submitted


Lt Ewanciw

RB 08/04/10



CITY OF RICHMOND, VIRGINIA
POLICE DEPARTMENT



1000 North Boulevard
Richmond, Virginia 23219

MEMORANDUM

MEMORANDUM

To: Chief of Police

From: Lt. [Name]

Date: August 1, 1960

Re: [Subject]

[Faint, mostly illegible body text of the memorandum]

RB

CITY OF MIDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Ewanciw

From: Lt. Francis Graziano *FD*

Date: August 1, 2010

Re: C# 10-4959

PO Gallagher was dispatched to a larceny at Sams Mart, 90 Academy Ave. Description of suspect was put over the air. Officer Berman canvassed the area and located a subject matching the description on Sterling St. Officer Berman attempted to interview the subject but he immediately became confrontational. After the struggle a show up was conducted and the victim positively identified the suspect, Tyrone Malcolm Jr. The defendant was charged with Petit Larceny, Obstructing Governmental Administration and resisting arrest.

The defendant was sprayed with OC Spray and was given time to wash at the police department and he was not injured. During the struggle Officer Berman injured his left elbow. He was treated at Orange Regional Medical Center and it was determined that his elbow is sprained. Officer Berman returned to work the very next day.

Officer Berman spoke to a witness, Esther Garcia, who did make oral statements but was reluctant to go any further. So at this time no written statement was taken. Esther Garcia's information is in the case if this department needs to make contact with her in the future.

CITY OF MIDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Ewanciw
From: Lt. Francis Graziano *FG*
Date: August 1, 2010
Re: C# 10-4959

It appears the defendant was confrontational right from the start. An arrested needed to be made and injuries can happen during a physical struggle. Therefore there are no recommendations at this time.

Memorandum

7/29/10

To: Lt. J. Ewanciw

From: Sgt. E. Jahrling

Re: Event # 10-23036 Supervisor Investigation

1. Officers Berman and Gallagher responded to the area of Sterling street to try and locate a subject who had just stolen an item from Sams Mart at 90 Academy ave.
2. A subject fitting the description was located by Officer Berman . Officer Berman approached this subject and asked to speak with him. The subject refused and attempted to get past Officer Berman.
3. Officer Berman reached out and attempted to stop the suspect by grabbing his arm. Subject became violent with Officer Berman. Officer Berman observed a pocket knife in the left hand of suspect. Officers Berman and Gallagher wrestled with suspect in an attempt to control him. Suspect was sprayed with Mace by Officer Gallagher. This was effective and Suspect was controlled.
4. A show-up by an employee of Sams Mart was positive. The Defendant was Arrested for Petit Larceny , Resisting Arrest and Obstructing Governmental Administration.
5. Officer Berman stated he has substantial pain in his left elbow which occurred during the struggle with Defendant. At the time of this report Officer Berman is being treated at Orange Regional Medical Center.
6. Defendant is complaining of discomfort due to the effects of Mace and has been flushed with water.
7. Signed sworn statements by Officers Berman and Gallagher attached to this report as well as city accident report.

Sgt. E. Jahrling

STATE OF NEW YORK :

DATE: 07/30/2010

COUNTY OF ORANGE : ss

TIME: 01:14 AM

CITY OF MIDDLETOWN:

CASE #10-4959

I, SCOTT GALLAGHER, BEING DULY SWORN, DEPOSES AND SAY THAT I AM _____ YEARS OF AGE DOB _____, AND I RESIDE AT 2 JAMES ST AND I GIVE THIS STATEMENT TO SERGEANT JAHRLING OF THE MIDDLETOWN NEW YORK POLICE DEPARTMENT, and that

ON 7/29/10 AT 10:40 PM I WAS DISPATCHED TO A PETIT LARCENY LOCATED AT 90 ACADEMY AVE. DISPATCH ADVISED THAT THE SUSPECT LEFT 90 ACADEMY AVE (SAM'S MART) WITH A CAN OF RED BULL THAT WAS NOT PAID FOR. DISPATCH THEN ADVISED THAT THE SUSPECT WAS A BLACK MALE WEARING A WHITE T-SHIRT AND WAS LAST SEEN TRAVELLING ON STERLING ST TOWARDS SPRING ST.

PO BERMAN RADIOED THAT HE WOULD BE OUT ON A FIELD INTERVIEW WITH A MALE MATCHING THE DESCRIPTION (LATER IDENTIFIED AS TYRONE MALCOLM JR). AT THAT TIME, I WAS ON SPRING ST TRAVELLING TOWARDS STERLING ST. PO BERMAN RADIOED MULTIPLE TIMES THAT HE NEEDED ANOTHER UNIT. I ARRIVED ON SCENE AND OBSERVED PO BERMAN STRUGGLING WITH A BLACK MALE WEARING A WHITE T-SHIRT. I HEARD PO BERMAN STATE MULTIPLE TIME TO THE SUSPECT TO STOP RESISTING AND PLACE HIS HANDS BEHIND HIS BACK. I THEN OBSERVED THE SUSPECT PULL AWAY FROM OFFICER BERMAN AND SQUARE UP IN A FIGHTING STANCE WITH BOTH HANDS CLENCHED INTO FISTS. I THEN GRABBED THE SUSPECT'S RIGHT ARM AND ATTEMPTED TO PLACE HIM IN HAND CUFFS. I ADVISED THE SUSPECT MULTIPLE TIMES TO STOP RESISTING AND PLACE HIS HANDS BEHIND HIS BACK. PO SMITH THEN ARRIVED ON SCENE AND ATTEMPTED TO ASSIST MYSELF AND PO BERMAN. THE SUSPECT CONTINUED TO STRUGGLE AND FLAIL HIS ARMS PREVENTING OFFICERS FROM PLACING HIM INTO HANDCUFFS. I THEN REMOVED MY OC SPRAY FROM THE HOLSTER AND ADVISED THE SUSPECT THAT IF HE DID NOT COMPLY HE WOULD BE SPRAYED. THE SUSPECT CONTINUED PULLING HIS ARMS AWAY, AT WHICH TIME I SPRAYED THE SUSPECT MULTIPLE TIMES IN THE AREA OF HIS FACE. PO BERMAN WAS THEN ABLE TO PLACE THE SUSPECT'S LEFT HAND INTO A HANDCUFF. I THEN BROUGHT THE SUSPECT'S RIGHT HAND BEHIND HIS BACK, AT WHICH TIME THE SUSPECT WAS FULLY PLACED INTO HANDCUFFS THAT WERE DOUBLE LOCKED AND CHECKED FOR FIT. AT THAT TIME, I LOCATED THE STOLEN CAN OF RED BULL NEXT TO PATROL CAR 13. PO C NEILSON THEN PICKED UP THE VICTIM AND A SHOW UP WAS COMPLETED. THE VICTIM POSITIVELY IDENTIFIED THE SUSPECT AS THE ONE THAT COMMITTED THE

PETIT LARCENY. THE DEFENDANT WAS THEN PLACED INTO THE REAR OF PATROL CAR SIX AND TRANSPORTED TO HEADQUARTERS. AT HEADQUARTERS THE DEFENDANT HAD HIS EYES FLUSHED OUT WITH WATER. THE DEFENDANT WAS THEN BOOKED AND PROCESSED.

I have read this statement consisting of one page(s) and I swear it to be the truth to the best of my recollection and knowledge.

Sworn to before me this ___ Day
of _____ 200__

Notary Public

Note: False statements made herein are punishable as a Class "A" misdemeanor pursuant to section 210.45 of the New York State Penal Law.

P.O. A. J. Gallagher # 1225
Signed

STATE OF NEW YORK :

DATE: 7/30/10

COUNTY OF ORANGE : ss

TIME: 0325

CITY OF MIDDLETOWN:

CASE #10-4959

I, PO JASON BERMAN, BEING DULY SWORN, DEPOSES AND SAY THAT I AM _____ YEARS OF AGE DOB _____, AND I RESIDE AT 2 JAMES ST MIDDLETOWN NY 10940 AND I GIVE THIS STATEMENT TO PO BERMAN OF THE MIDDLETOWN NEW YORK POLICE DEPARTMENT, and that ON 7/29/10 AT APPROX 10:39 PM PO GALLAGHER WAS DISPATCHED TO SAMS MART FOR A REPORT OF A PETIT LARCENY OF (1) RED BULL BEVERAGE. DISPATCH ADVISED THAT THE SUSPECT WAS DESCRIBED AS A BLACK MALE, WEARING A WHITE T-SHIRT WALKING N/B ON ACADEMY AVE TOWARDS STERLING ST WITH A BLACK FEMALE THAT WAS POSSIBLY WEARING A WHITE SHIRT. R/O (PO BERMAN) RESPONDED TO ASSIST IN CANVASSING THE AREA. R/O'S CANVASS REVEALED R/O LOCATING A BLACK MALE SUBJECT WEARING A WHITE T-SHIRT, JEAN PANTS, AND A BLACK BASEBALL STYLE HAT AND AN UNKNOWN BLACK FEMALE (NO CLOTHING DESCRIPTION) WALKING E/B ON STERLING ST APPROACHING THE I/O SPRING ST. R/O CALLED OUT ON A FIELD INTERVIEW IN REGARDS. R/O APPROACHED THE MALE SUBJECT AND ADVISED HIM TO STOP FOR A MOMENT AND SPEAK WITH R/O. THE SUBJECT BEGAN TO WALK AWAY FROM R/O AND STATED "GET THE FUCK AWAY FROM ME". R/O THEN GRABBED THE SUBJECT'S RIGHT ARM IN AN ATTEMPT TO PREVENT POTENTIAL FLIGHT OF THE DEFENDANT. THE DEFENDANT THEN YELLED "YO MAN, GET THE FUCK OFF OF ME". R/O THEN ADVISED THE DEFENDANT THAT R/O WOULD RELEASE HIM ONCE HE CALMED DOWN AND WALKED TOWARDS THE POLICE VEHICLE TO BE INTERVIEWED. THE DEFENDANT THEN ABRUPTLY LUNGED TOWARDS R/O BY TURNING HIS BODY TO HIS RIGHT AND SQUARING UP WITH R/O WITH BOTH OF HIS HANDS IN THE AIR IN A CLOSE FIST POSITION. WHEN THE SUBJECT ABRUPTLY LUNGED THE WEIGHT OF HIS BODY, R/O FELT A SHARP PAIN AND THROBBING TO R/O'S LEFT ELBOW AND LEFT UPPER ARM. R/O THEN OBSERVED THE SUBJECT TO HAVE A BLACK KNIFE IN HIS LEFT HAND WHICH R/O WAS UNABLE TO DETERMINE IF THE BLADE WAS CLOSED OR POSSIBLY OPENED AND FACING DOWNWARD IN THE PALM OF THE SUBJECTS HAND. R/O ADVISED THE SUBJECT TO DROP THE KNIFE NUMEROUS TIMES WITH NEGATIVE RESULTS FOR COMPLIANCE. R/O THEN GRABBED THE SUBJECT'S LEFT HAND AND APPLIED PRESSURE TO KEEP THE SUBJECT'S FIST CLOSED TO AVOID POSSIBLE FURTHER CONTACT WITH THE KNIFE.

AT THAT TIME R/O REQUESTED ADDITIONAL UNITS TO THE LOCATION. R/O THEN REMOVED THE KNIFE FROM THE SUBJECT'S HAND AND THE KNIFE WAS THEN IDENTIFIED AS A SMALL BLACK FOLDING KNIFE THAT WAS IN

