

**FROM THE CHIEF OF POLICE
CITY OF MIDDLETOWN POLICE DEPARTMENT**

Memo

To: Chief Matthew Byrne

From: Lt Patrick Freeman 

Date: June 18, 2009

Re: Michael Figueroa

I received a personnel complaint from Michael Figueroa dated 4/16/2009 that accused Officer Gass of harassment and unprofessional behavior in two contacts that had taken place, the first in Summitfield and the second on North st. After reviewing the memo submitted by Sgt Ewanciw as well as the memo by Officer Gass, it appears clear that Gass was proper in stopping and detaining Figueroa in both instances, as they both pertained to violations of law. After carefully reviewing all of the material It is my determination that this complaint is **not sustained**. If you have any further questions, please advise me.


6/18/09

CITY OF MIDDLETOWN POLICE DEPARTMENT

Memo

To: Lt. Freeman

From: Sgt. Ewanciw

Date: June 6, 2009

Re: Personnel Complaint Made BY Michael Figueroa

On April 16, 2009 Michael Figueroa, DOB: [REDACTED], of [REDACTED] came into Headquarters to make a personnel complaint against Police Officer Gass, referencing two incidents, the first being a field interview/vehicle stop which occurred on February 6, 2009 in the parking lot of Summit Field Apartments (09-3676), and the second being a vehicle stop which occurred on April 14, 2009 on Grove St., near the intersection of Wickham Ave. (09-10498). Said complaint was taken by Sgt. Graziano, and Figueroa states that during the first incident he was stopped for no reason, while sitting in his parked vehicle in the parking lot of Summit Field Apartments with his girlfriend. During said incident Figueroa alleges that he was asked to step out of his vehicle, at which time officer Gass referred to him as a "dick snob" and searched him. Figueroa also alleges that after finding out that he (Figueroa) was on probation, Officer Gass threatened to make his probation longer. During the second incident Figueroa states that he was stopped by Officer Gass along with a light skinned detective that was approx. 6'8" tall, while driving his vehicle on Grove St. Figueroa alleges that he was questioned about his conditional drivers license, and as to where he was going to and coming from, to which Figueroa stated he was going to do his laundry and was then going to the doctor. Figueroa also alleges that while being interviewed, Officer Gass was looking around in his vehicle and then Officer Gass opened the rear drivers side door, looked around, asked who was in the Army and then shut the door, at which time Officer Gass returned Figueroa's license and let him go. Figueroa alleges that he requested Officer Gass's name and badge number to which officer Gass asked him why he needed it, and quested him as to if he needed said information to supply to his (Figueroa's) probation officer. Figueroa states that Officer Gass then supplied him with a business card

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containing his name and badge number. Figueroa claims that Officer Gass did his job with injustice.

After several attempts to speak with Figueroa, he agreed to, and did come in on Wednesday May 27, 2009, at approx. 4:00pm. I interviewed Figueroa in reference to the personnel complaint that he made, to which he stated that he is constantly being stopped by not only Officer Gass but by many other Police Departments for no reason, and he feels that Officer Gass is targeting him due to his prior history, a robbery, which he is currently on probation for and a DWI form which he has a restricted drivers license (to and from work or doctors appointments). Figueroa also stated that Officer Gass has no reason to stop him as shown by the lack of UTT's issued during said stops. Figueroa also made reference to not making a personnel complaint after the first incident (09-3676), because he was trying to establish a case against Officer Gass and that he was documenting all of his police contacts to show a pattern.

When interviewed specifically about the first incident which occurred on February 6, 2009 (09-3676), Figueroa stated that he was not doing anything wrong and felt Officer Gass had no reason to approach him and his girlfriend and due to such belief he had an attitude and began questioning Officer Gass's reason for stopping him. Figueroa claims that he took offense to being asked if he had any drugs in his vehicle and believes that as a result of questioning and giving Officer Gass attitude, he was asked to step out of his vehicle, called a "dick snob" and searched by Officer Gass, for no reason. Figueroa also believes that he is being targeted as a result of being on probation for a robbery. I explained some reasons as to why he was approached by Officer Gass and the purpose of the Crime suppression Team, to which Figueroa was accepting.

When interviewed specifically about the second incident which occurred on April 14, 2009 (09-10498), Figueroa stated that he was stopped for no reason, as shown by the lack of UTT's issued. Figueroa states that he drove out of the parking lot next to Number One Chinese (One Way Traffic Parking Lot), onto North St. and then drove through Chase Bank parking lot onto Grove St., where he was pulled over by Officer Gass. Figueroa believes that he did nothing wrong and should have not been stopped. Figueroa also stated that Officer Gass began to question him about his conditional driver's license and as to where he was coming from and going, and was looking around through his car (via the window). Figueroa states that all of a sudden Officer Gass opened his rear drivers side door looked around and then closed it. Figueroa states that through some additional conversation Officer Gass remembered him from the earlier incident in Summit Field, and then let him go, advising him to get his windshield fixed. Figueroa states that he was very respectful to Officer Gass and another officer who is described as a tall white male with a shaved head, but felt as if he was being harassed so he asked Officer Gass for his name and badge number. Figueroa claims that at first Officer Gass questioned him as to why he wanted his name and badge number, but then handed him (Figueroa) a business card containing the information. While interviewing Figueroa I explained to him the reason for being stopped on April 14th was for driving the wrong way through a parking lot that is posted "ONE WAY", to which he did not realize and stated that no one ever told him the reason for being pulled over.

After speaking with and explaining several things to Figueroa, he was much more understanding as to why he was pulled over and appreciated that he was given a warning for the traffic violations that he committed. Figueroa also referenced being pulled over by several police departments on a regular basis and believes that it is for no reason other than him being on probation. Figueroa also believes that he was spoken to unprofessionally by Officer Gass during the first incident, when he was asked if there were any drugs in his car and called a "dick snob", but acknowledges that he was giving Officer Gass an attitude. Figueroa also stated that he believed that Officer Gass was unprofessional during the second incident because he felt there was no reason for him to be pulled over.

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After speaking with Figueroa as well as Officer Gass, who supplied a memo (which is attached) in regards to these incidents, I find that Officer Gass had sufficient reasons to stop Figueroa on both occasions and neither time do I believe that Figueroa was targeted or stopped due to him being on probation or for no reason. In regards to Officer Gass being unprofessional when speaking with Figueroa, I believe that due to Figueroa's attitude (which he admits to) Officer Gass took a very firm approach with Figueroa, resulting in him feeling like he was being harassed. I also believe that Officer Gass supplied his name and badge number in a professional manner, upon Figuero's request, as officer Gass hand wrote said information on a Middletown Police business card and handed it to Figueroa. I also find it hard to believe that officer Gass called Figueroa a "dick snob", to which Officer Gass denies, as I have worked with Officer Gass over the past several years, during which he has been extremely professional in his dealings with the public. In an effort to continue his professionalism I will remind Officer Gass to take the time to explain his actions to the subjects that he deals with, as long as it doesn't jeopardize anyone's safety. In conclusion I find Mr. Figuero's complaint to be unsubstantiated.

Sgt John (104)

To: Bureau Commander Lieutenant Freeman
From: Police Officer Patrick Gass
Re: Michael Figueroa
Event: 09-10702

On Tuesday, April 14, 2009 at approximately 2:40 PM, myself and officers Colon and Mecocci were patrolling southerly on North Street near the entrance to the Courtland Street parking lot, in unit 50. Officers observed a tan four door sedan, bearing registration [REDACTED] of the State of New York, exiting the Courtland Street parking lot the wrong way onto North Street, and begin to travel northerly. I then turned unit 50 around, followed the vehicle northerly on North Street. Officers then observed the vehicle cut through the parking lot of Chase Bank, 135 North Street, and exit onto Grove Street, and begin to travel northerly. Officers then conducted a vehicle stop with the vehicle near the intersection of Wickham Avenue and Grove Street.

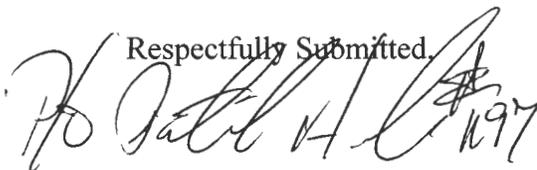
Upon approaching the driver window, I asked the operator for his license and registration. The driver complied and was identified by New York State driver license as Michael Figueroa. While speaking with Mr. Figueroa, I advised him as to why he was stopped, and noticed his windshield had a crack in it. He was also advised of that infraction. I then noticed Mr. Figueroa possessed a conditional driver license. I asked Mr. Figueroa what he was issued a conditional driver license for and what the restrictions on his license were. He told me "it is from a DWI and I am allowed to go to and from work." I asked where he was coming from and where he was going, at which point he told me "I came from picking up laundry and am going to get it washed." I noticed several bags on the back seat, presumed to have laundry in them. I noticed one of them to be a green military-style bag, at which point I asked Mr. Figueroa if he or someone he knew was in the military, to which he stated "no." I noticed small green leafy particles on the rear left floor area, and suspecting it to be marihuana, opened the door for further inspection. Upon further inspection, I observed the green particles to not be marihuana, and closed the door. I then asked Mr. Figueroa when the last time he had police contact was, at which point he told me "you stopped me back in February in Summitfield." I then remembered having contact with Mr. Figueroa in February on Sweezy Avenue in the Summitfield apartment complex. Officers then conducted a check of Mr. Figueroa's license, which was D-conditional, valid status. He was advised to be cognizant of pavement markings and traffic signs to ensure the safety of not only himself, but other motorists on the roadway. He was also advised to repair his windshield, and was let go without being issued any uniform traffic tickets. As we were pulling away, Mr. Figueroa approached unit 50, and requested my name and badge number, at which point I provided him with a business card containing that information.

During the incident on Sweezy Avenue, Mr. Figueroa and a female unknown to me were parked in his car in a dimly lit area of the Summitfield apartment complex. Myself, and Officers Slanovec and Colon approached the vehicle and spoke with Mr. Figueroa and the female passenger. Mr. Figueroa and the female became upset we were speaking with them. Officers advised them the area is a location where we receive complaints of narcotics activity, larcenies, robberies, graffiti, and other criminal activity,

and that is why we were speaking with them. We also advised them that it seemed suspicious that they were parked in a dimly lit area with no lights on in the vehicle. They were then asked if they lived in the apartment complex, at which point they stated "no, we are just here to go to a friend's house." Mr. Figueroa and the female continued to ~~be~~ question officers reason for interviewing them, and seemed visibly upset. They began to raise their voices, and speak over one another. I asked Mr. Figueroa to exit the vehicle and step to the rear for further interview, to which he complied. I asked Mr. Figueroa if he had ever had any police contact and if he was on probation or parole. Mr. Figueroa then advised me he was on probation. He continued to say that he and the female were not doing anything wrong, and that they were just going to a friend's house. I again advised Mr. Figueroa that the area is a crime prone location. I also advised him that he should report the incident to his probation officer, and that a violation of his probation such as being out after curfew or failing to report police contact to his probation officer could violate the terms of his probation. We then left Mr. Figueroa and the female.

Mr. Figueroa claims that when officers stopped him on Wickham Avenue, "he saw a light skinned, tall detective, about 6'-8" or 6'-9", who approached his passenger side and bangs on his window. The only officers that fit that description are Detective Jennings, who was working 3:00 PM to 11:00 PM that day, and Officer Slanovec who was working uniform patrol 8:00 AM to 4:00 PM that day. Officer Slanovec did not assist us with that vehicle stop. Mr. Figueroa claims that he was treated unfairly and that I did my job with "injustice", but waited nearly two and a half months to report the vehicle stop that occurred on Sweezy Avenue.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "PO Patrick H. Gass #1197". The signature is stylized and includes the number "1197" at the end.

PO Patrick H. Gass #1197

cell: 201-304-5900

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: 4/16/2009	Time: 1:33pm	Event No.: 09-10702	Case No.: (If Applicable)
Type of Complaint: <u>External</u>	Internal	Other	If Other, please explain:
How Received: Phone	<u>Walk-In</u>	Other	If Other, please explain:
Date of Incident: 4/14/2009	Day of Incident: Tuesday	Time of Incident: 2:30pm	
Location of Incident: Grove St		Nature of Complaint:	

Complainant: Fisucos, Michael	Date of Birth: [REDACTED]
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Details of Incident: (ADDITIONAL SPACE AVAILABLE ON BACK OF FORM, IF NEEDED)

I was parked in Summitfield and was stopped by P/O Gass on February 6th between 7p-9:30p. P/O Gass communicated with me conducted vehicle by looking at my registration, inspection sticker, and then he asked me to ^{step} step out of the car. I got out of the vehicle and he stated to me "you want to be a Dick snob". P/O GASS searched me while I was in standing at the rear of my vehicle. My hands were on the trunk.

Personnel Complained Of: (NAME OR PHYSICAL DESCRIPTION, BADGE #, CAR #, ETC.)

P/O GASS #1197

Witness Info: (NAME, D.O.B., ADDRESS, TELEPHONE NUMBERS, ETC.)

Not Available at this time

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.

<i>[Signature]</i> Reporting Officer's Signature	City of Middletown Police Department Det Sgt Office Location Report Taken	<i>[Signature]</i> Complainant's Signature	4/16/09 Date
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ADMINISTRATIVE USE ONLY	No Further Action Needed: _____
Reviewed By: _____ Name & Rank	Investigation Assigned To: _____
Date Reviewed: _____	MPD-II #: _____

Details of Incident: (CONTINUED)

P/O Gass and I spoke about me being on Probation and P/O Gass asked about how long he has been on Probation and then he told me he can make it longer. My Probation has never told me anything about this vehicle stop. P/O Gass told me that there are drugs in Summitfield and you respond by saying nothing, ~~although~~ P/O Gass let me go.

On Tuesday, ^{April} Feb. 14th at 2:30pm on Grove St I was stopped by P/O GASS. I also saw a light skinned tall detective. He is about 6'8" or 6'9", he comes on the passenger side bangs on my window and asks me to roll the window but I can't so they thought I was bluffing. P/O Gass and the tall Detective ^{laughed} at me. P/O Gass asked for my License and Registration and I gave it to him with respect. P/O Gass asked me about my Conditional License and then asked me where I was heading. I responded by saying I was going to do Laundry and go to the doctor, immediate medical. P/O Gass opened the back door to the driver side, he looked in my car and then asked me who was in the Army. I said I do not know. He closed the door and gave me my license and registration and let me go. I asked him for his name and badge number and P/O Gass asked what do I need it for. P/O Gass then said something like "you need it for your probation officer or something". P/O GASS gave me his business card with his name and badge number on it. I feel that he did his job with in-justice.

P/O GASS said I looked familiar and your the guy I pulled over in Summitfield and your on Probation.