

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: 5/23/08	Time: 10:30AM	Event No.: 13701-08	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: 5/23/08	Day of Incident: FRI	Time of Incident: 10:08	
Location of Incident: 22 James St.		Nature of Complaint: Search of vehicle	

Complainant: Kenins Timothy B	Date of Birth: [REDACTED]
[REDACTED]	

Details of Incident: (ADDITIONAL SPACE AVAILABLE ON BACK OF FORM, IF NEEDED) *Complainant called me for inadequate muffler. Complainant states his car was searched. Complainant does not believe officers had the right to search complainant's car. Search was limited to officer picking up complainant's phone and going through information stored in phone.*

Personnel Complained Of: (NAME OR PHYSICAL DESCRIPTION, BADGE #, CAR #, ETC.)
Car 10 - PO Brass, PO Andre

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

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>SA on. Gal</i> MPD	<i>[Signature]</i>	Date	5/23/08
Reporting Officer's Signature	Location Report Taken	Complainant's Signature	

ADMINISTRATIVE USE ONLY	No Further Action Needed: <input checked="" type="checkbox"/>
Reviewed By: <i>[Signature]</i> <i>CT</i> 776	Investigation Assigned To:
Date Reviewed: 5/23/08	MPD-II #: _____
Name & Rank	Shield No.

SUPPLEMENTARY REPORT

MIDDLETOWN POLICE DEPARTMENT

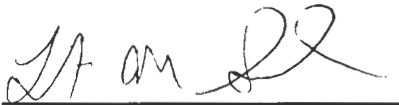
<u>Complainant/Victim/Arrestee</u>	<u>Date of this Report</u>	<u>Complaint #</u>
Kearns, Timothy B	5/23/2008	5/23/2008
<u>Personnel Complaint</u>		
<u>Crime or Offense</u>		

At approximately 10:30am, Mr. Kearns came into 370 in order to make a personnel complaint. He was accompanied by another b/m who kept telling him "get the form, get the form." He was invited into then police station for interview.

He stated that he was pulled over for a loud muffler and that, during the course of the vehicle stop, officers improperly searched his cellular telephone. Personnel complaint completed and signed by Mr. Kearns at approximately 10:50am.

I then spoke to Officers Gass and Andre, the primary officers who conducted the vehicle stop. Officers explained that they pulled over the vehicle for a loud muffler. Driver (Kearns) immediately exited the vehicle with a piece of paper in his hand. He had to be ordered back into his vehicle.

During the course of the stop, they learned that the paper was a traffic ticket issued by SP for the same offense on 5/19/08. During the course of the investigation, officers were speaking with Kearns outside his vehicle. Officers asked the name of his front seat passenger and Kearns replied that is was John. Passenger's identification was in the name Leroy Britt (which is the name of the witness provided on the personnel complaint form.) As PO Gass was interviewing Britt in the vehicle, a noise was interrupting him. He believed it was the cellular phone and pressed the "End" button to turn the noise off. It did not work as the noise was coming from the vehicle's dashboard.



Lt. Mark L. Schuh

Approved by/Date

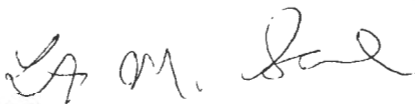
At approximately 11:05am, I was advised by Lt. Rickard that Mr. Kearns was now in the Mayor's office continuing his complaint. I responded to the Mayor's office.

On arrival, I was informed by Shelly, the Mayor's assistant, that Kearns arrived with another b/m who identified himself as a representative from the NAACP. Upon further questioning, the other male recanted and stated that he was just a friend of Kearns.

Kearns acknowledged that his muffler was loud and stated "I know that I was in the wrong." He also acknowledged telling officers that he identified his passenger as "Dejong" (phonetic spelling.) When I explained to him what happened, he denied that there was a noise and stated that the car was off, but acknowledged that he was talking to the other officer outside the car. He also stated that the officer was with the phone too long for him to just be pressing end. I asked him to demonstrate what he saw. He picked up the phone, pressed a button several times for approximately one second, and put the phone down. This is consistent with a person trying, but failing, to stop a noise by pressing a button.

I also asked Kearns why he was in the Mayor's office within fifteen minutes of leaving MPD. He stated that he came from NYC and he was used to a "corrupt police department" where personnel complaints "disappeared."

Ultimately, Mr. Kearns was satisfied with the explanation given and, in the presence of Mayor Duncanson, confirmed that the issued was resolved.



Lt. Mark L. Schuh

Approved by/Date

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