



ORLANDO POLICE DEPARTMENT
INTERNAL AFFAIRS
Investigative Report

CASE NUMBER: IR 15-53

Investigator Rene Ingoglia

December 10, 2015

Complainant/Inquiring Party **Lieutenant Michele Smith**

Employee(s) **Officer James Wilson #18827**

Incident Location **600 Block Ossie Street
Orlando, FL 32805**



INQUIRY INVESTIGATION REPORT

IR # 15-53

Principal: James Wilson Employee #: 18827
Alleged Violation: RM 900-7, Conduct Towards the Public (a) Courtesy

Inquiring Party: Lieutenant Michele Smith
Investigator: Rene Ingoglia Employee #: 12064

Report of Investigative Actions

On August 27, 2015, I, Investigator Ingoglia, was assigned this Initial Notice of Inquiry (INOI) alleging that on August 26, 2015, at approximately 1500 hours, Officer James Wilson violated RM 900-7, Conduct Towards the Public (a) Courtesy (Attachment 13). The alleged violation took place at the 600 Block of Ossie Street. During the incident, Terre Johnson was arrested and charged with Battery on Law Enforcement Officer, Aggravated Battery on Law Enforcement Officer, and Resisting an Officer with Violence, reference Orlando Police case number 2015-349675.

On September 23, 2015, Officer Wilson was served with a copy of the INOI and read his Pre-Administrative Warning. Officer Wilson also signed an Administrative Investigative waiver. (Attachment 14)

On September 28, 2015, I, Investigator Ingoglia, read and reviewed the source documents in this case to include the arrest affidavit and incident report. I also reviewed Officer James Wilson's body camera video, along with cell phone video of the incident that was furnished to the Orlando Police Department by an anonymous individual. (Attachment 15)

On October 6, 2015, I made contact via telephone with Public Defender Chelsea Simmons. Simmons is representing the arrestee in this case, Terre Johnson. I asked Simmons if her client, who was currently incarcerated at the Orange County jail, would be willing to give a sworn statement about the incident. Simmons initially stated that he would, but then stated that she would speak with her client about it and then contact me.

On October 15, 2015, I was contacted by Simmons and advised that her client does not wish to give a sworn statement to Internal Affairs at this time due to his pending criminal case.

On October 28, 2015, I interviewed Lieutenant Michele Smith in Internal Affairs. The interview was audio-recorded and transcribed (Attachment 16).

Lieutenant Smith is the Downtown Community Policing Division Downtown Watch Commander for day shift. Lieutenant Smith, who has been a member of the Orlando Police Department since 1994, was working on August 26, 2015, as the Downtown Watch Commander. On that day, Lieutenant Smith became aware of an

incident involving Officer James Wilson where force was used during an arrest. After reviewing the video of the incident from Officer Wilson's body camera, it was decided that an INOI (Initial Notice of Inquiry) would be generated to review the incident and the actions taken by Officer Wilson prior to the use of force and arrest in this case.

On November 2, 2015, at approximately 1115 hours, I responded to the location of the alleged incident (600 Block of Ossie Street) in an attempt to locate any possible identifiable witnesses to this incident. The location of the incident is known to have subjects congregating at all times of the day; however, at this time there were no subjects at the location and no identifiable witness was found. I again returned to the location on November 3, 2015, along with Sergeant Robert Bear. No identifiable witnesses to the incident were found.

On November 2, 2015, I contacted via email Mr. Johnson's attorney, Chelsea Simmons, from the Public Defender's office. I asked Ms. Simmons if she or her client had any identifiable witnesses that wished to speak with me reference my internal investigation. I advised Ms. Simmons to please have them contact me or email me their contact information and I would reach out to them accordingly. My contact with Ms. Simmons was met with negative results as she did not respond to my email. At the time of this report no contact was made by Ms. Simmons or any subjects advising they were identifiable witnesses in this case.

On November 19, 2015, I interviewed Sergeant Paul Sanderlin in Internal Affairs. The interview was audio-recorded and transcribed. (Attachment 17)

Sergeant Sanderlin, who is Officer James Wilson's immediate supervisor, was hired by the Orlando Police Department in 2007 and promoted to the rank of Sergeant in September of 2013. He has supervised Officer Wilson for the past year. Sergeant Sanderlin was the first officer to arrive on scene during this incident. Officer J. Wilson initially asked Headquarters for a backup officer; however, it was upgraded to a signal 44 (immediate backup) once the resisting arrest with Mr. Johnson took place. Sergeant Sanderlin was able to help subdue Mr. Johnson without using any additional force and help place him into handcuffs.

Sergeant Sanderlin was not present during the initial encounter with Officer Wilson and Mr. Johnson, and did not write or investigate the Response to Resistance due to the fact that he assisted in the actual arrest of Mr. Johnson. I asked Sergeant Sanderlin if he interviewed or spoke with any witnesses at the scene, and he advised, *"I don't recall specifically...I was advised by one of the NPU (Neighborhood Patrol Unit) officers that were on scene that there was a witness that um, I guess saw the whole incident. I immediately, as far as I can remember, directed that officer to go ahead and get a statement from him. Uh, to be honest with you I was a little shook up because I was covered in blood"*. (Attachment 17 p4) Sergeant Sanderlin was not injured during the incident but was exposed to the blood of Officer Wilson and Mr. Johnson.

Sergeant Sanderlin stated that he reviewed the incident from Officer Wilson's body camera a few days after the incident. He advised that he did not watch the video that night because the equipment had to be decontaminated due to the blood. I, along with Sergeant Sanderlin, reviewed the body camera video during our interview. After reviewing the video, Sergeant Sanderlin was asked if Officer Wilson's attitude towards Mr. Johnson was representative of the professional job that an Orlando Police Department member would use. He answered, "No." (Attachment 17 p13) I again asked Sergeant Sanderlin if Officer Wilson was unprofessional in this instance and from what we saw on the body camera video, and he answered, *"Correct...I think he could have been more professional. I think he just let it...his emotions I think got to him that day."* (Attachment 17 p14)

On November 23, 2015, I interviewed Officer James Wilson in Internal Affairs. The interview was audio-recorded and transcribed. (Attachment 18)

Officer J. Wilson, who has been with the Orlando Police Department since 2012, advised that he was initially responding to a call for service for a trespass complainant by the Coalition for the Homeless (639 West Central Boulevard). He came into contact with Mr. Terre Johnson while doing an area search in reference to the trespass call. It should be noted that the location of this incident (600 Block of Ossie Street) borders the Coalition for the Homeless.

Officer Wilson stated that while he was doing an area check reference the trespass call, he came across a large group of individuals who were loitering on the curb in the 600 block of Ossie Street. Officer Wilson observed multiple subjects sitting on the curb with their legs in the roadway and a couple of open beverage containers (alcoholic beverages). Officer Wilson advised that he initially began pouring out the alcoholic beverages when he observed Mr. Johnson, at which time, he stated, *"I initiated a stop with Mr. Johnson and then it kind of...it didn't go the way that I thought it was going to go."* (Attachment 18 p3)

Officer Wilson advised that he had never met nor dealt with Mr. Johnson in the past and that this was his first encounter with him. As Officer Wilson stated earlier, he was conducting an area check reference his trespass call and observed violations of open containers (City Ordinance 33.06) in the 600 block of Ossie Street. He then initiated a stop on Mr. Johnson reference Obstruction of Public Streets, Highways and Roads (Florida State Statute 316.2045) for having his legs in the roadway.

Officer Wilson and I reviewed Officer Wilson's body-worn department-issued body camera video. The camera was not initially turned on when Officer Wilson first arrived at the 600 block of Ossie Street but was turned on shortly thereafter, recording most of the encounter with Mr. Johnson.

After reviewing the video with Officer Wilson, I asked him if he believed his actions prior to the Battery of Law Enforcement Officer (LEO) were appropriate and in accordance with Department policy. Officer Wilson replied, *"Per policy, probably not. Um, I know it could have been...it could have been better, you know."* (Attachment 18 p13)

Officer Wilson was asked if, in the beginning of the encounter with Mr. Johnson, he believed that he treated Mr. Johnson with courtesy and remained calm regardless of any provocation to do otherwise. *"Uh, you know every...every encounter is different. And that one went sideways and no I did not do my best."* (Attachment 18 p13) I also asked Officer Wilson if he believed his actions dealing with Mr. Johnson were professional and representative of an Orlando Police Officer. He stated, *"Uh, as per policy, no sir."* (Attachment 18 p13)

The encounter between Officer Wilson and Mr. Johnson ended with a violent altercation where both Officer Wilson and Mr. Johnson were injured. Mr. Johnson was ultimately arrested and charged with Battery on a Law Enforcement Officer, Aggravated Battery on a Law Enforcement Officer, and Resisting an Officer with Violence, and he was cited for obstructing a public street, highway and road. The case was filed by the State Attorney's Office and is currently set for trial in January of 2016.

Conclusion/Findings

This investigation was originally initiated to address only a possible violation of RM 900-7, Conduct Toward the Public. After a thorough review of the facts and circumstances of the entire incident it was determined RM 800-2, Arrest (B) Use of Force, would also be addressed.

RM 900-7, Conduct Toward the Public (a) Courtesy (Attachment 13)

On August 26, 2015, Officer James Wilson encountered Mr. Terre Johnson during a legal stop for obstructing the roadway. The encounter escalated from a pedestrian stop/violation to a violent physical resisting arrest encounter resulting in both parties being injured and Mr. Johnson was charged with multiple felonies.

Orlando Police Department **RM 900-7, Conduct Toward the Public (a) Courtesy** states: *Employees shall be courteous and orderly in their dealings with the public. They shall perform their duties quietly, avoiding harsh, violent, profane, or insolent language. They shall always remain calm regardless of provocation to do otherwise.*

During the encounter Officer Wilson was asked by Mr. Johnson why he was being stopped. Officer Wilson advised Mr. Johnson that he was blocking the roadway and then asked Mr. Johnson "Do you have a way to pay for that citation." Mr. Johnson continued to try and speak with Officer Wilson at which time Officer Wilson responded in an insolent manner asking "yes or no" eight continuous times. As the encounter continued you could hear Officer Wilson say "Oooh Big Words" in what appeared to be a mocking manner toward Mr. Johnson and the other subjects at the scene. Officer Wilson also asked Mr. Johnson if he was "camping" at that locating at which point Mr. Johnson replied "Do you see a tent?" Officer Wilson again appeared to mock Mr. Johnson by asking him, "What's a tint?" four separate times responding to the way Mr. Johnson pronounced the word "tent". The interaction between Officer Wilson and Mr. Johnson was captured on Officer Wilson's body camera video. (Attachment 15) Officer Wilson repeatedly used insolent language in a mocking manner toward Mr. Johnson.

Officer Wilson admitted during his interview that his actions with Mr. Johnson prior to the battery LEO were not appropriate and in accordance with department policy. Officer Wilson was performing a legal stop on Mr. Johnson; however, Officer Wilson's attitude and demeanor were unprofessional and his use of insolent language toward Mr. Johnson was unnecessary and inappropriate. It is clear that Officer Wilson's encounter with Mr. Johnson was not representative of an Orlando Police officer. Therefore, it is recommended that Officer James Wilson be **SUSTAINED** for the violation of **RM 900-7, Conduct Toward the Public (a) Courtesy**.

RM 800-2 Arrest, Use of Force Members shall use only the degree of force necessary to affect lawful objectives

After a thorough investigation it was determined that Officer Wilson had probable cause to stop Mr. Johnson, reference Florida State statute 316.2045 Obstruction of Public Streets, Highways and Roads. Mr. Johnson was issued a citation for a violation of the statute. Furthermore, Officer Wilson attempted to facilitate an arrest on Mr. Johnson reference, Resisting an Officer without Violence. Mr. Johnson began to walk away from Officer Wilson disobeying his lawful commands and when Officer Wilson attempted to go hands on with Mr. Johnson in order to make the arrest, Mr. Johnson violently resisted Officer Wilson and began to batter the officer. Officer Wilson with the assistance of Sergeant Sanderlin, were able to take Mr. Johnson into custody. It is recommended that Officer Wilson be **EXONERATED** for **RM 800-2 Arrest, (B) Use of Force**. It should be noted the State Attorney's Office has filed this case and charged Mr. Johnson with Battery on a Law Enforcement Officer and Resisting an Officer with Violence.

WITNESS

Name: Lieutenant Michele Smith Race: White Sex: Female DOB: On file
Address: 100 S. Hughey Avenue Suite/Unit #: _____
City: Orlando State: FL Zip: 32801
Phone: 407.246.2470 Cell Phone: _____ Work Phone: _____

Watch Commander, provided sworn audio-recorded interview

WITNESS

Name: Sergeant Paul Sanderlin Race: White Sex: Male DOB: On file
Address: 100 S. Hughey Avenue Suite/Unit #: _____
City: Orlando State: FL Zip: 32801
Phone: 407.246.2470 Cell Phone: _____ Work Phone: _____

Officer J. Wilson's sergeant, provided sworn audio-recorded interview

WITNESS

Name: Terre Johnson Race: Black Sex: Male DOB: 05/12/1971
Address: Transient Suite/Unit #: _____
City: Orlando State: FL Zip: _____
Phone: _____ Cell Phone: _____ Work Phone: _____

Suspect/Refused Interview

Pursuant to Florida Statute 92.525, under penalties of perjury, I declare that I have read the foregoing document that the facts stated in it are true to the best of my knowledge and belief.

I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes.

Respectfully Submitted:

INV Rene Ingoglia
Investigator Rene Ingoglia
Internal Affairs Section

12/21/2015
Date

Sworn to and subscribed before me, this

21 day of DECEMBER, 2015



[Signature]
Notary Public, State of Florida
My commission expires: 11/23/18

(Notarial Seal)

HAVE READ THE FOREGOING AND CONCUR:

Sgt. R. Bear
Sergeant Robert Bear
Internal Affairs Supervisor

12-21-2015
Date

Dwain Rivers
Manager Dwain Rivers
Internal Affairs Section

12-21-2015
Date

Capt. Susan L. Manney 6404
Captain Susan L. Manney
Professional Standards Division

12.22.15
Date