



Lexington-Fayette Urban County
Division of Police
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE

March 22, 2024

EFFECTIVE DATE

NUMBER
COP:
24-0069

TO:

Kenneth Armstrong, Commissioner
Department of Public Safety

SUBJECT:

Disciplinary Recommendation
PIU2024F-003
Officer Brian Misik

FROM:

Lawrence B. Weathers
Chief of Police

I met with Officer Brian Misik on Wednesday, March 20, 2024 in regards to a formal complaint. I am recommending this case be administratively closed as "Unfounded" for violation of General Order 1973-02L, Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees.

I find that there does not appear to be sufficient evidence produced to sustain this complaint. This complaint is determined to be Unfounded.

I have included the summary of this formal complaint for your review.

Lawrence B. Weathers

Lawrence B. Weathers
Chief of Police

LBW/rmh

Attachment

**LEXINGTON POLICE DEPARTMENT
FORMAL COMPLAINT FORM**

FORM 111 (5/21)

File #: PIU 2024F-003

FOR OFFICIAL USE ONLY

Employee Involved: Misik, Brian			Employee #: 46611	Hire Date: 12/10/2007
Present Assignment: Bureau of Special Operations / Downtown Entertainment District				
Complainant: Montrial Johnson			Complainant Address:	
Complainant Phone #:	Alternate Complainant Phone #:	Complainant Email: N/A		
Date of Incident: 9/23/2023	Time of Incident: 0047	Location of Incident: Short / Mill Street	Date and Time Reported: 1/24/24 @ 1249	How Reported: <input type="checkbox"/> Letter <input type="checkbox"/> Phone <input checked="" type="checkbox"/> Person <input type="checkbox"/> Email

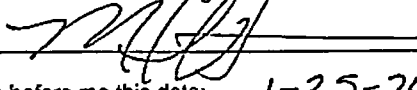
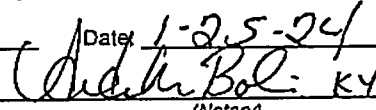
DESCRIPTION OF ALLEGATIONS:

The complainant, Montrial Johnson, came to police headquarters on Wednesday, 1/24/2024, and submitted the below complaint:

"Police Harrassment
Racial Profiling
This was a continuance of unlawful stops
Misuse of Power
'I'm a citizen not a animal' "

If the above allegation is true, then Officer Misik has violated General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees

I swear/affirm that the facts set out in the allegations herein are true to the best of my knowledge and belief.

Complainant Signature:  Date: 1-25-24
 Subscribed and sworn before me this date: 1-25-24 (Date)  (Notary) KYWP2810

My Commission Expires: FEB 14 2024

Witness:
Name: _____ Address: _____ Phone: _____

Recorded By: Bureau of Investigation, Public Integrity Unit

File #: PIU 2024F-003

Employee: Misik, Brian

CHIEF OF POLICE

[Finding: PC=Proper Conduct, IC=Improper Conduct, IE=Insufficient Evidence, PF=Policy Failure, UC=Unfounded Complaint]
Finding Policy Violation

UC	General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward

Chief of Police Recommendation: Case Be Closed Corrective Training Disciplinary Action (see below)

Materials Reviewed: Reviewed PIU Summary and the Officer's Body Camera footage related to the complaint.

Comments:

This complaint is closed as unfounded.

Signature: *Aurora B. Weather*

Date: March 20, 2024

DISCIPLINARY REVIEW BOARD

Finding Policy Violation

Disciplinary Review Board Recommendation: Case Be Closed Corrective Training Disciplinary Action (see below)

Comments:

Signature: _____ Date: _____

CHIEF OF POLICE FINAL RECOMMENDATION

Case Be Closed Corrective Training Disciplinary Action (see below)

Comments:

Signature: _____ Date: _____

File #: PIU 2024F-003

Employee: Misik, Brian

ALLEGATIONS CONTINUED:

A large, empty rectangular box with a thin black border, occupying most of the page. It is intended for the continuation of allegations. On the left side of the page, there are three black circular punch holes.

FOR OFFICIAL USE ONLY



LEXINGTON POLICE DEPARTMENT

150 East Main Street • Lexington, KY 40507 • (859) 258-3600

March 25, 2024

Mr. Montrail Johnson

RE: Formal Complaint PIU2024F-003 – Officer Brian Misik

Dear Mr. Johnson,

The Public Integrity Unit completed the investigation of your Formal Complaint against Officer Brian Misik for violation of General Order 1973-02K Disciplinary Procedures of Sworn Officers, Appendix B, Operational Rule 1.07 – Conduct Toward the Public and Conduct Toward Department Employees.

After reviewing the investigative summary and body worn camera video, Chief Lawrence Weathers determined the disposition of the complaint as “Unfounded”. Chief Weathers has recommended that no further action be taken with regard to this complaint.

Formal Complaint PIU2024F-003 regarding Officer Brian Misik is closed.

Please feel free to contact the Public Integrity Unit if you have any questions regarding this determination.

Sincerely,

Lieutenant Jeff Jackson
Bureau of Investigation
Public Integrity Unit
(859) 258-3625



LEXINGTON POLICE
DEPARTMENT
MEMORANDUM
Lexington, Kentucky

DATE OF ISSUE
February 20, 2024

EFFECTIVE DATE

NUMBER
PIU 24-019

TO:
Lawrence Weathers
Chief of Police

SUBJECT:
Formal PIU2024F-003
Officer Brian Misik 46611
Summary

FROM:
Lieutenant Jeff Jackson
Bureau of Investigation
Public Integrity Unit

Sir,

This memorandum will provide a synopsis of the investigation; however, other supporting documents may be viewed in conjunction with this memorandum.

On January 24th, 2024 Montrial Johnson filed a formal complaint against Officer Brian Misik that alleged the following:

“Police Harrassment
Racial Profiling
This was a continuance of unlawful stops
Misuse of Power
'I'm a citizen not a animal' ”

If the above allegation is true, then Officer Misik has violated General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees, which states:

** Conduct Toward the Public:*

Officers shall interact with the public in a civil and professional manner that conveys a service orientation that fosters public respect and cooperation.

** Officers shall treat individuals with courtesy, respect and dignity.*

** Officers shall not use language that might belittle or ridicule individuals and shall be tactful in the performance of their duties, shall control their tempers, exercising the utmost patience and discretion.*

** Officers shall perform their duties equitably in both the enforcement of laws and the delivery of law enforcement services within the community and shall strive to maintain public trust by conducting all law enforcement business in an unbiased, fair, and impartial manner.*

Investigation

Officer Misik's body worn camera footage was reviewed as the initial step in this investigation. The camera footage begins on September 23rd 2023 at 0045 as Officer Misik walks up to Mr. Johnson's stopped vehicle and detains him on Short Street near Mill Street for a noise violation. Mr. Johnson immediately begins cursing at Officer Misik calling him a "bitch", ordering Officer Misik to "Back up", referring to Officer Misik as a "ho", and repeatedly yelling "I don't give a fuck" as Officer Misik attempts to explain the reason for the stop.

Officer Misik then returns to his vehicle to issues a citation for the noise ordinance after Mr. Johnson's refusal to move his vehicle out of traffic at Officer Misik's request, whereupon Officer Misik has another responding officer standby while he moves his marked police vehicle in behind Mr. Johnson's car for his safety.

At 22:25 on the recording Officer Misik returns to have contact with Mr. Johnson, handing him a citation and giving him a court date. Mr. Johnson then tries to tell Officer Misik why he is wrong and that the noise violation does not apply in his circumstance. Mr. Johnson then insults Officer Misik's "mammy" and drives away. Officer Misik was required to yell at Mr. Johnson to be careful as there was a pedestrian directly ahead of his vehicle as he drove away. Contact with Mr. Johnson ends at that point.

Interview with Officer Brian Misik

I conducted an interview with Officer Misik on Monday February 5th in the PIU offices. Lt. Meredith Taylor was also present.

Officer Misik was asked about his interaction with Mr. Johnson on the night of September 23rd 2023 during the traffic stop he conducted at Short and Mill. Officer Misik advised that he stopped Mr. Johnson's vehicle due to the volume of music coming from the vehicle, which was noticeable at greater than 50 feet away from Officer Misik. Officer Misik was on foot and waved Mr. Johnson down to conduct the traffic stop. Officer Misik stated that Mr. Johnson was immediately verbally abusive upon contact. Officer Misik further advised that he did nothing to precipitate Mr. Johnson's behavior, and made no racial statements to him. Officer Misik also advised that he had no contact with Mr. Johnson before or after the events captured on his body worn camera. He also verified that he did not know Mr. Johnson was the driver of the vehicle prior to the stop.

Conclusion

The citizen complaint against Officer Misik was filed in response to a traffic stop conducted at Short and Mill Streets on September 23rd 2023. The accusations of police harassment, racial profiling, unlawful stops, and misuse of police power were the specific complaints. The allegation that Officer Misik violated General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees, requires scrutiny of each part of that section.

Conduct Toward the Public:

Officer Misik was cordial in the face of immediately confrontational verbal and body language upon contact with Mr. Johnson.

Officers shall interact with the public in a civil and professional manner that conveys a service orientation that fosters public respect and cooperation.

Officer Misik maintained civility and professionalism while in contact with Mr. Johnson. At no point was the interaction disrespectful on Officer Misik's part.

Officers shall treat individuals with courtesy, respect and dignity.

Despite the interaction with the continuing lack of cooperation on Mr. Johnson's part, Officer Misik continued to display a manner that treated Mr. Johnson with courtesy and dignity.

Officers shall not use language that might belittle or ridicule individuals and shall be tactful in the performance of their duties, shall control their tempers, exercising the utmost patience and discretion.

Officer Misik used no language that conveyed ridicule towards Mr. Johnson, nor did he belittle Mr. Johnson in anyway. Despite Mr. Johnson's inappropriate language, Officer Misik at no time lost his temper, instead exercising patience in line with the expectations of the department.

Officers shall perform their duties equitably in both the enforcement of laws and the delivery of law enforcement services within the community and shall strive to maintain public trust by conducting all law enforcement business in an unbiased, fair, and impartial manner.

Officer Misik showed no bias or partiality in his enforcement of the noise ordinance violation, treating Mr. Johnson as equal to any other citizen contact. Officer Misik remained completely impartial throughout the contact. The traffic stop occurred within Officer Misik's assigned area of responsibility during his regular shift. There was no evidence that the traffic stop was racially motivated. The area of Short and Mill Streets at that time of evening has been the subject of numerous complaints of loud vehicles and music as well as other city violations and crime. Mr. Johnson was neither singled out nor targeted by Officer Misik.

Mr. Johnson refers to the city noise ordinance in the video, and the fact that it does not apply to him in this particular instance. Presumably he is referring to the Lexington City ordinance Section 14-70 to 14-80, which states:

(2) Operating or permitting the operation of any tools or equipment used in construction, drilling or demolition work between the hours of 11:00 p.m. and 7:00 a.m., prevailing local time, such that the sound therefrom creates a noise disturbance across a dwelling unit boundary, except for emergency work of public service utilities or by special variance as provided for in section 14-74. This paragraph shall not apply to the use of domestic power tools subject to subsection (3) of this section.

There is an additional section applicable in this instance, which states:

(11) Consistent with the other provisions of sections 14-70 through 14-80 of the Code, and in addition thereto, no person shall use or operate any radio, stereo, tape player, record player, compact disc player or any similar device for the producing, reproducing or amplification of sound in or on any vehicle located within or on the public streets or rights-of-way or within or on any other public property, including, but not limited to parks, or public parking lots operated by the urban county government or the Lexington and Fayette County Parking Authority/LexPark, in such a manner as to create a noise disturbance that is audible to a person of normal

hearing sensitivity more than ten (10) feet from such vehicle. Words and phrases need not be discernible for said sound to be "audible", and said sound shall include bass reverberation.

Mr. Johnson indicates in his statements that he has interpreted this city ordinance as applicable to vehicles and music, and applying from 7 in the morning to 11 in the evening. In fact that section applies to construction noise, and is prohibited from 7 in the evening to 11 in the morning absent permitted exception. Therefore his allegation that the noise ordinance was improperly applied is factually incorrect.

On September 28th 2023 Officer Misik's supervisor, Lieutenant Randall Combs contacted Mr. Johnson, who had initiated an informal complaint for this traffic stop and contact. This is maintained in department records under 2023INF-137 and can be reviewed upon request. After investigating the contact, Lieutenant Combs recommended the informal complaint be unfounded based on lack of any wrongdoing on Officer Misik's part.

The allegations that Officer Misik conducted racial profiling, and misused police powers have been proven demonstrably false. Also proven false are the allegations of an unlawful stop or police harassment. During his interactions with Mr. Johnson on the traffic stop, Officer Misik demonstrated the highest courtesy and professionalism. This is based on both the body worn camera footage as well as the interview with Officer Misik.

Officer Misik has not violated General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees. I recommend this complaint be unfounded.

Lieutenant Jeff Jackson
Bureau of Investigation
Public Integrity Unit

cc: file – PIU 2024F-003



Lexington Police Department
MEMORANDUM
 Lexington, Kentucky

DATE OF ISSUE
 January 25, 2024

EFFECTIVE DATE

NUMBER
 PIU: 24-014

TO:
 Assistant Chief Shawn Coleman
 Bureau of Special Operations

SUBJECT:
 FORMAL COMPLAINT

FROM:
 Lieutenant Jeffery Jackson
 Bureau of Investigation
 Public Integrity Unit

COMPLAINANT: Mr. Montrail Johnson

ACCUSED OFC.: Officer Brian Misik

ALLEGATION: Violating General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees.

ALLEGED CIRCUMSTANCES: The complainant, Montrail Johnson, came to police headquarters on Wednesday, 1/24/2024, and submitted the below complaint:

“Police Harrassment
 Racial Profiling
 This was a continuance of unlawful stops
 Misuse of Power
 'I'm a citizen not a animal' ”

ACTION REQUESTED:

- The Bureau Commander and Officer Misik should sign the Acknowledgment Sheet and process this complaint.
- The Commanding Officer should provide the attached copy of the Form 111 and the Officer’s Rights Packet to Officer Misik.
- Officer Misik should contact the Public Integrity Unit to arrange for a time to provide a formal statement.

DATE

TIME

Bureau Commander Saul D. Mader 26 JAN 24 1400
Supervisor [Signature] 439811 26 JAN 24 1400
Officer [Signature] 46011 26 JAN 24 1400

Accused officer would like the Public Integrity Unit to notify the FOP President or their designee that a formal complaint is filed against them. (Circle One) YES or NO

Returned to the Public Integrity Unit Comm. Jackie Newman

[Signature] 41912
Lieutenant Jeffery Jackson
Bureau of Investigation
Public Integrity Unit

mrv

enclosures

cc: Chief Lawrence Weathers
file - PIU2024F-003

**LEXINGTON POLICE DEPARTMENT
FORMAL COMPLAINT FORM**

FORM 111 (5/21)

File #: PIU 2024F-003

FOR OFFICIAL USE ONLY

Employee Involved: Misik, Brian			Employee #: 46611	Hire Date: 12/10/2007
Present Assignment: Bureau of Special Operations / Downtown Entertainment District				
Complainant: Montrial Johnson			Complainant Address:	
Complainant Phone #:	Alternate Complainant Phone #:	Complainant Email: N/A		
Date of Incident: 9/23/2023	Time of Incident: 0047	Location of Incident: Short / Mill Street	Date and Time Reported: 1/24/24 @ 1249	How Reported: <input type="checkbox"/> Letter <input type="checkbox"/> Phone <input checked="" type="checkbox"/> Person <input type="checkbox"/> Email

DESCRIPTION OF ALLEGATIONS:

The complainant, Montrial Johnson, came to police headquarters on Wednesday, 1/24/2024, and submitted the below complaint:

"Police Harrassment
Racial Profiling
This was a continuance of unlawful stops
Misuse of Power
'I'm a citizen not a animal' "

If the above allegation is true, then Officer Misik has violated General Order 1973-02L Disciplinary Procedures of Sworn Officers, Appendix B, Section 1.07, Conduct Toward the Public and Conduct Toward Department Employees

I swear/affirm that the facts set out in the allegations herein are true to the best of my knowledge and belief.

Complainant Signature: _____

Date: 1-25-24

1-25-24

Subscribed and sworn before me this date: 1-25-24

1-25-24
(Date)

Andrew Bol: KYWP2810
(Notary)

My Commission Expires: FEB 14 2024

FEB 14 2024

Witness:

Name: _____ Address: _____ Phone: _____

Recorded By: Bureau of Investigation, Public Integrity Unit

File #: 2024F-003

Employee: Misik, Brian

CHIEF OF POLICE

[Finding: PC=Proper Conduct, IC=Improper Conduct, IE=Insufficient Evidence, PF=Policy Failure, UC=Unfounded Complaint]

Finding Policy Violation

Chief of Police Determination: Case Be Closed Corrective Training Recommend Disciplinary Action (see below)

Materials Reviewed:

Comments:

Large empty rectangular box for comments.

Signature: _____ Date: _____

DISCIPLINARY REVIEW BOARD

Finding Policy Violation

Disciplinary Review Board Recommendation: Case Be Closed Corrective Training Disciplinary Action (see below)

Comments:

Large empty rectangular box for comments.

Signature: _____ Date: _____

CHIEF OF POLICE FINAL DETERMINATION

Case Be Closed Corrective Training Recommend Disciplinary Action (see below)

Comments:

Large empty rectangular box for comments.

Signature: _____ Date: _____

File #: 2024F-003

Employee: Misik, Brian

ALLEGATIONS CONTINUED:

A large, empty rectangular box with a thin black border, occupying most of the page. It is intended for recording the details of the allegations mentioned in the header.

FOR OFFICIAL USE ONLY

LEXINGTON POLICE DEPARTMENT CITIZEN COMMENT FORM

*If you wish to be contacted for follow up and/or notified of the findings regarding the information you provided, please provide your contact information below. If you simply want to make us aware of specific conduct and behavior while remaining anonymous and without further notification, you can leave the personal information section blank.

Today's Date/Time: 1-24-24 / 12:49 pm

Reporting Party Information (optional*):

Name*: Montrial Johnson

Address*:

Phone*: _____ E-mail*: _____

Involved Employee(s) Information (if known):

Name(s): _____ Employee (badge)#: 46611 Vehicle#: _____

Date and approximate time of incident: 9-23-23 / 0047

Case Number (if known): 23 - P321159-

Location of incident: Short + Mill

Summary of Incident:

Police harrasment
Racial profiling
This is a continuance of unlawful stops
misuse of power

"I'm a citizen not a animal"

(Continue on page 2 if necessary)

If you would like to discuss your matter with someone, contact the Pubic Integrity Unit (PIU): Mon-Fri: 8am – 4pm, in person, by phone, or email to schedule an appointment:



150 E. Main St
Lexington, KY 40507
859-258-3625
comment@lexingtonpolice.ky.gov

(Continued summary from page 1)

