

Complaint Summary 522 Flanagan Complaint

Date of the Incident: May 23, 2022

Complainant feels ELPD violated the following

Illegal Search and Seizure

Persons Refusing EMS Care

Code of Conduct Unprofessionalism

Fair and Impartial Policing

Assault and Battery

False Imprisonment

Harassment

Lack of Training

Lack of Knowledge of the Law

Narrative

On May 23, 2022, A Black man had a seizure at a bus stop. A passer-by called 911 and contacted the victims' sister via his cell phone's emergency contact. The sister confirmed that the victim was prone to seizures. Two police officers, one white male and one white female arrived separately. Paramedics arrived shortly thereafter. The man was still laying on the ground when the female officer put her hands on him and told him to first, stay laying, then stay sitting. When he continued to a standing position, she said, "You don't listen do you?" Both officers pushed him onto the bus bench, pulled on his sweatshirt and then used two hands to push him back onto the bench. He was told, "You are not going anywhere" and "If you don't give us your name, we have to take you to the hospital." The paramedics asked the man a series of questions. When he refused to have a blood glucose check, they decided to move him to the stretcher. Here he was verbally declining to be placed on the stretcher, he repeatedly said they were hurting him, he declined having his property searched and asked to go to the bathroom, which he was denied. At his point, he was searched by multiple people involved and his fanny pack was forcibly removed from him and completely searched. Contents of his fanny pack were not returned to him, and he was loaded onto the ambulance. The police accompanied the man to the hospital. In the emergency room, the police prevented the man from leaving until he consented to a drug test. The man phoned his uncle who advised him to leave AMA (against medical advice). The man followed that advice, made the announcement and was allowed to leave. In the parking lot after he was release, the man's uncle spoke on the phone with the male officer who stated that he searches everyone before they get into an ambulance.

Following the incident, the female officer wrote a report indicating the man had been slightly combative. The male officer wrote a report indicating that the man violated drug laws. The male officer requested an arrest warrant from the prosecutor for the drug violation, but the prosecutor refused due to the search being illegal.

Following the incident, the male officer wrote a report indicating that the ambulance crew had requested the search.

ELPD Investigation Findings:

Policy Violations:

1. ELPD Policy #300-1:B. Exception to the search Warrant Rule. G. Emergency Aid Doctrine: a. An officer has reasonable grounds to believe there is an emergency and an immediate need for the assistance for the protection of life. D. the officer reasonable suspects that the area of place to be searched is associated with the emergency and that, by making a warrantless entry, the officer will discover something that will alleviate the emergency.
 - a. At the time of the search, the complainant's nephew was not in custody, under arrest, or had consented to the search
 - b. The complainant's nephew was not experiencing a medical emergency and there was no immediate need for their assistance for the protection of life at the time of the search. He had come out of the of the seizure and was talking to the paramedics. The search of the bag was conducted after the ELFD paramedics arrived on the scene and he was put onto a stretcher.
 - c. There was no crime afoot or reasonable suspicion of a weapon involved.
 - d. During the review of the body worn camera (BWC) the investigator finds no aggressive or assaultive behavior, probable cause, or exception to the search warrant rule which would constitute an articulable reason for a pat down or search.
 - e. During the review of the BWC, the officer states to the complaint that he searches everyone that gets into the ambulance.
 - f. Denial of the warrant request from ICPO indicated by APA Shaw that denial rational by ICPO is unable to sustain the burden. APA Shaw indicate that due to no medical emergency at the time of the search did not meet the Exigent Circumstances exception to the search warrant rule.
2. ELPD Police #300-16: C. Persons Refusing EMS Care. If a person who is not in custody refuses EMS care or refuses to be transported to a medical facility, a police officer shall not force that person to receive medical care or be transported.

Unsubstantiated violations of policy

Code of Conduct. Unprofessionalism: After observing the video from the officer's BWC, the investigator finds that the employees acted within policy. No rude or unprofessional communication was observed.

Fair and Impartial Policing: After observing the video of the officer's BWC and interviewing the officers involved in this complaint, the investigator finds the employees unfounded about their actions in searching the individual due to his race and the way he looks.

Unsubstantiated violations of law:

Assault and Battery: MCL 750. 81 Assault and Battery & COEL Sec 26-63. After reviewing the MCL code & COEL Code sec 26-63 this incident does not rise to the stature of Assault and Battery.

False Imprisonment: MCL 750.349b Unlawful Imprisonment. After reviewing the MCL code this incident does not rise to the stature under Unlawful Imprisonment.

Harassment: MCL 750.0411h Stalking. A After reviewing the MCL code this incident does not rise to the stature under Stalking.

ELIPOC Requests for additional information

It was requested that the ELPD investigate the truthfulness of the officer's statement that the paramedics requested him to search the fanny pack of the complainant's nephew.

It was requested that ELPD investigate this situation due to the lack of reporting of the Use of Force exerted on the complainant's nephew.

It was requested that ELPD engage an outside agency to review the actions of the officers involved in relation to Use of Force

ELPD Response to ELIPOC Requests

ELPD EXONERATED the officer involved regarding the ELIPOC's concerns regarding truthfulness

ELPD EXONERATED the officers regarding reporting of, or participating in a Use of Force incident

ELPD refused to engage an outside agency to review the actions of the officers involved in relation to Use-of-Force

Summary by the ELIPOC Complaint Committee, 2/8/2023

The complaint was the fourth complaint received in 2022

Demographic data and history of complaints provided by the ELPD

Complaint Classification: Disciplinary

Race of Complainant: Arabic

Sex of Complainant: Male

Officer Race: White

Officer Sex: Male

Officer 5-year (2017-2022) Complaint Trend 3

Policy- 3

Demeanor-1

Use of Force- 1

Officer 5-year (2017-2022) Admi Inquiry Trend 0

Documents related to this complaint

Complaint investigation

<https://cityofeastlansing.civicweb.net/document/83946/522-Flanagan%20Investigation%20Report.pdf?handle=0764BCBD72494CF79444A73850E35D1E>

Response from ELPD to motion from ELIPOC

<https://cityofeastlansing.civicweb.net/document/85565/223641538%20REDACTED.pdf?handle=95702DD836D64CEDB9F5DCB6EC5CC448>

Response from Police Chief Johnson to motion from ELIPOC

<https://cityofeastlansing.civicweb.net/document/92789/ELIPOC%20response%20for%20Flanagan%20RTR%201-17-23.pdf?handle=09925A2E51A3499DBED84FFD9B441F9E>