



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

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ATTORNEY GENERAL

DIVISION OF SOCIAL JUSTICE
LAW ENFORCEMENT MISCONDUCT INVESTIGATIVE OFFICE

October 22, 2024

Via Email

Commissioner Robert E. Waring
Suffolk County Police Department
30 Yaphank Ave,
Yaphank, NY 11980
Robert.Waring@SuffolkCountyNY.gov

Re: Letter regarding Executive Law 75(5)(b) Referral of Police Officer Christopher Weiner
OAG Matter No. 1- 793900267

Dear Commissioner Waring,

We have reviewed your agency's referral of Police Officer Christopher Weiner pursuant to Executive Law Section § 75(5)(b). Based on our review, we have not made a finding of a pattern or practice of misconduct, use of excessive force or acts of dishonesty on the part of Police Officer Weiner.

However, we do note concerns with respect to IA #22-59i and IA #21-559i, and make two recommendations for remedial actions below.

1. IA #22-59i

On February 13, 2022, SCPD received a civilian complaint alleging that Officer Weiner used excessive force upon a complainant after a February 12, 2022 traffic stop during a Driving While Ability Impaired (DWAI) investigation. Body-worn camera footage and SCPD records show that the driver was lethargic and unable to provide a driver's license, told officers that he suffered from epilepsy and mental health conditions, and failed Standardized Field Sobriety Tests but had a negative result on a Preliminary Breath Test for alcohol. He was frisked and placed in the backseat of a police vehicle without handcuffs while the investigation continued. When Officer Weiner subsequently informed the complainant that he was being arrested for DWAI, the complainant, who was still sitting in the back of the police vehicle, used his hands to push Officer Weiner's hands off him. Shortly after the initial resistance, Officer Weiner used his right hand,

which was holding metal handcuffs, to punch the complainant in the head.¹ Photographs of the complainant show that he sustained cuts to his face. The complainant was subsequently pulled out of the police vehicle, taken to the ground, and handcuffed, although the BWC does not provide a clear view of the force used to do so.

While SCPD exonerated Officer Weiner on the allegations of excessive force, Officer Weiner's use of a punch to the complainant's head while holding metal handcuffs was not an exercise of the use of the least amount of force necessary, as required by SCPD Policy 300. In this incident, there were multiple officers on scene, the driver was confined in the police vehicle, and had been checked for weapons earlier. Officer Weiner's quick resort to a head strike with what in effect was a metal weapon was a disproportionate response to minimal resistance and therefore unreasonable.

With respect to IA #22-59i, we recommend that SCPD retrain Officer Weiner on use of force policies. Because this incident is beyond the Civil Service Law's 18-month statute of limitations, we do not recommend disciplinary action.

2. IA #21-559i

IA #21-559i relates to the October 9, 2021 arrest of an individual for speeding, reckless driving, and DWI. After Officer Weiner brought the individual, who was handcuffed with his hands behind his back, into the police station, the individual was combative and apparently sought to kick Officer Weiner. Another officer threw the individual to the floor of the station, punched him in the head, and dragged the individual, who had gone limp, by his shoulders down the hall of the station.² Officer Weiner, who had been recording on his BWC, turned his BWC off after the punch and did not reactivate his camera for 14 minutes, at which point the individual was located in another room of the station, wearing a spit hood over his head with blood on the floor nearby, and medical personnel had arrived.

SCPD Body-Worn Camera Policy 422.7(1) states that “[o]nce officers activate their BWC, they shall continue recording until the investigative, enforcement, or other event involving a member of the public has ended.” Section 422.7(2) goes on to provide that, “in the case of an arrest, the arresting officer shall continue recording on BWC during transport to a Department. Officers shall deactivate their BWCs while inside Department, unless instructed otherwise by a supervisor.” Other provisions specifically apply to recording arrests and other incidents that occur within the police station. For example, 422.6 says “notwithstanding the prohibition to record within a department facility, officers shall activate their BWCs when affecting an arrest in a Department” and the note to 422.7(2) says that a “supervisor may, at his/her direction, direct an officer to activate the officer's BWC inside a Department... facility (i.e. prisoner intake, resisting arrest charges, belligerent prisoners, DWI/DUI arrest).”

While SCPD policy appears to require that BWCs be deactivated inside police buildings and doesn't specifically exempt force incidents from this prohibition without direction from a

¹ The handcuffs in Officer Weiner's hand are visible when viewing the BWC footage at a slower speed.

² SCPD substantiated excessive force allegations against this officer.

supervisor, the absence of further BWC footage limited the ability of SCPD and the Office of the Attorney General to fully investigate this incident. Additionally, the deactivation of the BWC in the middle of a serious force incident like this one does not promote transparency or public trust.

With respect to IA#21-559i, we recommend that SCPD update its BWC policy to require the recording of force incidents within SCPD stations, which would facilitate investigations and increase transparency and public trust.

Pursuant to Executive Law 75(5)(c), we request a response from SCPD regarding the remedial actions recommended above.

We appreciate the cooperation of you and your agency.

Thank you,

Tyler Nims
Chief, Law Enforcement Misconduct Investigative Office
New York State Office of the Attorney General