

REPORT ON INVESTIGATION

To: Carol A. Shelby, Senior Director – Environmental Health and Public Safety

From: John K. Cox, Chief of Police

Date: February 20, 2014

Re: Response to Formal Complaint by Michael Takeda

I. BACKGROUND

On January 28, 2014, I received a written complaint from an individual identified as Hiraku “Michael” Takeda, a Purdue student and a photographer with *The Purdue Exponent* newspaper. The complaint arose from an interaction that Mr. Takeda had with law enforcement, including representatives of the Purdue University Police Department (“PUPD”), on January 21st, 2014, in connection with PUPD case 2014-59. (Officers from the West Lafayette Police Department and the Tippecanoe County Sheriff’s Department were also involved in this incident and were interviewed as part of this investigation.) In his complaint, Mr. Takeda asserts that he was the victim of harassment, unwarranted detention and violations of his rights by officers while on the Purdue campus.

Specifically, the allegations in Mr. Takeda’s complaint can be summarized as follows:

- a. Unwarranted detention. Mr. Takeda states that, after he was stopped by police inside the Electrical Engineering Building, he was taken to the PUPD station and detained for more than two hours. His complaint asserted that no one with PUPD asked him a question that indicated a belief about his being involved in the shooting, and his complaint observed that he was not restrained at any point during his detention. His complaint further asserted that this treatment, combined with certain derogatory comments that he also alleged (and that are described below), indicated he was targeted because he was a student journalist with *The Exponent*. His complaint also stated his belief that a possible violation of the federal “Protection Privacy Act [*sic*]” may have occurred when his camera equipment was taken at the scene and was not immediately returned to him upon his release by PUPD. (Presumably, Mr. Takeda meant to refer to The Privacy Protection Act of 1980.)
- b. Harassment. Mr. Takeda’s complaint alleged that he received verbal abuse from a Purdue police officer while being taken to the Purdue police station, in the form of the following two statements.
 - a. Alleged statement #1. His complaint alleged that an unidentified officer stated to him, “You’re lucky you weren’t double tapped in the chest.”
 - b. Alleged statement #2. His complaint also alleged that, when Mr. Takeda asked if there were any possible charges to be filed against him, the officer stated “I hope so, and I

hope they throw you out of school. And you know where you would be working next year? McDonald. [sic]"

- c. Inappropriate level of force (use of electronic control device). Mr. Takeda's complaint also stated that, at the time he was stopped by police inside the Electrical Engineering Building, one officer pointed a "TASER" (referred to herein as an electronic control device) at him.
- d. Inappropriate level of force (pushing to ground). His complaint also asserted that police screamed at him to get on the ground and subsequently rushed to him and pushed him to the ground. His complaint alleged that this action caused one of his cameras to become damaged when he used them to break his fall.

After reviewing the contents of the complaint, I requested an internal investigation in accordance with PUPD's General Order 52.2 regarding complaint procedures. On January 29, 2014, I assigned the division captain of the unaffected division (who had no involvement with Mr. Takeda's apprehension and detention) to thoroughly investigate Mr. Takeda's claims.

General Order 52.2 requires that the Chief of Police shall review all internal investigations and that all allegations of misconduct shall result in conclusions of fact, which are to be designated as one of four types of findings: (i) exonerated; (ii) founded; (iii) unfounded; or (iv) insufficient evidence. Neither this General Order nor our longstanding practice under it contemplates that these conclusions are to be reported outside of the department. However, in the present case, this report has been compiled and is being shared with the Purdue University administration at the request of President Daniels in recognition of the ongoing importance of maintaining an effective relationship between law enforcement and media on Purdue's campus.

II. INVESTIGATION

The assigned investigator reviewed official investigative reports, conducted walkthroughs of the Electrical Engineering Building, conducted an onsite event reconstruction using similar cameras and clothing, and interviewed the parties involved. The interviews were conducted with the officers who responded to the call that day, as well as with Mr. Takeda.

III. FINDINGS AND CONCLUSIONS

After carefully reviewing the facts gathered from the interviews with the involved parties, reviewing the investigative reports and visiting the scene of the incident, I have made the following conclusions of fact and resulting determinations with respect to each allegation in the complaint:

- a. Unwarranted detention. Mr. Takeda's allegation that he was detained is true; however, the action of PUPD employees was consistent with General Order 1.2. Investigative detentions are based on reasonable suspicion supported by articulable facts. Considering the totality of circumstances, both of these elements were present here.

According to the law enforcement officers involved, they entered the Electrical Engineering Building (EEB) as a tactical group within minutes after the shooting. Their purpose was to secure

the building by walking through each hallway and assessing further threats. They were tasked with escorting out students and staff who were sheltered in place, locating additional potential additional victims, and seeking out the possibility of additional suspects or aggressors.

According to Mr. Takeda, he arrived at the scene of the incident at approximately 12:30 p.m. He shared in his interview that he could see that the outside of the EEB was secured with yellow tape and that officers were posted around the area. Nonetheless, having recalled that there was a “bridge” connecting the Materials Electrical Engineering Building (MSEE) to the EEB, he decided to go to the bridge to see if he could gain access. Once there, he did not observe any signs or markings preventing entry, so he entered EEB.

For their part, the officers searching the EEB noted that law enforcement officers were present at each exterior door of the EEB and thus believed the EEB to be fully sealed off, but in hindsight they did not observe whether there was an officer securing the entrance on the second floor bridge leading to MSEE.

Once inside the EEB, Mr. Takeda noticed a camera attached to the ceiling of the corridor and attempted to avoid the camera by taking a stairwell located nearby. He stated that he noticed that the hallways were empty and quiet and took a few pictures of the empty hallway, but did not get close to the area of the actual shooting.

Mr. Takeda, while in a “T” shaped corridor, then heard what he believed to be officers around the corner and stuck his head out around the corner to see. He then made an attempt to retreat as he thought it best for him to leave the area. The officers, however, had already detected Mr. Takeda’s presence and observed that he was holding two dark objects close to his person, described to be positioned in the lower portion of his torso on each side of his person. The officers directed loud verbal commands to him to stop, to show his hands and to walk towards them. Mr. Takeda, according to individual interviews of the officers, retreated and moved hurriedly away from the officers, not responding to the commands given. The commands were repeated as the group of officers advanced towards Mr. Takeda. Mr. Takeda at this point heeded the commands and turned around and walked towards the officers. According to the officers, it was at this point that he identified himself as working for *The Exponent*, and the officers were able to ascertain that the items with him were cameras.

Mr. Takeda was then apprehended and detained by the officers. What transpired in the course of his being apprehended is the subject of another element of Mr. Takeda’s complaint, described in part III.d. below.

I find that Mr. Takeda’s detention was not unwarranted. He was detained because of the apprehending officers’ reasonable suspicion, supported by articulable facts, that criminal activity may be afoot based on Mr. Takeda’s entering a building they had thought was secured, not heeding their verbal commands, and attempting to flee from them. In the initial moments, there was also the need to determine any possible involvement in the shooting. In reviewing the actions of the officers present, I have also considered that they were operating in an extremely high-pressure situation just moments after a violent death had occurred on the premises, and they

did not yet know whether the area within the perimeter was free from additional suspects or aggressors intending to do harm. The reconstruction of the event highlighted the difficulty in recognizing cameras held against a black coat (similar to the coat worn by Mr. Takeda) in a long hallway. Once Mr. Takeda was taken to PUPD for questioning, he was released as promptly as practicable in light of the fact that PUPD personnel and resources were at the time spread very thin, when other pressing matters in the aftermath of the shooting required immediate attention.

As for Mr. Takeda's cameras, they were immediately secured and held for safekeeping in the incident command post until Mr. Takeda returned for them. While they were in the incident command post, the cameras were not tampered with, nor were their contents accessed or examined in any way. Any delay of Mr. Takeda's retrieving the cameras from the mobile command center was likely caused by the intense activity that surrounded the criminal investigation site throughout the afternoon of the incident.

After careful consideration of these factors, I have determined that the PUPD officers involved should be exonerated with respect to this allegation.

b. Harassment.

1. Alleged statement #1. With regard to Mr. Takeda's accusation that an officer threatened and harassed him when he asked whether any possible charges would be filed, certain aspects of the officer's account align with the contents of the complainant's statement, such as the reference to McDonald's. The accounts were substantively different, however, with regard to the nature and tone of this exchange.

For his part, the officer who was a party to this conversation believed that his response to Mr. Takeda's question about possible charges was in the nature of cautionary but calm counsel and advice, while Mr. Takeda took his words to be derogatory and threatening. According to this officer, and in response to Mr. Takeda's bringing up the topic of whether possible charges might be filed, the officer advised Mr. Takeda to be careful about activities that might run the risk of criminal charges, as he had his educational investment to think about. The officer, attempting to provide feedback to Mr. Takeda, said that the last thing he needed to do was jeopardize all the effort he had put forth at Purdue and find himself working in the fast food industry such as McDonalds. According to the officer, Mr. Takeda then replied, "Yeah, you are right."

In the face of these conflicting accounts, I find insufficient evidence to confirm or refute this allegation.

2. Alleged statement #2. With regard to the complainant's statement that an officer had advised him "You're lucky you weren't double tapped in the chest," none of the officers who were interviewed, including those from PUPD and the other law enforcement agencies present, heard or admitted to making this comment. Accordingly, I have determined that there is insufficient evidence to confirm or refute this allegation.
- c. Inappropriate level of force (use of electronic control device). The law enforcement officers involved uniformly stated that they each had their firearms in hand during the incident with Mr.

Takeda. (The deployment, not discharge, of firearms in such a situation is consistent with General Order 1.3.) None of the officers had an electronic control device deployed at any time during the incident. Accordingly, I have determined that there is no credible evidence to support this allegation, so I find this allegation to be unfounded.

d. Inappropriate level of force (pushing to ground).

According to Mr. Takeda, at the time he stopped retreating and turned to face the officers in response to their commands to get down, he put his hands up (with a camera in each hand) and identified himself as a photographer with *The Exponent*. He then got down on his knees.

According to Mr. Takeda, it was at that point that he was pushed down by law enforcement. In his account, as he was falling forward, he put his hands forward, still holding a camera in each hand, to break his fall. He said his cameras struck the floor at this time. Mr. Takeda's cameras were taken from him as he was escorted from EEB.

The fact that Mr. Takeda got on his knees of his own accord was corroborated by the officers present. In contrast to Mr. Takeda's account that he was then pushed, however, the officers maintained that the complainant was not forcefully placed to the ground. Instead, according to their description of what transpired, Mr. Takeda, without physical force from the officers, placed both cameras in front of him. He then proceeded, again without physical force from the officers, to lie on the ground with his arms to the side.

On this aspect of the complaint, the statements provided by the multiple officers were consistent, and there were no flags raised to question their credibility. On the other hand, Mr. Takeda maintains that he was pushed to the ground from behind. Having weighed the information gleaned from these conflicting accounts, I have determined that there is insufficient evidence to confirm or refute this allegation.

IV. FURTHER RECOMMENDATIONS

As a result of the foregoing conclusions, this investigation has not resulted in findings that would require any further personnel actions within PUPD. In accordance with our practice to seek opportunities for improvement during our after action review process, I have recommended the following opportunities be offered by the appropriate Division Captain to build upon our media relationships.

1. PUPD will continue to provide a training course on media interactions for all sworn department personnel as part of our annual training. The training will continue to be supported by Purdue's internal resources in the Office of Public Affairs and shall include, but will not be limited to, content on the rights of journalists under The Privacy Protection Act of 1980 and other applicable laws and regulations, particularly where such rights intersect with law enforcement's need and ability to act on reasonable suspicion and probable cause in the midst of a suspected crime scene.

2. Mr. Takeda will be invited to participate in PUPD's annual Citizens Police Academy, which begins next week, where he can learn about police operations at all different levels. This has been a popular program and has alumni from WLFI and *The Journal and Courier*. This course has proven to build good relationships and better understanding with our community, including the media.
3. Although the investigation did not find conclusive proof that any actions by the law enforcement officers caused damage to either of Mr. Takeda's cameras, PUPD, as a show of good faith, stands ready to follow through on its offer to cover the cost of any necessary repairs as outlined in the email and attachment sent from Mr. Takeda to Captain Potts and I on Monday, February 17, 2014 at 11:29 am. The estimate is for \$230.00, plus parts and shipping.
4. PUPD will work with Purdue's Office of Public Affairs and seek to resume scheduling our quarterly meetings with staff from *The Exponent*. In the past this has involved Exponent staff, PUPD and PUFD. These meetings will be designed to establish and maintain an ongoing constructive dialogue about issues of mutual interest and concern. Previous meetings have been quite productive. At our next meeting we will remind *The Exponent* staff that they are invited to attend the quarterly "MIX" meetings held between local media outlets and local law enforcement agencies. These meetings are scheduled and managed by the Lafayette City Police Department and invitations are sent out via email.