



PUBLIC RECORDS
Released pursuant to
A.R.S. 39-121, Et. Seq.

To: Michael G. Sullivan
Interim Police Chief

Date: May 31, 2023

From: William Wickers, Commander *W5730*
Professional Standards Bureau

Subject: INTERNAL INVESTIGATION – PSB23-0002

Internal Investigators: Lieutenant Jeffrey R. Dick (Investigative Review)
Sergeant Kelly Barnes (Primary Investigator)
Sergeant Jeffrey M. Riddle (Secondary Investigator)

Allegation #1: On November 23, 2022, Officer Caleb Zimmerman #10442 conducted a search of a detained person without establishing a full custody arrest at [REDACTED]

Findings: Sustained

Allegation #2: On November 23, 2022, Officer Zimmerman unlawfully detained a person at [REDACTED]

Findings: Unfounded

Allegation #3: On November 23, 2022, Officer Zimmerman used excessive force when he detained a person at [REDACTED]

Findings: Unfounded

Allegation #4: On November 23, 2022, Officer Zimmerman wrongfully detained a person, based upon the person's race at [REDACTED]

Findings: Unfounded

Employee Involved: Officer Caleb Zimmerman #10442
Desert Horizon Precinct

Complainant: Department Initiated

Attachments: See Attachments Section

SUMMARY OF INVESTIGATION

On November 23, 2022, Officer Caleb Zimmerman #10442 responded to a trespassing call for service (CFS) at the Chase Bank located at [REDACTED] [REDACTED] [REDACTED]. The call details stated an unknown male was approaching customers in the bank parking lot and asking them for personal information and harassing them. Additional call details stated the male advised he was a reporter, and that he was refusing to leave.

Upon arrival, Officer Zimmerman contacted the bank manager who advised him bank employees received complaints from multiple customers reference the suspicious person, later identified as Mr. Dion Rabouin, approaching them and making them uncomfortable. Prior to police involvement, the bank manager directed two (2) bank employees to contact Mr. Rabouin and ask him to leave. Mr. Rabouin responded to the bank employees by saying he was a reporter and did not have to leave. The bank manager advised Officer Zimmerman they wanted Mr. Rabouin trespass from Chase Bank property, and they were willing to aide in prosecution if he refused to leave.¹

Officer Zimmerman contacted Mr. Rabouin on the sidewalk approximately twenty (20) feet from the front doors of the bank, and Mr. Rabouin refused to provide his identification.^{2 3} Officer Zimmerman told Professional Standards Bureau (PSB) investigators he knew the situation met the elements of trespassing, an arrestable offense. Officer Zimmerman then conducted an investigative detention for trespassing because Mr. Rabouin refused to provide his identification and Officer Zimmerman was unable to complete the official trespassing notification card. As Mr. Rabouin continued refusing to provide his name and identification, Officer Zimmerman searched Mr. Rabouin incident to arrest without having completed a full custodial arrest. Mr. Rabouin was identified from identification which Officer Zimmerman found in his pants pocket. Officer Zimmerman completed a trespassing notification card and then released Mr. Rabouin from custody.

Officer Zimmerman advised PSB investigators that he told Mr. Rabouin he was only being detained in an attempt to calm him and gain compliance until backup officers arrived. Phoenix Police Department policy lists essential elements normally required to effect a lawful arrest as; intent on the part of the person making the arrest, authority that is lawful on the part of the person making the arrest, seizure or detention of the arrestee, and understanding on the part of the arrestee that they have been arrested.

There are two (2) "No Trespassing" signs posted around the Chase Bank property, both at the driveway entrance to Chase Bank, from North 32nd Street. One sign is affixed to the strip mall

signage on the south side of the driveway, and one is posted on a metal pole on the north side of the driveway.

PSB investigators reviewed Officer Zimmerman's body worn camera (BWC) and did not observe Officer Zimmerman display any words or actions to indicate a bias in any regard. Officer Zimmerman's highest level of force was the utilization of handcuffs, which is a restraining device. PSB investigators reviewed Arizona Revised Statutes (ARS) 13-1502, criminal trespass in the third degree, and determined Mr. Rabouin's actions met the elements of the misdemeanor offense and therefore, Officer Zimmerman's detention and handcuffing of Mr. Rabouin was lawful and justified.

Because Officer Zimmerman failed to inform Mr. Rabouin he was under arrest, the allegation that Officer Zimmerman conducted a search of his person prior to establishing a full custody arrest is sustained.

The allegations of unlawful detainment, detainment based on race, and use of excessive force are unfounded.

DETAILS OF INVESTIGATION

On November 28, 2022, Mr. Dion Rabouin contacted PSB and alleged Officer Caleb Zimmerman #10442 unlawfully detained him, used excessive force while detaining him unlawfully, and threatened to assault him if he did not comply and get into the police vehicle. Mr. Rabouin provided incident number 22-001755741.

During the course of the telephone conversation with PSB investigators, Mr. Rabouin stated the following:

Mr. Rabouin is a reporter for the Wall Street Journal and was interviewing Chase Bank customers outside of the bank at North 32nd Street and East Cactus Road. Two (2) employees from the bank approached him and asked what he was doing and told him he could not solicit there. Mr. Rabouin told them he was not soliciting, and they said they needed to talk to someone; the employees then went inside the bank.

When Officer Zimmerman arrived and approached him, Mr. Rabouin told Officer Zimmerman he was a reporter for the Wall Street Journal interviewing customers for a story. Officer Zimmerman appeared uninterested and said it did not matter because the bank wanted Mr. Rabouin trespass and Officer Zimmerman told him he (Officer Zimmerman) was detaining him (Mr. Rabouin). Mr. Rabouin told Officer Zimmerman there was no need for that and that he

was on the sidewalk, not the bank property. Officer Zimmerman told him it was private property and he was being detained. Mr. Rabouin said he would leave voluntarily. Officer Zimmerman produced his handcuffs and “grabbed me, uh, kinda jacked my arm behind my back in a violent motion.”⁴ Mr. Rabouin had previously had his hands out where Officer Zimmerman could see them, identified himself, and did not resist Officer Zimmerman at all. Mr. Rabouin questioned Officer Zimmerman’s actions and his being detained for trespassing.

Officer Zimmerman told Mr. Rabouin they were going to walk to Officer Zimmerman’s patrol vehicle, which Mr. Rabouin told Officer Zimmerman wasn’t necessary. Officer Zimmerman “starts pushing me towards to the car, and then violently threatening, you know, if I don’t go with him it’s going to be bad for me, um, he’s going to rough me up, things like that.”⁵ Mr. Rabouin continued, “then, you know, finally, literally throws me kinda in the back of the uh squad car...telling me I better get my feet in again, more physical threats.”⁶

Mr. Rabouin reiterated to Officer Zimmerman it was not necessary and he would be happy to leave, and that the bank never told him to leave. Mr. Rabouin stated he made it clear to Officer Zimmerman nobody had asked him to leave and it was Mr. Rabouin’s understanding he was on public property. Mr. Rabouin stated two male subjects from the bank told him he could not solicit, and he said he was not soliciting. They told him they would go in and talk to someone and they went inside. Mr. Rabouin stated he had bruises and abrasions on his arms and wrists from the handcuffs and from Officer Zimmerman manhandling him.

Mr. Rabouin further alleged the back-up officers, Officer Kathryn Pavao #10319 and Officer Dwayne Conklin #9112, arrived and began intimidating the female witness, Ms. Katelyn Parady, who was legally filming the incident. Mr. Rabouin alleged Officer Pavao put her hands on Ms. Parady while Ms. Parady was filming. PSB investigators reviewed the officers’ BWCs and determined Mr. Rabouin’s complaints pertaining to Ms. Parady were unfounded. The officers appeared to act in a legal and appropriate manner, did not prevent Ms. Parady from recording, and Officer Pavao did not appear to make any physical contact with Ms. Parady. Additional details regarding this complaint were documented in control number INQ23-0040.

On November 28, 2022, Ms. Katelyn Parady called PSB to complain about Officer Zimmerman, and she provided the following: Ms. Parady said on November 23, 2022, she went to the Chase Bank near 32nd Street and Cactus Road. On her way into the bank, a reporter wanted to ask her questions for a story and she told him she was not interested. When she went back outside, she saw the officer handcuff the reporter and stated “it was just so aggressive and unnecessary.”⁷ The only part of the conversation she heard was the reporter saying he was

never told this was private property and no one from the bank asked him to leave. The reporter said he would leave, but he was already handcuffed. Ms. Parady said the reporter was black and she feels like it was discriminatory, which is why she started video recording the interaction. PSB investigators spoke to Ms. Parady again on December 9, 2022 and asked her what occurred that lead her to believe Mr. Rabouin was placed in handcuffs due to his race and she stated it was due to how quickly he was placed in handcuffs.⁸ On December 14, 2022, PSB investigators followed up with Ms. Parady and asked if she would provide the recording she made of the incident on her cell phone. Ms. Parady stated she wanted to think about it and speak with the reporter before she sends it because she feels like he has ownership over it as well. PSB investigators provided her with the email address where she can send the recording should she decide to provide it.⁹ PSB investigators never received the recording from Ms. Parady.

PSB investigators reviewed the details of the CFS for incident number 22-001755741, the criminal trespassing statute (ARS13-1502), the officers' body-worn cameras (BWC) videos and incident report (IR) 2022-1755741 authored by Officer Zimmerman.

PSB investigators found the CFS provided the following original call details:¹⁰

On November 23, 2022 at approximately 2:43 p.m., an employee with the last name of [REDACTED] called 9-1-1 to report a trespasser at the Chase Bank at [REDACTED] [REDACTED]

The CFS was entered as Priority 2. Officers were dispatched approximately ten (10) minutes after the CFS originated and the first officer arrived approximately nine (9) minutes after that. The call details, entered by the 9-1-1 call taker stated:"¹¹

"B OR IM WHI SHRT BLU SHORTS BLK SHOES ASKING FOR CUST PERSONAL INFO AND 250ING [harassing] THEM IN PLOT, REFUSING TO LEAVE SAYING HE IS A REPORTER."

Further documented details on the CFS show: Officer Zimmerman, call sign 633H, cleared on the radio stating he was "code 4" with one person in custody at 3:08 p.m. Approximately six (6) minutes after that, Officer Zimmerman cleared on the radio and asked for an estimated time of arrival (ETA) for the additional responding unit, and approximately one (1) minute after that Officer Zimmerman advised he was having difficulty and another person was interfering as well. The officers later conducted records checks of persons involved, and that data was added at the end of the CFS. At 3:48 p.m., the CFS received the disposition of "R," indicating an Incident

Report (IR) would be completed, and the information of "DION MALIK RABOUIN [REDACTED] 418T [trespass]," indicating Mr. Rabouin had been trespassed from the location, was added to the note section by Officer Zimmerman.¹²

Review of Officer Zimmerman's BWC revealed the following:

Officer Zimmerman arrived on scene and exited his police vehicle. As Officer Zimmerman approached the bank doors from the east side, two (2) male subjects were observed interacting on the southwest corner of the sidewalk immediately surrounding the Chase Bank: a male in a black shirt and jeans, and a black male in a white shirt, blue shorts, and holding a cell phone. Officer Zimmerman held the door open for one (1) of the males previously seen conversing on the sidewalk, and that male walked to the bank service counter as Officer Zimmerman contacted the bank manager, Ms. Cruz.¹³ As Officer Zimmerman and Ms. Cruz walked toward each other, Ms. Cruz pointed out the window in a southwest direction, and verbally identified the subject, later identified as Mr. Rabouin, to Officer Zimmerman. During their verbal exchange, Ms. Cruz told Officer Zimmerman that customers stated Mr. Rabouin asked them if they had accounts at Chase Bank, making the customers feel uncomfortable. Bank staff went outside and contacted Mr. Rabouin, telling him he was making people uncomfortable and asking him to leave the property. Mr. Rabouin refused, stating he was a reporter. Ms. Cruz' security team informed her because staff had asked him to leave and he refused, Ms. Cruz should call the police and she had the authority to trespass Mr. Rabouin. Ms. Cruz stated Chase Bank was willing to prosecute for trespassing and they wanted him trespassed from the property, for the future as well, if he refused to leave.¹⁴

Officer Zimmerman exited the bank and contacted Mr. Rabouin, asking for his identification, stating the bank wanted him trespassed from the property. Mr. Rabouin asked what trespassing meant and why would they want that. Mr. Rabouin stated they never asked him to leave. Officer Zimmerman explained the bank told him they asked him to leave and he would not, so now they wanted him trespassed. Mr. Rabouin refused to provide Officer Zimmerman his identification, stating he was never asked to leave, he believed he was on public property, and he was never told he was on private property. Officer Zimmerman advised Mr. Rabouin he was being detained because he was on private property, and the bank reported they asked him to leave and he refused. Officer Zimmerman went on to explain, for those reasons, Mr. Rabouin was required to provide his identification. Mr. Rabouin continued to argue with Officer Zimmerman and stated he was never asked to leave, and that Officer Zimmerman never asked him to leave or else he would have left. Officer Zimmer told Mr. Rabouin, "the next step is I put

you in handcuffs and you get arrested for trespassing. Is that what you want?" ¹⁵ Mr. Rabouin told Officer Zimmerman he will leave but would not provide his identification.

Officer Zimmerman removed his handcuffs from his duty belt and began handcuffing Mr. Rabouin. Application of the first handcuff to the right wrist and the second application to the left wrist took approximately twenty-one (21) seconds and is described in detail below: ¹⁶

Officer Zimmerman asked Mr. Rabouin to turn around and put his hands behind his back. Mr. Rabouin did not comply and continued to say he would voluntarily leave and repeatedly asked Officer Zimmerman what he was doing.¹⁷ Mr. Rabouin held his right arm to the side. Mr. Rabouin had been holding his cell phone in his left hand and he placed it in his pocket before extending his left arm out to the side. Both elbows appeared locked. Officer Zimmerman was in front of Mr. Rabouin and off to Mr. Rabouin's right side. Officer Zimmerman placed a handcuff on Mr. Rabouin's right wrist (also bearing what appeared to be jewelry/bracelets) and when Mr. Rabouin did not place his hands behind his back at Officer Zimmerman's fourth (4) request, Officer Zimmerman gripped his right hand to Mr. Rabouin's right tricep and attempted to move Mr. Rabouin's right hand to the small of his back.

Immediately after Officer Zimmerman's fourth (4) request for Mr. Rabouin to place his hands behind his back, Officer Zimmerman asked Mr. Rabouin "are you resisting" as Mr. Rabouin continued to question Officer Zimmerman and offer to walk away.¹⁸ Mr. Rabouin's right arm remained straight, with his hand down by his right hip, and he appeared to turn his upper body towards Officer Zimmerman. Officer Zimmerman readjusted his grip on Mr. Rabouin's upper arm. Officer Zimmerman moved behind Mr. Rabouin and Officer Zimmerman appeared to transition his right hand from Mr. Rabouin's upper arm, to the handcuffs. From Officer Zimmerman's new position, Mr. Rabouin's left arm was visible out in front of his body. Mr. Rabouin did not allow his right arm to be placed behind his back as Officer Zimmerman took hold of Mr. Rabouin's left wrist, which was bearing a wristwatch.

More than four (4) seconds after Officer Zimmerman first reached for Mr. Rabouin's left wrist, both of Mr. Rabouin's hands were visible in the BWC, with Officer Zimmerman's left hand around Mr. Rabouin's left wrist. Mr. Rabouin's left arm was bent at the elbow at approximately 90 degrees with his wrist in front of his own body. Mr. Rabouin's right hand, with the handcuff, was still held by Officer Zimmerman and was down by Mr. Rabouin's right hip. Mr. Rabouin asked a female bystander to record the encounter and Officer Zimmerman repeatedly told Mr. Rabouin to put his arms behind his back, eventually asking, "do you really want to make this worse?" ¹⁹

As Officer Zimmerman placed the handcuff on Mr. Rabouin's left wrist, Officer Zimmerman began stating, "Right now you can still..."²⁰ at which time Mr. Rabouin began speaking, "I told you I'd voluntarily leave..."²¹ Approximately twenty-one (21) seconds after Officer Zimmerman placed the first handcuff on Mr. Rabouin's right wrist, he successfully applied the second handcuff to Mr. Rabouin's left wrist.

Ms. Parady was seen walking up and comes within approximately six (6) to eight (8) feet of Officer Zimmerman as he was attempting to place Mr. Rabouin into handcuffs and started recording with her cell phone while telling Officer Zimmerman this was uncalled for. While Officer Zimmerman was telling Mr. Rabouin to walk to his police vehicle, Mr. Rabouin was stating there is no reason to walk to his car and Ms. Parady walked within three (3) to four (4) feet of Officer Zimmerman and started talking to Mr. Rabouin and asked him his name. Mr. Rabouin stated "Dion Rabouin" and then more loudly stated "a reporter for the Wall Street Journal".²²

Once at the police vehicle, Officer Zimmerman started to conduct a pat down on Mr. Rabouin. Ms. Parady had continued to follow them, and Officer Zimmerman told Ms. Parady, "you need to stay on the sidewalk please."²³ Ms. Parady stated she was just fine where she is. Officer Zimmerman then asked her if she wanted to get arrested as well and she responded "no."²⁴

Officer Zimmerman then asked Mr. Rabouin for his identification and Mr. Rabouin responded again by stating he does not need to provide him with his identification. Officer Zimmerman then retrieved Mr. Rabouin's wallet from his pants pocket and removed Mr. Rabouin's identification from the wallet. Officer Zimmerman told Mr. Rabouin to take a seat in the police vehicle. Mr. Rabouin refused to sit in the police vehicle. Officer Zimmerman stated "this doesn't mean you are going to jail. It just means you're detained."²⁵ Officer Zimmerman then told Mr. Rabouin "take a seat. You can still walk away from this. You can still walk away from this right now. Take a seat. It is an option, but if you don't sit down, it is not going to be an option."²⁶ Officer Zimmerman explained again why he was being detained and he wanted Mr. Rabouin to sit in the vehicle so he could safely run his name and identify him. Officer Zimmerman asked Mr. Rabouin "do you want me to force you into the car?"²⁷ After Mr. Rabouin continued to argue for another two minutes and nineteen (2:19) seconds about how he has done nothing wrong, Officer Zimmerman told Mr. Rabouin they are going to put him in the vehicle and then he will go to jail for resisting.

After an additional fifteen (15) seconds of arguing, Officer Zimmerman stated "I have lawful, right now I can put my hands on you and push you inside the car. I am choosing not to do that.

I don't want to do that.”²⁸ Mr. Rabouin continued to argue with Officer Zimmerman and refused to sit all the way in the police vehicle.²⁹ Officer Zimmerman waited until Officer Conklin arrived on scene and could standby with Mr. Rabouin, so he could conduct a records check. Officer Zimmerman conducted the records check and then officially trespassed Mr. Rabouin from the property and provided him with the names and badge numbers of the officers on scene.

PSB investigators reviewed the trespassing statute and found the following: A.R.S. 13-1502.A.1, Criminal trespass in the third degree states:

A person commits criminal trespass in the third degree by: knowingly entering or remaining unlawfully on any real property after a reasonable request to leave by a law enforcement officer, the owner or any other person having lawful control over such property, or reasonable notice prohibiting entry.

Criminal trespass in the third degree is a class 3 misdemeanor.³⁰

PSB investigators reviewed the stop and identify statute and found the following: A.R.S. 13-2412., Refusing to provide truthful name when lawfully detained, states:

It is unlawful for a person, after being advised that the person's refusal to answer is unlawful, to fail or refuse to state the person's true full name on request of a peace officer who has lawfully detained the person based on reasonable suspicion that the person has committed, is committing or is about to commit a crime. A person detained under this section shall state the person's true full name, but shall not be compelled to answer any other inquiry of a peace officer.

A person who violates this section is guilty of a class 2 misdemeanor.³¹

PSB investigators observed Mr. Rabouin matched the description of the subject described in the trespassing CFS details: a black male wearing a white shirt and blue shorts.³² Mr. Rabouin appeared to be conversing with a male, known to be a bank customer, on the sidewalk outside of the Chase Bank, which is what the customers complained about to bank staff. Mr. Rabouin appeared to hold a cell phone in his right hand and did not appear to be displaying credentials or other indicia identifying himself as a member of the press. No camera crew was observed.

PSB investigators observed Mr. Rabouin display verbal non-compliance and active resistance during Officer Zimmerman's handcuffing of him. Officer Zimmerman's highest level of force consisted of a soft empty hand control technique (one hand to Mr. Rabouin's right tricep) and a restraining device (handcuffs), which are considered the same level of force. Both applications

appear reasonable for Officer Zimmerman's interaction with Mr. Rabouin. Officer Zimmerman did not make any statements threatening violence towards Mr. Rabouin; Officer Zimmerman did explain his legal right to push Mr. Rabouin into the police vehicle. Excessive force, which is the application of an unreasonable amount of force in a given incident based on the totality of the circumstances, was not observed. There are no visible injuries seen on the BWC and Mr. Rabouin never made any complaints on scene reference any injuries, with two supervisors on scene prior to Mr. Rabouin leaving.

PSB investigators did not observe Officer Zimmerman conduct himself with words, actions, or in any other manner that conveyed Officer Zimmerman detained Mr. Rabouin based on his race, or on any other type of bias. Through Ms. Cruz' information that staff previously asked Mr. Rabouin to leave and their (Chase Bank and Ms. Cruz') willingness to aid in prosecution if Mr. Rabouin refused to leave, Officer Zimmerman established probable cause to arrest Mr. Rabouin. Therefore, Officer Zimmerman's detention of Mr. Rabouin was lawful and justifiable.

PSB investigators found IR 2022-001755741 contained the necessary information for a trespassing call for service, and that Officer Zimmerman successfully articulated that probable cause existed for Mr. Rabouin's violation of Criminal trespass in the third degree, a class 3 misdemeanor.³³ Officer Zimmerman also clearly articulated Mr. Rabouin's verbal non-compliance and active resistance and Ms. Parady's interference with his investigation. Officer Zimmerman described that during a pat down, he felt Mr. Rabouin's wallet in his right front pocket, so he removed Mr. Rabouin's wallet to obtain his identification. Officer Zimmerman determined he had probable cause, but based on the totality of the circumstances, Mr. Rabouin was officially trespassed from Chase Bank and was released from custody.

PSB investigators confirmed there are two (2) "No Trespassing" signs posted on the north and south side of the entrance to the private drive on the east side of the Chase Bank which state in English and Spanish "No Trespassing, Violators will be prosecuted in accordance with A.R.S. 13-1502 thru 1504, Private Property." ^{34 35 36}

On December 8, 2022, PSB investigators interviewed Mr. Michael Santellanes by telephone, and he provided the following: Mr. Santellanes is a Personal Banker for Chase Bank and was working the day of this incident. He stated customers were complaining about someone asking them about their savings accounts and where they have accounts. Mr. Santellanes went outside with a coworker, Mr. Torres to speak to the person the customers made the complaints about. They asked the subject what he was doing, and the person responded, indicating he was a reporter. They told the reporter the property is private and asked him to leave because

he was disrupting their customers. The reporter told them no, and that he does not have to leave. The subject refused to leave, so Mr. Santellanes went inside and told his manager, Brenda Cruz. Mr. Santellanes knew the police were called because the police placed the subject into handcuffs.³⁷

On December 8, 2022, PSB investigators interviewed Mr. Nathan Torres by telephone, and he provided the following. Mr. Torres stated he is an Associate Banker for Chase Bank and was working when four (4) to five (5) customers made complaints about being hassled outside. His manager asked him and Mr. Santellanes to politely ask the subject customers had complained about to leave. They asked the man politely to leave because customers were feeling uncomfortable. The man refused to leave saying he was a reporter and that he was not doing anything wrong. They asked him again and he said he was not going anywhere, so they went back inside and were told to call the police.³⁸

On December 9, 2022, PSB investigators interviewed Ms. Brenda Cruz, the Manager for Chase Bank, by telephone and she provided the following: several clients came in visibly upset about a guy claiming to be a reporter and asking them questions about their bank accounts. She then had two employees go out to politely explain to him that he was on the Bank's property and to leave "because it was making people uncomfortable and we are having complaints and there is clear signage no soliciting, no loitering." ³⁹ The employees came back and advised her the man was refusing to leave. Ms. Cruz stated they have had issues with employees being followed after work and even robbed, so she was not going to chance whether this guy was actually a reporter or not and consulted with her security team. Her security team advised her, as they had already explained to him, he is on the bank's property, asked him to leave, and he refused, which was enough to call the police. Her security team also advised her she has the authority to have him trespass and to have him arrested for trespassing if needed. Ms. Cruz stated she called the police as she did not see the point in asking him to leave herself since her employees already explained it to him, asked him to leave and he refused. She felt he would have the same response with her. Ms. Cruz told the police when they arrived that her employees already told the male subject to leave, and he refused. Ms. Cruz also told the police she was willing to prosecute for trespassing if he does not leave.⁴⁰

Interview with Officer Zimmerman:

On January 9, 2023, PSB investigators conducted an interview with Officer Zimmerman, at which time he stated the following:

Officer Zimmerman responded to a CFS reference a subject approaching customers, asking for personal information and harassing them. Additional call details said the bank employees asked him to leave and he had refused to leave, stating he was a reporter. As Officer Zimmerman walked into the bank, he made eye contact with the subject matching the description of the subject on the call, who was later identified as Mr. Rabouin. Officer Zimmerman thought any reasonable person who was asked to leave and then sees the police show up would understand they should leave and that he might be gone before Officer Zimmerman returned back outside to speak with him. Officer Zimmerman then spoke to the manager who advised customers had complained about Mr. Rabouin making them feel uncomfortable and that representatives from the bank went outside and asked Mr. Rabouin to leave the property, but he refused to leave. The manager verified they wanted him trespassing and would aid in prosecution. Officer Zimmerman stated he understood that met the statute for criminal trespassing.

When Officer Zimmerman contacted Mr. Rabouin, his intent was to identify him, complete the trespassing notification card, and have him leave the property. Mr. Rabouin refused to identify himself after several requests and he continued to ask why he needed to identify himself and what it meant to be trespassing. As Officer Zimmerman attempted to explain, Mr. Rabouin talked over him. Mr. Rabouin admitted the bank employees talked to him but denied they asked him to leave. Officer Zimmerman also attempted to explain he was trespassing and being detained; therefore, the law states he needs to provide his true and lawful name. Mr. Rabouin continued to refuse to provide his name.

Officer Zimmerman also tried to explain the next step was for him to be arrested but it was difficult to communicate with Mr. Rabouin as he continued to speak over Officer Zimmerman and argue with him. He then went to place Mr. Rabouin in handcuffs with the intent to arrest him if he could not identify him.⁴¹ Officer Zimmerman told Mr. Rabouin he was only being detained in an attempt to calm him and gain compliance because his backup had yet to arrive.

When Officer Zimmerman went to place him in handcuffs, Mr. Rabouin resisted by pulling his arms away. After several more commands he was able to place Mr. Rabouin in handcuffs without use of force. He walked Mr. Rabouin to his police vehicle and patted him down prior to placing him in the police vehicle. Mr. Rabouin continued to refuse to provide his name. At that point, Officer Zimmerman searched Mr. Rabouin because he had to arrest him as he could not identify him. Officer Zimmerman removed Mr. Rabouin's wallet and tried to have him sit inside the vehicle, but Mr. Rabouin refused. Officer Zimmerman did not use any force to place him in

the vehicle but rather tried to explain things to Mr. Rabouin again. In another attempt to gain compliance, Officer Zimmerman told Mr. Rabouin he was just being detained, while continuing to wait for backup.

After arriving, the backup officer stood by Mr. Rabouin and Officer Zimmerman was able to identify him via records check. Officer Zimmerman felt probable cause was established; however, because he personally did not request Mr. Rabouin to leave he felt after identifying him and being able to complete the trespassing notification card, he could exercise discretion and release him with being trespassed as “the end goal was to get him off the property and I feel like that was accomplished through the least restrictive means.”⁴² Officer Zimmerman stated he provided the trespassing notification card to the bank manager and completed a criminal report according to policy, documenting the elements of the crime as there was probable cause established for criminal trespassing.

CONCLUSION

On November 23, 2022, Officer Zimmerman responded to [REDACTED] [REDACTED] reference a CFS which indicated Mr. Rabouin was harassing customers and refusing to leave Chase Bank property, when asked by bank employees. Chase Bank and the branch manager wanted Mr. Rabouin trespass and were willing to aid in prosecution for trespassing, if he refused to leave. When contacted by Officer Zimmerman, Mr. Rabouin refused to provide his identification and refused to provide his name. Officer Zimmerman detained Mr. Rabouin in handcuffs with the intent to arrest him for trespassing since he was unable to initially identify Mr. Rabouin.

Review of Officer Zimmerman’s BWC revealed no indication that Officer Zimmerman: detained Mr. Rabouin based on his race, unlawfully detained him, used excessive force for an unlawful detention, nor threaten to assault Mr. Rabouin if he did not comply and get into the police vehicle, as originally alleged by Mr. Rabouin and Ms. Parady.

PSB investigators further determined it appeared Officer Zimmerman utilized an appropriate level of force with the use of soft empty hand control techniques and handcuffing to detain Mr. Rabouin. Officer Zimmerman did not make any comments or display any actions that convey a racial (or any other type) bias. Officer Zimmerman did not threaten Mr. Rabouin with physical harm. Officer Zimmerman conducted a search incident to arrest on Mr. Rabouin without having completed a full custody arrest, and retrieved Mr. Rabouin’s wallet with his identification, after

Mr. Rabouin continually failed to provide his identification and refused to provide his name, in order for Officer Zimmerman to complete a trespassing card. Once Officer Zimmerman identified Mr. Rabouin, and based on totality of the circumstances, Officer Zimmerman completed a trespassing notification card, and released Mr. Rabouin from custody.

Officer Zimmerman stated he understood probable cause had been established for criminal trespassing to arrest Mr. Rabouin; however, he identified him and was able to complete the trespassing notification card and felt he could then release Mr. Rabouin from custody. Officer Zimmerman also stated to PSB investigators that he told Mr. Rabouin he was only being detained in an attempt to calm him and gain compliance until backup officers arrived. Officer Zimmerman did not advise Mr. Rabouin that he was under arrest during handcuffing or thereafter and prior to executing a search incident to arrest. Mr. Rabouin did not complain to PSB investigators concerning the search of his person and this policy violation was identified by investigators upon review of related BWC video.

Therefore, the allegation that Officer Zimmerman conducted a search incident to arrest prior to establishing a full custody arrest, as he failed to inform the subject he was under arrest, is sustained. The allegations of unlawful detention, detention based on race, and use of excessive force are unfounded.

This investigation has concluded that Officer Zimmerman's actions are in violation of the following policies:

- Operations Order 4.11.7.B.(1) (Rev 10/15), "Immediately upon a full custody arrest, an officer may lawfully search the person of the arrestee, items under the arrestee's immediate control (such as a backpack or wallet and the area within the arrestee's reach). (2) The officer needs no further justification for the search other than the lawful arrest."
- Operations Order 4.10.1 (Rev 10/15), "Essential elements of arrest - Elements normally required to effect a lawful arrest:
 - Intent on the part of the person making the arrest
 - Authority that is lawful on the part of the person making the arrest
 - Seizure or detention of the arrestee
 - Understanding on the part of the arrestee that they have been arrested"

Pursuant to Operations Order 3.19.2.D, it was determined this incident did not involve “malicious intent, repeat offenses, or a reckless/willful disregard for policy.” Accordingly, the applicable discipline for the violation outlined above is designated in Operations Order 3.18, Addendum A, subsection 4.C.(1) “The incident did not involve violent conduct.” A written reprimand is the appropriate discipline.

CLOSING

This investigation is complete and was reviewed and approved by the involved employee. This investigation will be retained in the Professional Standards Bureau (PSB) in accordance with record retention policies and laws.

Endnotes:

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- ¹ Video: Officer Zimmerman's BWC, [1:16- 2:32]
 - ² Video: Officer Zimmerman's BWC, [2:50- 4:22]
 - ³ Video: Officer Zimmerman's BWC, [5:45- 5:50]
 - ⁴ Audio File: PSB call with Mr. Rabouin, [7:01- 7:09]
 - ⁵ Audio File: PSB call with Mr. Rabouin, [7:29- 7:39]
 - ⁶ Audio File: PSB call with Mr. Rabouin, [7:46- 7:55]
 - ⁷ Audio File: PSB call with Ms. Parady, [3:44- 3:49]
 - ⁸ Audio File: PSB Findings call to Ms. Parady, [9:54- 10:03]
 - ⁹ Audio File: PSB follow up call with Ms. Parady, [0:43- 3:07]
 - ¹⁰ Attachment: Call for Service 22-001755741
 - ¹¹ Attachment: Call for Service 22-001755741
 - ¹² Attachment: Call for Service 22-001755741
 - ¹³ Video: Officer Zimmerman's BWC, [00:45- 1:15]
 - ¹⁴ Video: Officer Zimmerman's BWC, [1:16- 2:32]
 - ¹⁵ Video: Officer Zimmerman's BWC, [4:03- 4:08]
 - ¹⁶ Video: Officer Zimmerman's BWC, [4:22- 4:43]
 - ¹⁷ Video: Officer Zimmerman's BWC, [2:50- 4:22]
 - ¹⁸ Video: Officer Zimmerman's BWC, [4:26- 4:30]
 - ¹⁹ Video: Officer Zimmerman's BWC, [4:37- 4:38]
 - ²⁰ Video: Officer Zimmerman's BWC, [4:39- 4:40]
 - ²¹ Video: Officer Zimmerman's BWC, [4:40- 4:42]
 - ²² Video: Officer Zimmerman's BWC, [5:06- 5:11]
 - ²³ Video: Officer Zimmerman's BWC, [5:28- 5:30]
 - ²⁴ Video: Officer Zimmerman's BWC, [5:32- 5:35]
 - ²⁵ Video: Officer Zimmerman's BWC, [6:11- 6:14]
 - ²⁶ Video: Officer Zimmerman's BWC, [6:28- 6:35]
 - ²⁷ Video: Officer Zimmerman's BWC, [7:25- 7:26]
 - ²⁸ Video: Officer Zimmerman's BWC, [10:00- 10:06]
 - ²⁹ Video: Officer Zimmerman's BWC, [5:45- 13:12]
 - ³⁰ Attachment: A.R.S. 13-1502 classification, 1 page
 - ³¹ Attachment: A.R.S. 13-2412 classification, 1 page
 - ³² Video: Officer Zimmerman's BWC, [0:56]
 - ³³ Attachment: Incident Report 2022-001755741, 7 pages
 - ³⁴ Attachment: Photo of entrance to private drive on east side of Chase Bank
 - ³⁵ Attachment: Photo of No Trespassing sign, north side of entrance to private drive of Chase Bank
 - ³⁶ Attachment: Photo of No Trespassing sign, south side of entrance to private drive of Chase Bank
 - ³⁷ Audio File: PSB call with Mr. Santellanes and Mr. Torres, [5:02- 8:50]
 - ³⁸ Audio File: PSB call with Mr. Santellanes and Mr. Torres, [11:20- 14:07]
 - ³⁹ Audio File: PSB call with Ms. Cruz, [3:08- 3:14]
 - ⁴⁰ Audio File: PSB call with Ms. Cruz, [1:22- 7:16]
 - ⁴¹ Audio File: PSB interview with Ofc. Zimmerman, [13:40- 14:30]
 - ⁴² Audio File: PSB interview with Ofc. Zimmerman, [24:45- 24:51]