



Nathan Woodliff-Stanley, Executive Director
Mark Silverstein, Legal Director

July 14, 2015

SENT VIA EMAIL: olszewal@ci.colospgs.co.us

Commander Tish Olszewski
Internal Affairs Unit – Professional Standards Division
Colorado Springs Police Department
705 S. Nevada Ave.
Colorado Springs, CO 80903

Dear Commander Olszewski,

The American Civil Liberties Union of Colorado (ACLU) writes on behalf of Matthew Talley to request the Internal Affairs Unit of the Colorado Springs Police Department (CSPD) open an investigation into several officers' recent interaction with Mr. Talley, wherein police officers approached him at gun point, searched him, and detained him in handcuffs without any reasonable basis to believe he was armed or dangerous.

The Incident

On the afternoon of Wednesday May 6, 2015, Mr. Talley, a young African American man, left his car¹ parked on a busy downtown street in Colorado Springs while he visited the courthouse to resolve a traffic matter. Mr. Talley misplaced the keys to his car while at the courthouse. Seeing Mr. Talley in distress at not being able to get into his car, a good Samaritan passing by paid to have a locksmith open Mr. Talley's car door. Mr. Talley then proceeded to try to jimmy the ignition of his car to get it started so that he could drive to work.

While Mr. Talley was trying to start his car, a nearby observer called CSPD dispatch and reported that he could see an individual inside a car apparently trying to hot wire it. The caller reported that he had not seen the suspect break into the car and that, for all he knew, the car belonged to the suspect. The caller relayed that he did not believe the suspect was armed or that anyone was in immediate danger.

In a remarkable show of force under the circumstances, several police officers responded to the call by approaching the car with guns drawn and pointed at Mr. Talley. The officers ordered Mr. Talley out of his car and, fearing for his life, Mr. Talley promptly complied. As soon as Mr. Talley exited the car, officers pulled him to the ground, handcuffed him, and then

¹ Mr. Talley was in lawful possession of the car, which he was in the process of purchasing from his employer.

searched his body, despite lacking any reason to believe Mr. Talley was armed or dangerous. Even though the officers found no weapons during the search, and even though Mr. Talley was completely compliant with all officer directives, the officers left Mr. Talley handcuffed for over twenty minutes while they proceeded to question him about the car. Mr. Talley politely answered all of the officers' questions and even directed the officers to his cell phone so that they could call the previous owners of the car to confirm that Mr. Talley was in lawful possession. All the while, the officers kept Mr. Talley detained in handcuffs. After approximately twenty-five minutes, the officers correctly concluded that Mr. Talley was in lawful possession of the vehicle and released him. When Mr. Talley returned to his car, he saw that the officers had rummaged through his backpack, although he had not given them permission to search it.

Mr. Talley was understandably terrified throughout this incident and continues to feel traumatized by what occurred. Mr. Talley does not take issue with the officers investigating the circumstances of his attempt to jimmy the ignition of his car. He and the ACLU do, however, take issue with the alarming show of force exercised by the officers who approached him with guns pointed at him, as well as the officers' decisions to force Mr. Talley to the ground, to handcuff him, to search him, and to leave him handcuffed throughout a lengthy interrogation – even after the officers had confirmed Mr. Talley had no weapons and after the officers had an opportunity to observe that Mr. Talley was compliant. We believe CSPD officers violated Mr. Talley's constitutional rights during this incident. Specifically, when officers approached Mr. Talley at gun point and handcuffed him without any reason to believe he was armed or dangerous, those officers used excessive force in violation of the Fourth Amendment. Likewise, when officers searched Mr. Talley without any reason to believe he was armed or dangerous, and then searched his backpack, those officers engaged in unreasonable searches in violation of the Fourth Amendment.

Biased Policing at Play

Mr. Talley and the ACLU question whether Mr. Talley would have been treated as aggressively by the officers had he been a white person trying to jimmy his vehicle to start in broad daylight on a busy downtown street. We believe any internal investigation of this matter must consider not only whether the officers were justified in pulling their guns, searching, and detaining Mr. Talley at length in handcuffs, but also whether bias (whether explicit or implicit) played a role in the officers' decisions of how to treat Mr. Talley.

Beyond the legality of the officers' conduct, we ask the Colorado Springs Police Department to seriously consider if this is how it wants its officers engaging with community members, namely – draw guns, handcuff and search first; ask questions later. It is precisely this type of heavy-handed police tactics that were at play in CSPD's handling of the recent traffic stop involving African-American ACLU clients Ryan and Benjamin Brown. When community members of color, like Mr. Talley and the Brown brothers, are approached with unearned distrust by CSPD officers, the CSPD can only expect such distrust in return. Of course, without the trust of the community, the CSPD is radically hindered in its ability to fight and solve crimes.

Lack of CSPD Documentation of the Incident

Mr. Talley and the ACLU have sought all records in CSPD's possession related to this incident. To our surprise, CSPD has responded that no officer has filed a single written report of

any kind documenting this incident.² Presumably, the absence of a written record means that no supervisor has reviewed the officers' decisions to pull their guns, bring Mr. Talley to the ground, search him, and detain him in handcuffs for interrogation. The absence of a written record presumably means, in addition, that there has been no opportunity to consider whether to counsel or discipline the officers involved.

We hope and assume that CSPD requires a written report whenever an officer draws a revolver and points it at a person and/or detains someone at length in handcuffs, and that failure to write a report in this case was a violation of CSPD policy warranting discipline. If not, CSPD's report writing policies are plainly deficient and serve to invite officers to engage in this type of misconduct with impunity.

Conclusion

We believe these troubling facts warrant a prompt investigation, swift action to discipline the officers involved, and assessment of what CSPD policies or training need to be revised. Please note that we represent Mr. Talley for the purpose of this complaint, so please contact our office about this complaint rather than contacting him directly. We look forward to hearing from you.

Sincerely,

A handwritten signature in black ink that reads "Rebecca Wallace". The signature is written in a cursive style and is positioned above a thin horizontal line.

Rebecca Wallace
Staff Attorney, ACLU OF COLORADO

cc: Colorado Springs Police Chief Pete Carey – chiefoff@ci.colospgs.co.us

² Moreover, the Colorado Springs Police Department hindered Mr. Talley's access to what few records exist regarding this incident. Specifically, the records custodian informed Mr. Talley that, should he wish to have a copy of the audio file of the call to dispatch reporting the possible hot wiring of his car, Mr. Talley would have to directly contact one of the officers who was on the scene. Needless to say, Mr. Talley declined to make further contact with any of the officers who had held him at gunpoint. Tellingly, when the ACLU followed up with its own records request seeking the audio file, CSPD provided the responsive record without requiring the ACLU to jump through such hoops. Community members should have the same unfettered access to public records as the ACLU.