GAINESVILLE POLICE DEPARTMENT

INTERNAL AFFAIRS INVESTIGATIVE REPORT

FILE CLASS:	IA Investigation	DATE OCCURRED:	December 1, 2023
TYPE OF COMPLAINT:	External	INTERNAL AFFAIRS #:	23-057
DATE RECEIVED:	December 4, 2023	DATE CLOSED:	May 20, 2024
RELATED CASES:	02-23-019041	ASSIGNED TO:	Sgt. Leah Hayes

LOCATION OF COMPLAINT

ADDRESS:	[redacted]	CITY:	Gainesville	ADDITIONAL INFO:	

ASSOCIATED NAMES

CO:	Carlos [redacted]	RACE:	White	SEX:	Male	DOB:	Click here to enter text.
SO:	Officer Armstrong	FINDINGS:	Sustained	ACTIONS:	Written warning		
SO:	Sergeant Kerkau	FINDINGS:	Sustained	ACTIONS:	Written warning		

APPLICIBLE RULE OF CONDUCT

Gainesville Police Department General Order 26.1, Rules of Conduct

COMPLAINT / NOTES / SUMMARY

On December 4, 2023, the Internal Affairs Division received a Citizen Complaint Form completed by Carlos [redacted]. The written complaint was in Spanish. Detective Desiree Russano translated the complaint to English and provided a typed translation to Internal Affairs. [redacted]'s complaint stated that a police officer gave him a paper with case report number 23-19041, but he did not understand what was happening. [redacted] asked the officer for their name and badge number and the officer only responded with their badge number. [redacted] stated while he waited for the officer to provide their name, the officer got into the patrol vehicle and reversed. [redacted] said the side mirror of the patrol vehicle struck his hand, which was holding his phone up because he was recording the officer. The side mirror knocked the phone out of [redacted]'s hand and the back screen was broken. [redacted] also mentioned that he has two metal screws in his hand that was struck by the side mirror. [redacted] wrote in his complaint that he asked for a supervisor due to being struck by the patrol car.

[redacted] goes on to state that he asked the officer twice for their badge number and three times for their name, but was only given badge number 1153. [redacted] asked that something be done about his cracked iPhone 13 Pro and being struck with the patrol vehicle on his hand. [redacted] wrote that later

that day, he went to UF Care Spot as his hand hurt more as the day progressed. [redacted] stated that he was never a threat to the officer as he was respectful and had good intentions. He said the officer did not ask him to back away from the vehicle.

On December 14, 2023, the Internal Affairs Division received another Citizen Complaint Form from [redacted] which was also in Spanish and translated by Detective Russano. This complaint stated he went to the police station on December 1 to report that an officer impacted his right hand with their patrol vehicle. [redacted] mentioned that he has two screws in that hand from a prior injury and now he has to wear a cast for three weeks. [redacted] spoke to a Sergeant who defended the officer and said he had already watched the body cam and he (the Sergeant) was the one who told the officer to leave the scene. [redacted] said the Sergeant got up in his chest demonstrating how close [redacted] got to the officer. While doing this, [redacted] alleged the Sergeant pushed him with his chest [redacted] also alleged the Sergeant asked him twice, "From where are you?" and when he told the Sergeant he was from Puerto Rico, the Sergeant said, "I have dealt with a couple of guys like you in Fort Lauderdale." [redacted] said he asked for someone who spoke Spanish to help with communication, but the Sergeant said, "Speak English!" in a discriminatory way. [redacted] complained that the Sergeant said, "We are done" and walked away without listening to his version of the events. [redacted] also claimed that no one called the paramedics to check his injury from the side mirror of the patrol vehicle.

INVESTIGATION

Gainesville Police Department incident report # 23-19041 is a report of a suspicious incident in which a mother reported to Officer Armstrong that she ordered an Uber ride for her 12-year-old daughter to get to school at Lincoln Middle School. The report says that the daughter texted her mother during the ride and told her the Uber was going the wrong way. The Uber driver ended up driving the daughter to the area of 1000 NW 13th Street, well across town from Lincoln Middle School. The driver dropped the daughter off at Office Depot as opposed to the random house nearby that the Uber map showed as the destination. The child's mother then left work and picked up her daughter at Office Depot and called police. The mother was able to provide Officer Armstrong with the Uber driver's name, Carlos, and the vehicle description and tag, silver Nissan Versa with Florida tag [redacted].

Officer Armstrong ran the tag and noted that the registered owner lived at [redacted] Apartment [redacted] (which is [redacted]'s address listed on his complaint form). Officer Armstrong also noted in her report that Carlos was not the first name of the registered owner of the vehicle, but was the first name of the registered owner's emergency contact. Officer Armstrong responded to this address and made contact with Carlos ([redacted] who acknowledged he was the Uber driver that picked up the child in question that morning. Carlos agreed to show Officer Armstrong his phone with the Uber map and route that he drove the child. Officer Armstrong was able to confirm that although Lincoln Middle School was the listed destination, the Uber map took Carlos to the area of 1000 NW 13th Street. Carlos told her that the map actually took him to a particular house, however, he did not feel comfortable leaving the child at the residence so he drove her to Office Depot and dropped her off there. Officer Armstrong acknowledged that Carlos did the right thing by taking the child to an open business to wait for her mother to pick her up.

Officer Armstrong was satisfied that the incident was an Uber map error and not suspicious in nature. She documented that she told Carlos she was going to take an informational report because the mother wanted the incident documented. Officer Armstrong documented that she then asked Carlos for his full name and date of birth. Officer Armstrong noted that Carlos' demeanor immediately changed and he became upset with her and hostile. Officer Armstrong wrote that she attempted to deescalate the situation by thoroughly explaining that she was requesting his information so that she could document the incident properly. According to the report, Carlos repeatedly denied providing his information despite her efforts to explain the report. Officer Armstrong noted that she left a report request card with Carlos despite his refusal to take it.

Officer Armstrong goes on to document in her report that when she attempted to leave a report request card with Carlos, he was filming her. The report states that as she attempted to leave, Carlos walked up to her vehicle and asked for her badge number from about five feet away from her driver door. Officer Armstrong wrote as she was slowly backing her vehicle, Carlos walked forcefully up to her open window and tried to place his phone inside her vehicle. Officer Armstrong's report states Carlos tapped his hand on her side mirror and dropped his phone to the ground. The report says Carlos began to scream that Officer Armstrong hit him with her vehicle. Officer Armstrong wrote that she exited her vehicle and called for a supervisor. While Carlos was still recording, he asked again why she was writing a report and why she gave him a ticket. According to the report, Officer Armstrong explained again that the blue card (report request card) was directions to request a copy of the report.

The report states that Officer Armstrong got back in her vehicle and called Sergeant Kerkau. She informed Sergeant Kerkau of the nature of the events and Sergeant Kerkau told Officer Armstrong to leave the area. Officer Armstrong's report states that as she attempted to drive away, Carlos positioned himself in front of her vehicle so that she had to slowly maneuver around him to leave the apartment complex.

Officer Armstrong documents in her report that she was able to identify Carlos by his Florida driver license, which she found after viewing the emergency contact information for the registered owner of the vehicle listed by Uber. The report states that Carlos arrived at the station later to speak to a supervisor and spoke with Sergeant Kerkau. Under the evidence section of her report, Officer Armstrong documents that she has pictures of the Uber order from the mother and Carlos. She also writes at the end of the report that she activated her in car camera while she was attempting to leave the complex while Carlos was standing in front of her vehicle.

Of note, the Carlos [redacted] that is the complainant in this case is not the same Carlos [redacted] listed as an Involved Other in Officer Armstrong's report. The wrong Carlos [redacted] was listed in the incident report.

Officer Armstrong's body worn camera video from her interaction with [redacted] was reviewed. The footage supports what was documented in the report concerning the investigation of the Uber ride. However, when [redacted] tells Officer Armstrong that he does not want to provide his information for her report, Officer Armstrong appears to become irritated with him. For over four minutes, Officer Armstrong argues with [redacted] telling him that he has to provide her with his name and date of birth.

Ultimately, Officer Armstrong relents and goes back to her vehicle to get [redacted] a report request card. When Officer Armstrong returns to [redacted], he is recording her on his cell phone. [redacted] refuses to take the report request card from her so she leaves it on the bush next to him and returns to her vehicle.

[redacted] follows Officer Armstrong and asks her for her name and badge number. Officer Armstrong gets into her vehicle, puts it in reverse, rolls down her window, and tells [redacted] that her badge number is 1163 and then begins to back up. [redacted] appears to be standing at the driver door and is asking Officer Armstrong for her name. As Ofc. Armstrong's patrol vehicle begins to move backwards, there is an impact between her side mirror and [redacted]'s right hand. In the body worn camera video, it appears that the bottom outside of [redacted]'s palm impacts the top of Officer Armstrong's side mirror. Officer Armstrong immediately stops her vehicle and gets out, questioning what [redacted] is doing. [redacted] states that Officer Armstrong hit him with her car. Officer Armstrong denies that she hit him and calls over her police radio for a supervisor to come to her location. [redacted] can be heard saying, "Yes, please."

Officer Armstrong and [redacted] then continue to discuss the Uber investigation and the report that will be written about it. Sergeant Kerkau calls Officer Armstrong over the radio and asks her to call him on the phone. Officer Armstrong gets back into her patrol vehicle and closes the driver door. She tells Sergeant Kerkau about the investigation and that [redacted] was not willing to provide his information to her. Officer Armstrong tells Sergeant Kerkau that there is nothing criminal going on, but that when she asked [redacted] for his information, he refused and started to get "hyped up" with her. After Officer Armstrong tells Sergeant Kerkau that [redacted] is recording her and walking around her vehicle, she briefly and vaguely mentions, "he…comes up toward my window as I'm backing out, and it like, it taps his phone and he like drops his phone and he's like, Oh my god, now you just hit me!" Sergeant Kerkau then asks Officer Armstrong if she is requesting that he respond or if [redacted] is requesting he respond and goes on to say that if she does not need him to come to the scene, she can just drive away. Officer Armstrong agrees to drive away and does so while still on the phone with Sergeant Kerkau. As heard on Officer Armstong's in car camera, moments later in their conversation, Officer Armstrong again mentions an impact between [redacted] and her patrol vehicle stating, "he like taps his hand on the mirror and then drops his phone, so I stop. I'm like, dude. He's like, you just hit me with the car. I'm like, I did not hit you with the car." Officer Armstrong's in car camera also shows what she claimed was [redacted] standing in front of her vehicle blocking her from leaving. The footage is so zoomed in that it is hard to tell how far away [redacted] s from her vehicle when she backed out, however, it does not appear to have been difficult to drive past him.

Despite [redacted]'s allegation that Officer Armstrong hit him with her vehicle causing him to drop and break his cell phone, there was no crash report taken. Officer Armstrong drove away while [redacted] waited outside her vehicle. Officer Armstrong does not collect information about the damage to [redacted]'s cell phone and she does not photograph it. Officer Armstrong does not mention the damage to [redacted] cell phone in her incident report.

[redacted] provided two videos he recorded during the incident. The first video begins when Officer Armstrong approaches [redacted] with a blue report request card. The video shows Officer Armstrong

try to hand the blue card to [redacted], then leave it on the bushes and tell [redacted] to have a nice day as she walks back to her patrol vehicle. On [redacted]'s video, he can be heard asking Officer Armstrong to get someone to explain things to him. This cannot be heard on Officer Armstrong's body worn camera video. As Officer Armstrong is getting in her patrol vehicle, [redacted] begins walking toward her asking her for her badge number and name. As [redacted] reaches the driver door, Officer Armstrong is seated inside her vehicle and she has already put the vehicle in reverse. Officer Armstrong rolls down her window and tells [redacted] her badge number. She then looks to her right, away from [redacted] and lets off the brake and begins to drive in reverse out of the parking space. [redacted] asks for her name as Officer Armstrong reverses [redacted]'s phone appears to drop and then the first video ends.

[redacted]'s second video starts with him stating, "You just hit me with the car. Look, my phone." Officer Armstrong then responds, "I did not hit you with the car dude." [redacted] can be heard stating, "You back up. I was right here." After disagreeing about the impact, both Officer Armstrong and [redacted] move on to again discuss the Uber investigation for several minutes until Officer Armstrong gets back into her vehicle to call Sergeant Kerkau. Their conversation cannot be heard on [redacted]'s video, but he waits outside her driver door. At one point, [redacted] walks to the rear of Officer Armstrong's vehicle and records her license plate. He then returns to her driver door and waits. While Officer Armstrong's driver window is rolled up and she is still on the phone, [redacted] tries to ask her to tell the supervisor that she hit his phone when she was leaving. Moments later, Officer Armstrong backs out and drives away. [redacted] may have taken a few steps back as Officer Armstrong backed out, however, from his video it does not appear that he is standing in front of Officer Armstrong's vehicle blocking her from leaving. [redacted] can be heard questioning Officer Armstrong for not doing or saying anything to him as she drives away.

A little over an hour later [redacted] is in the Gainesville Police Department lobby to speak to Officer Armstrong's supervisor. Sergeant Kerkau spoke to [redacted] in the lobby. Their interaction was captured on Sergeant Kerkau's body worn camera. [redacted] shows Sergeant Kerkau his first video when the impact occurs. Sergeant Kerkau watches the entire video. [redacted] shows Sergeant Kerkau the cracked back glass on his cell phone and tells him that is why he is there, because she broke his phone. Sergeant Kerkau argues with [redacted] about if he approached Officer Armstrong's vehicle and about personal space. Sergeant Kerkau says he has more video and accuses [redacted] of standing in front of Officer Armstrong's vehicle and blocking her from leaving. Sergeant Kerkau repeatedly interrupts Sanabria and is consistently argumentative with [redacted] Sergeant Kerkau eventually tells [redacted] that he is done watching his videos and that if he wants to file a complaint, he can fill out a form. [redacted] never got the chance to talk with Sergeant Kerkau about the report or show him the other video.

Carlos [redacted]

On March 18, 2024, I interviewed [redacted]. His attorney, Robert Soraci, was present. Prior to the interview, [redacted] requested a Spanish speaking investigator. As there are not any Spanish speaking investigators assigned to Internal Affairs, Sgt. J. DeCastro was present to translate.

[redacted] summarized his interaction with Officer Armstrong. He said he acknowledged he was the Uber driver and he reluctantly showed her his phone so she could see the Uber map was wrong. Then, he said Officer Armstrong told him she needed his I.D. [redacted] asked why she needed his I.D. and added that he did not want his name in a police report. [redacted] said that Officer Armstrong insisted that he provide his information for the report, but he did not understand why there would be a report. He said that Officer Armstrong did not explain anything. [redacted] said that Officer Armstrong kept insisting that he provide his information and when he did not, she became hostile with him. [redacted] said he kept asking her why she needed his I.D., but Officer Armstrong would not answer him. He said she just kept repeating, "I need your I.D."

[redacted] said he brought paperwork with him and he took out the blue report request card. Sergeant DeCastro explained to [redacted] that the card is a report request card and that we give them to everyone, victims, witnesses, anybody. He explained that we write the case report number on the card so people have it and can get a copy of the report we write. [redacted] said he did not know what it was and said that it was empty and he was confused when Officer Armstrong gave it to him. [redacted] said if the police give you paperwork in Puerto Rico, you must go to court. [redacted] said he kept asking Officer Armstrong why she gave him that card and she did not explain it to him.

[redacted] then said he began to record Officer Armstrong. He said she went to her car and filled out the number. He said she got out of the car and said, "This is your case report number. You can contact the GPD Records Department." [redacted] again wondered about the paper and said he asked why his name was going to be in a report with a minor. [redacted] said Officer Armstrong tried to give him the card and when he would not take it, she said "I don't have time for this" and left.

[redacted] began to play his video of the incident. He narrated what was happening as he played his video. As the video ended, [redacted] said Officer Armstrong hit him with the car. He said he walked towards her while she was getting in the car and he asked her two questions. [redacted] said he had to ask Officer Armstrong three times. He said he was standing at her driver window trying to talk to her when she backed up and the side mirror struck his phone that he was holding in his right hand. [redacted] demonstrated how he was holding out his right hand about a foot and a half in front of his chest recording Officer Armstrong. [redacted] said the phone fell out of his hand and to the ground. [redacted] showed me his phone. The glass on the back of his phone was significantly cracked and chipped. I took photos of his phone. [redacted] said the front glass was already cracked prior to this incident.

[redacted] also claimed that his right hand was injured when Officer Armstrong's side mirror impacted his hand. [redacted] said he has a prior injury to that hand that involved surgery and two screws were placed in his hand, but he had completely recovered from that injury. [redacted] provided some billing

documents from Care Spot and UF Health for medical treatment he has received for his hand since this incident. [redacted] said he is still getting physical therapy for his hand because he lost movement in his hand after this incident.

[redacted] said he went to the Gainesville Police Department after Officer Armstrong drove away. [redacted] spoke with Sergeant Kerkau in the GPD lobby. He said Sergeant Kerkau refused to watch any of his videos of what happened at his apartment. When asked about the allegation in his complaint that Sergeant Kerkau pushed him, [redacted] said that Sergeant Kerkau got very close to him and he felt Sergeant Kerkau was trying to intimidate him, but he did not push him. [redacted] said Sergeant Kerkau asked him where he was from and when [redacted] told him he was from Puerto Rico, Sergeant Kerkau claimed he had dealt with "guys like you" in Fort Lauderdale. [redacted] said he asked Sergeant Kerkau for someone who speaks Spanish, but he said Sergeant Kerkau told him no and to speak English. [redacted] said Sergeant Kerkau told him to leave and that nothing was going to happen. [redacted] said he did not tell Sergeant Kerkau about the injury to his hand because he did not have the chance to.

I made copies of the medical bills tha[redacted] had in his possession and had him sign a Release for Protected Health Information from Care Spot and Shands/UF Health. I took photos of [redacted] s iphone, his hand, and braces he said he wore after the incident. [redacted] also provided me with a disc that contained x-rays of his hand, which I made a copy of, however I am unable to view the data. [redacted] also had a Statement form that he filled out regarding the investigation which was never turned in. [redacted] initially left this statement at the front desk, but he never actually attempted to give it to Officer Armstrong or Sergeant Kerkau. I also made a copy of this document and he swore to the statement. I had Sergeant DeCastro review the statement and he said it is consistent with the information [redacted] provided during the interview.

Officer Armstrong

On April 16, 2024, I sent Officer Armstrong an email notifying her that an allegation of misconduct had been filed against her. On April 17, 2024, I met with Officer Armstrong and provided her with all of the documentation associated with this investigation. On April 29, 2024, I interviewed Officer Armstrong in this case. Officer Armstrong was provided and signed the Garrity Warning and Officer Bill of Rights forms. Scott Bertzyk was present for the interview as her union representative. Officer Armstrong said she reviewed the information I provided and had an independent recollection of the incident. A recorded interview was then completed.

Officer Armstrong said after speaking with the mother who initially called to report this incident, she ran the tag that was associated with the Uber ride and noticed that the emergency contact person for the registered owner of that vehicle was named Carlos [redacted], the same first name as the Uber driver. Officer Armstrong said that she went to the registered owner's address and was able to make contact with a person named Carlos who acknowledged he was the Uber driver in question. Officer Armstrong said that Carlos was initially cooperative and was able to dispel any suspicions of wrongdoing by showing her the Uber app on his phone and the incorrect location and route provided by Uber.

Officer Armstrong acknowledged that she used the emergency contact information to determine Carlos' last name [redacted] after he refused to provide her with his personal information, she ran his name, first and last, through DAVID to obtain the rest of his information for her report. Officer Armstrong said she verified the personal information was correct by viewing the DAVID photo of Carlos [redacted], confirming it was the Carlos [redacted] she had just interacted with. Officer Armstrong [redacted] ised to learn that the Carlos [redacted] listed in her report was not the correct Carlos [redacted].

Officer Armstrong said that she was satisfied that there was nothing suspicious about [redacted]'s behavior when she asked for his personal information. She acknowledged that she asked for it repeatedly and got upset with him for not providing it. Officer Armstrong said looking back now, she recognizes that he was not obligated to give her his information because he had already dispelled her suspicions of any criminal activity, however, during their interaction that day she did not realize that.

Officer Armstrong said she explained to [redacted] why she was taking a report, what the report was for, and she does not see how he could not have understood what was going on. Officer Armstrong said she did not hear [redacted] request that she have someone else respond to explain things to him.

Officer Armstrong said she did hear [redacted] ask for her name and badge number and she rolled her window down after she got into her vehicle and provided her badge number. Officer Armstrong said she did not have a reason for not also providing her name.

Officer Armstrong explained that her emotions were heightened and she was concerned for her safety because she was there by herself and [redacted] was videotaping her. She said she was also concerned because [redacted] was bigger than her, he would not provide her with his personal information, and he followed her to her vehicle. Officer Armstrong said her mindset was to just get out of there before things escalated. She said after she rolled the driver window down and provided her badge number, she turned her head to look over her right shoulder before backing out of the parking space. When she saw it was clear, she began to back up and out of her peripheral vision, she saw [redacted] slap his arm onto the side of her vehicle. Officer Armstrong said she thought he was trying to stick his phone inside of her vehicle to record.

Officer Armstrong also claimed that the body worn camera footage shows that [redacted]'s phone's back glass was cracked prior to the impact with her vehicle. She noted that the back glass is visibly cracked near the camera lenses and at the opposite corner on the bottom in her body worn camera footage prior to the impact.

Officer Armstrong said that after the impact, [redacted] immediately accused her of hitting him with her vehicle and causing him to drop and break the glass on his phone. She said [redacted] did not complain to her of injury, but did mention that she broke his phone. She said she denied it and called for a supervisor. When asked why she called for a supervisor, Officer Armstrong said she called for a supervisor to respond because someone was alleging that she hit them with her vehicle. Officer Armstrong was not sure if [redacted] asked for a supervisor, but she said that he knew that she called for a supervisor.

I spoke with Officer Armstrong about her conversation with Sergeant Kerkau. She said that she notified him that [redacted] was alleging that she struck him with her patrol vehicle. She said Sergeant Kerkau's response to her was to leave the area. Officer Armstrong said that made sense to her because she felt as if [redacted] was escalating his behavior towards her and she thought that would have continued if she stayed there. Officer Armstrong said she went directly to the station when she left [redacted]'s apartment and talked with Sergeant Kerkau more about the incident. Officer Armstrong said that Sergeant Kerkau understood that [redacted] alleged that she struck him with her vehicle. She said she told Sergeant Kerkau that she had a feeling that [redacted] would complain about her.

Officer Armstrong's report states that [redacted] was screaming that she hit him with her vehicle. She confirmed that is what happened so I asked her why she did not insist that Sergeant Kerkau respond to the scene to address [redacted]'s allegation. Officer Armstrong said she did not have an answer for that. She acknowledged that if someone alleges that you struck them with your vehicle, that has to be documented other than just mentioning it in the narrative of a suspicious incident report.

Officer Armstrong acknowledged that she did not document any damage to [redacted]'s phone in her incident report, nor did she photograph the damage to his phone. She did not have an explanation for why she did not document the damage to his phone. She also said she did not realize that she never uploaded the pictures she took of the complainant's phone record of the Uber ride or [redacted]'s phone record of the Uber ride. Officer Armstrong uploaded those pictures during the interview as they were still on her work phone.

Officer Armstrong admitted that [redacted] was not directly in front of her vehicle when she tried to leave. She said he was standing off to the side and followed her vehicle when she was driving away. She acknowledged it was possible that [redacted] was just waiting to hear what her supervisor said or waiting for some resolution to his allegations.

Sergeant Kerkau

On May 1, 2024, I sent Sergeant Kerkau an email notifying him that an allegation of misconduct had been filed against him. On May 3, 2024, Sergeant Kerkau was provided all of the documentation associated with this investigation. On May 10, 2024, I interviewed Sergeant Kerkau in this case. Sergeant Kerkau was provided and signed the Garrity Warning and Officer Bill of Rights forms. Charles Owens was present for the interview as his representative. Sergeant Kerkau said he reviewed the information that I provided and had an independent recollection of the incident. A recorded interview was then completed.

Sergeant Kerkau said he was aware of [redacted]'s allegations that Officer Armstrong struck him with her patrol vehicle when he spoke with Officer Armstrong over the phone. Sergeant Kerkau said he did not respond to the scene because he told Officer Armstrong to leave. Sergeant Kerkau said the reason he told Officer Armstrong to leave the scene was because she told him that [redacted] was circling her vehicle and videotaping her. He said Officer Armstrong came to the station and he spoke to her about the incident. Sergeant Kerkau said during their conversation, Officer Armstrong told him that [redacted] "freaked out" when she asked for his personal information. He said Officer Armstrong also told him

that [redacted] claimed he could not speak English well. Sergeant Kerkau said while he was speaking with Officer Armstrong about the incident, [redacted] came to the GPD lobby asking for her supervisor.

Sergeant Kerkau said when he met with [redacted] in the lobby, he watched his video of the incident. Sergeant Kerkau then said he explained to [redacted] that he was too close to Officer Armstrong's vehicle. He said [redacted]'s proximity to Officer Armstrong's vehicle was a safety issue for her as she was by herself on this call. Sergeant Kerkau said he felt that the impact with the patrol vehicle was [redacted]'s fault because he got too close to her vehicle as she was backing out. He said that he explained to [redacted] that he could have asked Officer Armstrong questions from a safe distance away from her vehicle.

Sergeant Kerkau said that [redacted] never asked him for a translator during their conversation. He said [redacted] spoke perfect English while they were talking until the end when he felt that [redacted] was not satisfied with Sergeant Kerkau's response to his complaint. Regarding [redacted]'s specific allegations, Sergeant Kerkau said [redacted] never claimed an injury while he was speaking with him. He said he never told [redacted] to leave GPD or that nothing was going to happen with his complaint. Sergeant Kerkau said that he did ask [redacted] where he was from and then commented that he grew up in the Miami area and knew people who spoke both (English and Spanish). Sergeant Kerkau said he never told [redacted] to speak English. Sergeant Kerkau said that he watched [redacted]'s video in its entirety and [redacted] kept showing it to him over and over so at one point he told [redacted] he was done watching his video. Sergeant Kerkau was not aware [redacted] had a second video. Sergeant Kerkau said when [redacted] began to speak to him in Spanish after conversing with him in English the entire time, Sergeant Kerkau told him that he could file a written complaint if he was not satisfied. Sergeant Kerkau said he had no further interaction with [redacted] after he walked away from him.

Sergeant Kerkau said he investigated the allegation that Officer Armstrong hit [redacted] with the patrol vehicle when he spoke with Officer Armstrong, watched the relevant part of her body worn camera video, spoke with [redacted], and watched his video. Sergeant Kerkau acknowledged that he could see the mirror of Officer Armstrong's vehicle impact [redacted]'s cell phone and hand as Officer Armstrong backed up. Sergeant Kerkau said he did not photograph Officer Armstrong's vehicle, but he did not see any damage to her vehicle. Sergeant Kerkau said no injuries were mentioned when he spoke with either Officer Armstrong or [redacted]. Sergeant Kerkau said he did not photograph or otherwise document the damage to [redacted]'s cell phone. Sergeant Kerkau said he did not document his investigation into this matter in any way other than to record his interaction with [redacted] in the GPD lobby on his body worn camera because he did not believe there was misconduct on Officer Armstrong's part. When asked about documenting the impact as a department vehicle crash / incident, Sergeant Kerkau said he did not think of the impact as a department vehicle crash.

When asked about his approval of Officer Armstrong's report containing her use of emergency contact information to identify [redacted], Sergeant Kerkau said that he did not notice it when he approved the report. He said he noticed the error when he reviewed the report in preparation for this interview.

CONCLUSION

[redacted]'s complaints contained several accusations. Some of the specific allegations [redacted] made against both Officer Armstrong and Sergeant Kerkau are proven to be false by body worn camera footage. Officer Armstrong never said to [redacted] "I don't have time for this". Sergeant Kerkau never demanded that [redacted] speak English, and he did not push him or tell him to leave or that nothing was going to happen.

However, this investigation did reveal concerns and violations of Gainesville Police Department policy. Regarding Officer Armstrong, [redacted] expressed dissatisfaction that Officer Armstrong only provided her badge number and not her name. According to Gainesville Police Department General Order 26.1 Rules of Conduct, members are required to supply their name, rank/position, and similar identifying information in a professional manner to any person who may inquire. Officer Armstrong was not able to provide a reason for not providing [redacted] her name.

After [redacted] alleviated Officer Armstrong's suspicions regarding the Uber ride, Officer Armstrong insisted [redacted] provide his personal information to her to include in her report. [redacted] was no longer required to provide Officer Armstrong with his information. Officer Armstrong acknowledged this in her interview and stated that she did not realize [redacted] was not obligated to provide her with his information on the date of the incident.

Additionally, Officer Armstrong utilized DAVID emergency contact information to discover [redacted]'s last name. Using this information, she then incorrectly identified and listed the wrong Carlos [redacted] in the report as being involved in this incident. Officer Armstrong also did not upload the photos she took during this investigation regarding the Uber ride until the date of her interview.

Officer Armstrong's overall performance in this investigation was deficient in the above listed instances. The totality of these deficiencies amount to inefficiency in the performance of her duties and a violation of Gainesville Police Department General Order 26.1, Rules of Conduct (Inefficiency in Job Performance) is **SUSTAINED**. Officer Armstrong will receive corrective action in the form of a written warning.

Review of the body worn camera footage to determine if [redacted]'s cell phone was damaged prior to the impact with Officer Armstrong's vehicle was inconclusive. It is difficult to tell either before or even after the impact if [redacted]'s cell phone glass is cracked and splintered. In the photo taken the day of his IA interview, there is clearly a chunk of glass missing from the bottom right corner of the back of his phone. That is the only damage that is clearly not present prior to impact and clearly present after impact on the body worn camera footage.

It was determined that Officer Armstrong's vehicle impacted [redacted]'s cell phone and right hand as she was backing out of the parking space. The impact constitutes a department vehicle crash / incident according to Gainesville Police Department policy. Officer Armstrong notified her supervisor of the incident as required by policy.

Although notified of the impact between Officer Armstrong's vehicle and [redacted]'s phone/hand, Sergeant Kerkau did not respond to the scene of a department vehicle crash, as defined by policy, and did not ensure that a crash report or damaged property report was taken documenting the incident. Sergeant Kerkau also did not ensure that photographs were taken of the damaged property and the department vehicle. This is a violation of Gainesville Police Department policy 61.7, Department Traffic Crashes & Vehicle Damage Investigations. At the culmination of this investigation, I completed a DHSMV crash report (CR# 02-24-007612) documenting the incident. I also completed an entry in Blue Team to be reviewed by the Vehicle Incident Review Board.

Although the specific allegations that [redacted] made regarding his interaction with Sergeant Kerkau were determined to be unfounded, Sgt. Kerkau's demeanor toward [redacted] while not discriminatory, was not consistent with the Gainesville Police Department's General Order 26.1, Rules of Conduct. All members of the Gainesville Police Department are required to be courteous, orderly, attentive, and patient in dealing with the public. Throughout his interactions with both Officer Armstrong and Sergeant Kerkau, [redacted] remained calm and polite. Although Officer Armstrong characterized [redacted]'s behavior as "freaking out" and "hyped up", he actually just respectfully disagreed that he was obligated to provide his information. Despite [redacted]'s calm demeanor toward Sergeant Kerkau, Sergeant Kerkau did not allow [redacted] to voice his concerns and allegations without interrupting him to disagree with what [redacted] was saying. Prior to hearing all of [redacted]'s claims, Sergeant Kerkau continually disputed his complaints even though they were presented in a calm and courteous manner. It is unknown if Sergeant Kerkau allowed Officer Armstrong's mischaracterization of [redacted] to influence his demeanor toward [redacted], however, had Sergeant Kerkau viewed the entirety of [redacted]'s interaction with Officer Armstrong, he would have had a more accurate perception of [redacted]'s demeanor and the circumstances surrounding the incident. Sergeant Kerkau was not attentive or patient in his interaction with [redacted].

Sergeant Kerkau approved Officer Armstrong's report despite her documentation of the use of emergency contact information to identify [redacted]. This is a violation of DAVID rules and should have been identified and addressed by Sergeant Kerkau.

Sergeant Kerkau's performance related to this investigation and the handling of [redacted]'s complaints was deficient. The totality of these deficiencies amount to inefficiency in the performance of his duties as a supervisor and a violation of Gainesville Police Department General Order 26.1, Rules of Conduct (Inefficiency in Job Performance) is **SUSTAINED**. Sergeant Kerkau will receive corrective action in the form of a written warning.

Under penalties of perjury, I declare that I have read the foregoing document and that to the best of my knowledge and belief the facts stated in it are true. Furthermore, I, the undersigned, do hereby swear, under penalty of perjury, that, to the best of my personal knowledge, information, and belief, I have not knowingly or willfully deprived, or allowed another to deprive, the subject of the investigation of any of the rights contained in ss. 112.532 and 112.533, Florida Statutes.

IA#:	23-057

Investigator:	Sgt. W. Hayes	Date:	5/20/2024
IA Commander:	T. DURST	Date:	05.20.2024
Bureau Commander:	[signature]	Date:	5/29/24
Chief:	[signature]	Date:	5/28/24