



May 23, 2017

Commander Richard Hopper
Taylor Police Department
23515 Goddard Road
Taylor, MI 48180

Re: Traffic Stop of Calvin Jones

Dear Commander Hopper:

The American Civil Liberties Union (ACLU) of Michigan has obtained and reviewed Taylor Police Department records of a traffic stop of motorist Calvin Jones that occurred on or about April 16, 2016, on or near Park Village Boulevard in Taylor. The conduct of the officers involved is troubling, and we request not only an investigation, but also policy revisions, re-training, and any appropriate discipline. Further, we urge a review of other cases involving Taylor police officers to determine the scope and frequency of behavior that is inconsistent with best practices for law enforcement officers.

The Traffic Stop and Arrest

Calvin Jones, a then-26-year-old African American man, was pulled over by Taylor Police Officer C. Vines. Mr. Jones' wife and younger brother were also in the car at the time of the stop. Of special concern to us is the fact that during the encounter, the investigating officer shattered Mr. Jones' driver's side car window and wrestled Mr. Jones from his vehicle. In addition, a back-up officer held Mr. Jones in a chokehold until he claims he blacked out. After his arrest, Mr. Jones was stripped to his underwear, and detained in a cold holding cell.

Police records of the traffic stop are enclosed. Dashboard video records of the incident can be viewed at:

<https://www.youtube.com/watch?v=VtujSLtfwSk&feature=youtu.be>.

https://www.youtube.com/watch?v=f30NceS_eFQ&feature=youtu.be

These records show the following:

The Stop

1. *Officer C. Vines claimed Mr. Jones ran a stop sign and he pulled him over for that reason. When asked for his license and registration, Mr. Jones refused and demanded an explanation for the stop. Officer Vines refused to provide an explanation, and the officer and driver engaged in a protracted debate about a driver's legal obligation to display driving credentials upon the request of a police officer. The exchange grew in its intensity, and Officer Vines threatened to arrest Mr. Jones.*

[video record at: <https://youtu.be/0Kxy7TvDUko>]

Comment: Officer Vines is correct about Mr. Jones' legal obligation to produce driving credentials on demand, but according to law enforcement experts, it is unnecessary for the officer to win the debate. One expert suggests the following:

At the beginning of the stop, inform drivers why they were stopped. This is utmost in the driver's mind. Communicate slowly and clearly. This will alleviate those concerns where individuals felt that they were stopped for some reason other than a traffic offense. Avoid asking drivers for their license and vehicle registration before telling them the reason why you stopped them. This creates unnecessary tension and it gives the driver an opening to question you, instead of you asking the questions.¹

The recommended approach was not taken in this case and the encounter escalated unnecessarily. Had Officer Vines simply explained that Mr. Jones ran a stop sign, the entire encounter might have ended quickly and peacefully.

Treatment of Mr. Jones' Wife

2. *During the colloquy between Officer Vines and Mr. Jones, Candae Graham, the driver's wife and front-seat passenger can be heard in the video record prevailing upon her husband to cooperate and hand over his driving credentials. Later in the encounter when she was asked to exit the vehicle, she promptly complied. She held a cell phone in one hand and refused to surrender it when asked. She ultimately tossed it away. At the end of the encounter, she was placed in handcuffs and charged with "interference with police authority."*

[video record at: <https://youtu.be/LDsq6YwR8Oc>]

Comment: The arrest of Ms. Graham was an unfortunate, unnecessary development. At the outset Ms. Graham demonstrated herself to be an ally of the officer. Had Officer Vines

¹ "Tips for Conducting Professional Traffic Stops," James J. Onder, Ph.D., International Association of Chiefs of Police .<http://www.iacp.org/ViewResult?SearchID=998> (first published in Police Chief Magazine (2001)

recognized that fact he could have politely drawn her into the initial discussion in a helpful way. For example, the officer could have said:

Sir, I'm not here to cause a problem for you and I believe both your passenger and I understand that we can handle this best if we all cooperate. Ma'am, may I ask your name? Ms. Graham, may I also ask how you are related to this gentleman? Well sir, I think your wife makes good sense when she suggests that you give me your papers. Wives usually make good sense. At least that's what my wife tells me. So, how about it? Can I take a look at your license and registration?

Gentle conversation, a smile and a touch of humor can ease tension and break down barriers. It is remarkable that Ms. Graham remained cooperative even after witnessing the violent arrest of her husband. She exited the vehicle promptly in response to a police command. Her refusal to hand over her video record of what she regarded as unlawful police conduct is understandable and should not have resulted in an arrest. She was instead placed in handcuffs and charged with a misdemeanor.

The Arrest

3. *Eventually, Officer Vines called for back-up and gave Mr. Jones an ultimatum. "Either you give me your ID or you go to jail." The officer then made efforts to open the car door, but after concluding that it was locked, put gloves on, grabbed the top of the partially opened driver's side window and pulled until it shattered. He attempted to wrestle Mr. Jones from the car. Officer Vines' report narrative states in part: "During the incident Calvin appeared to be attempting to grab for something in his center console." The officers were eventually able to remove Mr. Jones from the vehicle, but in the process, one of the officers appears to have placed him in a choke hold that Mr. Jones claims caused him to lose consciousness. The video recording shows Mr. Jones lying limp face down.*

[video records at: <https://youtu.be/xSSZCcAiLDc> ; and <https://youtu.be/Me0hPlko6Ys>]

Comment: An ultimatum sets the stage for a showdown. If both parties are locked stubbornly into their positions, the likelihood of violence increases considerably, because the officer will have to use force (or at least the threat of force) to obtain cooperation. It is under those circumstances when an officer may wish to create for the citizen a way to save face. The officer could have said the following, or something comparable:

Hey, I'm not perfect, and you could be absolutely right. I understand that you don't want to get out of the car if I'm in the wrong. But I think you will agree with me that if I screwed up, you can't get this before a judge and possibly win if you just sit there. I don't want to arrest you, but the way you get this before a judge is to let me do my job. If I take you in and I'm wrong, I'll be in trouble, not you.

The shattering of the car window was violent and terrifying and had the potential to endanger all present. The sudden, frightening destruction of the window could have caused Mr. Jones to panic, perceive that his life was threatened and then react in a way that placed the officer in jeopardy. In short, the use of a tactic that was clearly intended to cause fear and intimidation was not only unnecessary here, but it was also inappropriate given the absence of any evidence that Mr. Jones had even the slightest interest in engaging in violence.

The apparent presumption that Mr. Jones would react violently apparently led Officer Vines to make a more specific incorrect presumption that was in fact counterproductive. The officer's narrative states: "During the incident Calvin appeared to be attempting to grab for something in his center console." Mr. Jones said he was not reaching for a weapon. His seatbelt was fastened, and as officers were pulling violently on his body they were failing to move him out of the vehicle. Mr. Jones claims he was making his best efforts to facilitate his removal from the car by unfastening the restraint. The officers' aggressive approach succeeded only in making their job more difficult. Chokeholds are at least disfavored if not prohibited in many law enforcement agencies.² If Mr. Jones was in fact choked unconscious, that is clear evidence of why the hold should not be used.

A police officer's routine presumption of all suspects' violent intentions can lead officers to assume a violent or aggressive posture. This is consistent with what is referred to in some law enforcement circles as a "warrior" mindset. This approach to policing is increasingly viewed with disfavor. Professor Seth Stoughton explained how officers lure themselves into a fantasy of ubiquitous danger:

Under this warrior worldview, officers are locked in intermittent and unpredictable combat with unknown but highly lethal enemies. As a result, officers learn to be afraid. That isn't the word used in law enforcement circles, of course. Vigilant, attentive, cautious, alert, or observant are the terms that appear most often in police publications.³

Professor Stoughton goes on to explain that officers who regard themselves as warriors are perpetually in survival mode.

Officers learn to treat every individual they interact with as an armed threat and every situation as a deadly force encounter in the making. *Every* individual, *every* situation – no exceptions. Because the enemies' identities are unknown, everyone is a threat until conclusively proven otherwise.⁴

The dangers that flow from that mindset are real, and that approach to policing certainly works against the development of a positive relationship with the community.

² A chokehold administered to merchant Eric Garner in 2014 by New York police officers caused his death and inspired new concerns about the safety of the tactic. In its 2017 report titled: "The Civil Rights Division's Pattern and Practice Police Reform Work: 1994 – Present," The U.S. Department of Justice explains: "The [Civil Rights] Division's reform agreements frequently contain policies prohibiting the use of neck holds, also known as chokeholds, or head strikes with hard objects, except in situations where lethal force is authorized."

³ *Law enforcement's "Warrior" Problem*, Seth Stoughton, 128 Harv. L. Rev. F. 225 (2015)

⁴ *Id.*

Either through formal training or informal example, officers learn to both verbally and physically control the space they operate in. It is essential to set the proper tone for an encounter, and the tone that best preserves officer safety is widely thought to be one of “unquestioned command.” Even *acting* friendly, officers may be told, can make them a target. But like the use of physical force, the assertive manner in which officers set the tone of encounter can also set the stage for a negative response or a violent interaction that was, from the start, unavoidable.⁵

The tragedy of the present case is that the violence and hostility were entirely avoidable. The officers’ aggressive approach apparently stemmed from presumptions that Mr. Jones was a dangerous threat.

The Detention

4. *After reaching police headquarters, Mr. Jones claims he was placed in a holding cell and made to strip down to his underwear. He said for some period of time he lay face down on the floor at the officers’ direction. Even after he relocated himself from the floor, he remained undressed. Mr. Jones reports that the cell was very cold because of air conditioning adjusted to a very low temperature. He further reports that eventually an officer entered the cell and asked, “Have you cooled down enough for us to book you?”*

Comment: On the most basic level this type of treatment of a detainee is cruel and clearly intended to cause physical discomfort and humiliation. It is also contrary to conventional policies and practices. Standard 23-3.5(b) of the American Bar Association’s Standards on Treatment of Prisoners provides:

Correctional authorities should provide prisoners with clean, appropriately sized clothing suited to the season and facility temperature and to the prisoner’s work assignment and gender, in quantities sufficient to allow for a daily change of clothing. Prisoners should receive opportunities to mend and machine launder their clothing if the facility does not provide these services.

Confiscation of articles of clothing may occur on occasion because of fears of suicide or comparable concerns, but usually the items taken are limited to shoelaces or belts because of how these articles can be used to cause self-harm. It is unnecessary to confiscate pants and shirts – unless a jail uniform will be provided in exchange.

Race

Mr. Jones survived his encounter with the police, and there have certainly been numerous incidents around the country where police violence was far more severe and in too many cases fatal. But Mr. Jones’ case has been highlighted because in a period when the relationship between the law enforcement community and the African American community is very tense, it is important for law enforcement officers to be aware of the risks of violence they can

⁵ *Id.*

inadvertently create. For example, the apartment complex where Mr. Jones was stopped has a substantial number of African American residents. Officer Vines appeared to be staked out in an apartment complex parking lot until moments before Mr. Jones was stopped. It may not have been his plan to stop drivers on the basis of race, but if patrolling decisions are the result of deliberate or subconscious presumptions about the likelihood of crime in communities of color, then racially disproportionate records of stops are likely to occur anyway. When that happens, these communities come to believe that law enforcement targets them without justification. This does not contribute to a healthy relationship between the police and the community.

To further evaluate Taylor Police Department practices, pursuant to the Michigan Freedom of Information Act ("FOIA"), MCL 15.231 *et seq.*, the American Civil Liberties Union of Michigan ("ACLU") hereby requests "records," as that term is defined to the fullest extent under FOIA. Records requested herein include documents in all forms, including, but not limited to: written reports, recordings, computer disks, medical records, affidavits, investigative records, videotapes, digital video discs, correspondence, memoranda, court documents and records, purchase orders, invoices, transcripts, telephone logs, photographs, news clippings and other preserved media reports, complaint forms, e-mail messages, activity logs, incident reports, daily reports etc. We specifically request the following:

1. All records that in any way concern traffic stops made by Officer C. Vines on Park Village Blvd. between April 1, 2016 and April 15, 2016.
2. All records that in any way concern traffic stops made by Officer C. Vines at any location between April 8, 2016 and April 11, 2016.
3. All records that reflect any policy, research, investigation or plan regarding surveillance of apartments and streets located at or within a ¼ mile radius of Eureka Road and Park Village Blvd. for any period between February 1, 2016 and May 1, 2016.

The ACLU requests limitation and waiver of fees pursuant to FOIA which provides for such limitation and waiver where searching for or furnishing the records can be considered as primarily benefiting the general public because it is likely to contribute to public understanding and is not in the commercial interests of the ACLU. See MCL 15.234(2). If this request for waiver of fees is denied and it will cost more than \$100 to process the request please contact the undersigned before proceeding. Please respond within the time period mandated by the statute. If the request is denied in whole or part please justify all deletions by reference to specific exemptions under FOIA. Separate any exempt material from non-exempt material and make the non-exempt material available. Direct all responses to the undersigned. If there are any questions or you require further information about this request, please contact me at (313) 578-6822. Thank you for your courtesies and cooperation.

Sincerely,

Mark P. Fancher
Staff Attorney – Racial Justice Project