

COMPLAINT FORM

Date Complaint Received	09/03/2018	Time	21:20	Hours
-------------------------	------------	------	-------	-------

Complaint Received	EMAIL	Type of Complaint	EXTERNAL	Nature of Complaint (check one)	OPERATION OF VEHICLES
--------------------	-------	-------------------	----------	---------------------------------	-----------------------

Complainant

Name & Personal Data	Name	Race	Sex	Date of Birth
	CHOI, NICHOLAS			
Home Address	Street, City, State, Zip			Home Phone
				- -
Work Address	Employer, Street, City, State, Zip			Work Phone
				- -

Incident

Date Incident Occurred	09/03/2018	Time Incident Occurred	20:45	Location Incident Occurred	3882 S MAIN ST/NANCE RD ACWORTH, GA30101
------------------------	------------	------------------------	-------	----------------------------	---

Narrative of the Circumstances Surrounding the Complaint

On September 3, 2018, Nicholas Choi emailed Internal Affairs to complain that someone driving a government vehicle with tag GV1879 and vehicle # 7405 drove aggressively, tailgated him, and was speeding. Choi stated the incident took place on Main Street and Nance Road. Choi said he had to swerve to avoid an accident with the police vehicle. [09/04/2018 09:08, RAMIRK, 1724, DPS]

Code	Officer Name	Code #	Assignment	Date Empl.	Race	Sex
AC	ALCARAZ, ANDRES	2569	CCPD, PCT5, 2100, MORN	08/31/2015	W	M

All Conf. Info

Supervisor

Supervisor's Action Towards Resolution of the Complaint

On 09/03/18, I, Detective Bastis was assigned to investigate complaint #1473. The complainant, Nicholas Choi, wanted to report a police officer who he witnessed driving dangerously and was tailgating him.

On 09/05/18 at 1238 hours, I checked RMS database for any contact information for the complainant, Nicholas Choi. I was only able to locate the email that was provided in the complaint. I emailed Nicholas Choi and explained the complaint was to be investigated and needed him to respond with his contact information.

On 09/12/18 at 1530 hours, I contacted Officer Alcaraz and explained to Officer Alcaraz I was investigating a driving complaint. Officer Alcaraz admitted he takes Main Street and Nance Road when he goes to work. Officer Alcaraz denied driving aggressively or dangerously. Officer Alcaraz stated there had been times driving to Precinct Five when vehicles that were in front of him would slow down when they noticed his patrol car behind them, and would make him slow down. Officer Alcaraz also stated he had never tailgated any vehicles.

As of 09/13/18, I had not received any contact from the complaint Nicholas Choi.

Officer Alcaraz's AVL information was attached to the complaint.

The complainant mentioned in his email he had to swerve back in the main roadway from the right turn lane to avoid hitting the officer's vehicle. It appeared the complainant had failed to yield to the officer's vehicle that had already merged into the right turning lane. The complainant also stated he had only followed Officer Alcaraz while on Nance Road from Main Street to Cobb Parkway (Hwy 41). A review of Officer Alcaraz's AVL showed Officer Alcaraz's top speed on Nance Road was 44 mph. The posted speed limit is 35 mph.

Officer Alcaraz is accused of violating DPS Code of Conduct, 1.35 Operating of Vehicles.

On 10/10/2018, I, Sergeant McCloskey was assigned to follow up on complaint #1473. I reviewed the complaint and attempted to locate any additional contact information on Nicholas Choi as the only contact information available is his email address. Nicholas Choi did not respond to an email sent by Internal Affairs Detective Bastis on 09/05/2018. I performed a check on RMS and P2P and was unable to locate any further information on Nicholas Choi.

On 10/11/2018, I sent an email to Nicholas Choi in a final attempt to obtain his contact information as well as any additional information relevant to his complaint. I attached the email to this complaint.

As of 10/13/2018, I have not received a return email or any further contact with Nicholas Choi and cannot contact him by any other means.

SUPERVISOR'S RECOMMENDATION

This investigation was forwarded to the chain of command for review. [09/17/2018 14:45, BASTIT, 2193, DPS]

Cobb County Code of Conduct Policy 1.35 Operation of Vehicles states:

a. Employees shall operate department vehicles in a careful and prudent manner and shall obey all laws of the State of Georgia and departmental operating guidelines pertaining to such operation.

b. Employees shall attempt to set an example for all other persons by their proper operation of the motor vehicle or apparatus.

c. Employees are responsible for possessing current, valid driver's licenses issued from their state of residence (preferably Georgia), and shall not allow said licenses to lapse.

d. The expiration, loss or suspension of driver's licenses shall be reported immediately to the employee's immediate supervisors.

No in-car or body camera video exists in this incident. As Nicholas Choi has not returned emails requesting additional information, the merit of the complaint can only stand on what is mentioned in his initial email. Nicholas Choi stated the officer was tailgating him while he was traveling at a reasonable speed but failed to report what is reasonable. Therefore, it is unknown if he was speeding himself or perhaps impeding the flow of traffic by driving too slowly.

Additionally, O.C.G.A 40-6-49, Following too closely, reads:

(a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicles and the traffic upon and the condition of the highway.

There is no defined allowable distance between vehicles, and Officer Alcaraz possesses advanced driver training.

Nicholas Choi stated Officer Alcaraz aggressively passed him in the right turning lane at high speed. Without further information from Nicholas Choi, it is unknown what is meant by aggressively or his definition of high speed. AVL data indicates Officer Alcaraz was operating within the speed limit. It also appears from the wording in Nicholas Choi's email that Officer Alcaraz already occupied the right turn lane when Nicholas Choi attempted to enter it, thus, a failure to maintain lane issue on his part.

Nicholas Choi stated he observed Officer Alcaraz begin to tailgate the vehicle in front of him while on Nance Road approaching Cobb Parkway. It is unknown without further information from Nicholas Choi what is meant by tailgate. As stated previously, there is no defined allowable distance between vehicles and Officer Alcaraz possesses advanced driver training skills.

In his interview with Detective Bastis, Officer Alcaraz stated he did not drive dangerously or aggressively and further said he did not tailgate any vehicles while on his way to work.

I recommend this complaint be Not Sustained.

Based on the facts presented in this complaint, I, Lieutenant Ballard concur with Sergeant McCloskey's recommendation of Not Sustained.

There is insufficient evidence to either prove or disprove Mr. Choi's complaint. Without further information, I, Major S.C. Kucynda also agree with the finding of Not Sustained for this complaint.

[10/17/2018 06:01, BALLAD, 2082, DPS]

Employee's Signature: _____ Date: _____

Employee's Name: _____ Badge #: _____

Supervisor's Signature: _____ Date: 09/03/2018

Supervisor's Name: BASTIS, THOMAS ARA Badge #: 1232

Lieutenant's Signature: _____ Date: _____

Lieutenant's Printed Name: _____

Captain's Signature: _____ Date: _____

Captain's Printed Name: _____

Major's Signature: _____ Date: _____

Major's Printed Name: _____

Deputy Chief's Signature: _____ Date: _____

Deputy Chief's Printed Name: _____

Chief's Signature: _____ Date: _____

Chief's Printed Name: _____

FOR USE BY INTERNAL AFFAIRS UNIT ONLY

Date PD-82 Received in Internal Affairs Unit: _____

Informal Complaint

Date Place in Preliminary File: _____ File Name: _____

Approved By: _____

Formal Complaint

Control Number Assigned: _____ Date Assigned: _____

Type of Complaint: _____

Investigated By: _____ Services Internal Affairs Unit

Redaction Log

Total Number of Redactions in Document: 1

Redaction Reasons by Page

Page	Reason	Description	Occurrences
2	All Conf. Info	<p>O.C.G.A. § 50-18-72(a)(20) - Records that reveal an individual's social security number, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information, insurance or medical information in all records, unlisted telephone number if so designated in a public record, personal e-mail address or cellular telephone number, day and month of birth, and information regarding public utility, television, Internet, or telephone accounts held by private customers, provided that onitemized bills showing amounts owed and amounts paid shall be available. Items exempted by this subparagraph shall be redacted prior to disclosure of any record requested pursuant to this article; provided, however, that such information shall not be redacted from such records if the person or entity requesting such records requests such information in a writing signed under oath by such person or a person legally authorized to represent such entity</p> <p>which states that such person or entity is gathering information as a representative of a news media organization for use in connection with news gathering and reporting; and provided, further, that such access shall be limited to social security numbers and day and month of birth; and provided, further, that the news media organization exception in this subparagraph shall not apply to paragraph (21) of this subsection.</p>	1

Redaction Log

Redaction Reasons by Exemption

Reason	Description	Pages (Count)
All Conf. Info	<p>O.C.G.A. § 50-18-72(a)(20) - Records that reveal an individual's social security number, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information, insurance or medical information in all records, unlisted telephone number if so designated in a public record, personal e-mail address or cellular telephone number, day and month of birth, and information regarding public utility, television, Internet, or telephone accounts held by private customers, provided that itemized bills showing amounts owed and amounts paid shall be available. Items exempted by this subparagraph shall be redacted prior to disclosure of any record requested pursuant to this article; provided, however, that such information shall not be redacted from such records if the person or entity requesting such records requests such information in a writing signed under oath by such person or a person legally authorized to represent such entity which states that such person or entity is gathering information as a representative of a news media organization for use in connection with news gathering and reporting; and provided, further, that such access shall be limited to social security numbers and day and month of birth; and provided, further, that the news media organization exception in this subparagraph shall not apply to paragraph (21) of this subsection.</p>	2(1)