



January 7, 2009

Washington, D.C. 20531

Kurt P. McCamman, Esq.  
Miller, Canfield, Paddock and Stone, P.L.C.  
277 South Rose Street, Suite 500  
Kalamazoo, Michigan 49007

Re: **[REDACTED] v. Kalamazoo Township Police Department (08-OCR-0199)**

Dear Mr. McCamman:

The U.S. Department of Justice (DOJ), Office of Justice Programs (OJP), Office for Civil Rights (OCR), has completed its investigation into the above-referenced complaint of discrimination against the Kalamazoo Township Police Department (KTPD) located in Kalamazoo, Michigan. This letter constitutes OCR's Investigative Findings summarizing the result of investigation in which we conclude that the evidence does not support a finding that the KTPD discriminated against **[REDACTED]** (hereinafter complainant) based on his race (African American).

Title VI of the Civil Rights of 1964, 42 U.S.C. § 2000(d), as amended, and the Omnibus Crime Control and Safe Streets Act of 1968, as amended, 42 U.S.C. § 3789d, as amended ("Safe Streets Act"), and their implementing regulations prohibit discrimination on the basis of race in the delivery of services of any program or activity receiving Federal financial assistance from OJP, the Office on Violence Against Women (OVW), and the Office of Community Oriented Policing Services (COPS) of the DOJ. The OCR is charged with the administrative responsibility of ensuring that recipients of Federal financial assistance from OJP, OVW, and COPS comply with the nondiscrimination provisions of the aforementioned statutes. The KTPD, as a recipient of Federal funding, is subject to these laws and regulations.

After receiving complainant's written complaint that was forwarded to the OCR by the original recipient, the Coordination and Review Section of the DOJ, the OCR began review of complainant's allegations. Based on the preliminary reviews, the OCR sent the KTPD a Notice of Discrimination Complaint and Data Request on March 21, 2008. Through the Data Request, the OCR requested that the KTPD submit documents and data relating to the incidents in question. The KTPD submitted responses dated April 17, 2008, May 1, 2008, and July 16, 2008, to OCR's requests. Our investigation included a thorough review of all documents, reports, and other evidence submitted by the KTPD and the complainant. The OCR's Investigative Findings are set forth below.

## INVESTIGATIVE FINDINGS

### Summary of Allegations

The complainant alleges that on October 12, 2006, he was subjected to a vehicular stop by a police officer from the KTPD. The complainant states that the police officer ordered him out of his vehicle, handcuffed him, subjected him to a search of his person, searched his vehicle, and gave him a citation. The complainant alleges that these incidents occurred because of his race (African American).

The complainant further alleges that on October 16, 2006, he attempted to file a complaint with the KTPD regarding being searched during the traffic stop; however, a lieutenant from the KTPD would not accept his complaint. The complainant alleges that the KTPD would not take his complaint because of his race.

### Summary of Relevant Facts

On October 12, 2006, the complainant became the target of an undercover operation by the Michigan Department of State Police (MSP), Southwest Enforcement Team (SWET). An undercover officer from the MSP/SWET purchased cocaine from an individual who allegedly told the undercover officer that the complainant was a person who would be able to provide additional cocaine. The MSP/SWET was given a description of the complainant and his vehicle, but was not given his name. The MSP/SWET informed the KTPD of the undercover operation and explained that the complainant was enroute to deliver cocaine to undercover officers. The MSP/SWET asked the KTPD for its assistance in identifying the complainant by conducting a traffic stop of the vehicle fitting the description it had been given for the sole purpose of obtaining the complainant's name.

Pursuant to the MSP/SWET's request, a KTPD officer conducted a traffic stop of the complainant's vehicle ostensibly because of a faulty plate light. During the traffic stop, the officer asked the complainant for his driver's license, vehicle registration, and proof of insurance. The complainant was unable to produce his driver's license. The officer ordered the complainant out of his vehicle, handcuffed him, subjected him to a search of his person, and subjected him to a search of his vehicle.

The KTPD states that in light of the information provided by the MSP/SWET that the complainant was a drug dealer enroute to deliver cocaine to undercover officers, the KTPD officer acted appropriately because individuals known to traffic illegal narcotics are typically armed with weapons.

After questioning the complainant and cross-referencing information through various police databases, the KTPD officer was able to sufficiently identify the complainant. The

officer then issued the complainant a citation for failing to produce his driver's license, and released him.

Following the traffic stop, the complainant allegedly drove directly to the MSP/ SWET undercover officers and sold cocaine. The complainant was arrested by MSP/SWET on warrants alleging two counts of delivery of cocaine, and he pled guilty to one of these counts on July 16, 2007.

On or around October 16, 2006, the complainant contacted KTPD [REDACTED] and indicated that he wanted to file a complaint against the officer who searched him because the officer inappropriately searched his groin area. The KTPD conducted an inquiry because of the complainant's complaint. Officials from the KTPD spoke to the officer conducting the search and reviewed the mobile video recording of the search. The KTPD's inquiry determined that the officer's conduct was consistent with the law and KTPD policy. [REDACTED] met with the complainant, reviewed the mobile video recording with him, and told him that the KTPD determined that the officer's conduct was appropriate.

In or around December 2006, the complainant contacted the KTPD again and alleged that the KTPD refused to take his complaint that he was inappropriately searched. The KTPD informed the complainant that its inquiry concluded that the search was appropriate and legal.

### **Applicable Legal Standards**

The Title VI federal regulation of the Civil Rights Act of 1964 has established the following mandate:

No person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program to which this subpart applies. See 28 C.F.R. § 42.104(a).

Further legal support for Title VI is found in the Safe Streets Act of 1964, which is nearly identical to the above mandate and also affords protection against sex discrimination and religious discrimination. See 28 C.F.R. § 42.203(a).

To establish a violation of law under Title VI and the Safe Streets Act, it must be shown that the KTPD was motivated by intent to discriminate. Therefore, the evidence must show that the recipient of Federal funding, here the KTPD, was aware of the complainant's race and acted in a discriminatory manner because of that characteristic. The law holds that discriminatory intent can be established by evidence of various factors to include discriminatory statements or the sequence of events. . . . Arlington Heights v. Metro Housing Redevelopment Corp., 429 U.S. 252 at 265-269 (1977).

**Analysis and Conclusion**


We conclude that the KTPD police officer did not possess a discriminatory intent toward the complainant in connection with the October 12, 2006, traffic stop. As the facts show, the KTPD conducted a stop of the complainant's vehicle because the MSP/SWET informed the KTPD that the complainant was enroute to deliver cocaine to undercover officers, and it requested the KTPD's assistance in obtaining his identity. There is no evidence that the actions of the KTPD were motivated by the complainant's race.

The complainant's allegation that the KTPD refused to accept his complaint is not supported by the evidence. After the complainant contacted the KTPD, it conducted an inquiry that included discussing the incident with the officer and reviewing the mobile video recording of the traffic stop. The conclusion of the KTPD's inquiry was that the search of the complainant was appropriate and lawful. A KTPD lieutenant reviewed the mobile video recording with the complainant and explained to him the conclusion of the KTPD's inquiry.

These findings conclude the OCR's processing of the subject complaint pursuant to Title VI of the Civil Rights Act of 1964, as amended, the Omnibus Crime Control and Safe Streets Act of 1968, as amended, and their implementing regulations. Our findings that the KTPD has not violated either of these statutes do not preclude the complainant from pursuing any existing private rights of action.

For the U.S. Department of Justice, Office of Justice Programs, Office for Civil Rights.

Sincerely,



Michael L. Alston  
Director

cc: Timothy S. Bourgeois, Police Chief.  
Complainant