



**Office of the New York State
Attorney General**

**Letitia James
Attorney General**

August 6, 2026

Via Email

Police Commissioner Erika Shields
Buffalo Police Department
68 Court Street
Buffalo, New York 14202

Re: Executive Law § 75(5)(b) Referral of Police Officer Jake Michienzi
OAG Matter No. 1-816789828

Dear Commissioner Shields,

We have reviewed your agency's referral of Officer Jake Michienzi pursuant to Executive Law § 75(5)(b). Based on our review, we conclude that Officer Michienzi engaged in a pattern of unlawful searches. We also conclude that he failed to follow departmental BWC policy in two incidents and used unreasonable force in one incident.

I. Overview of Investigation

The Buffalo Police Department ("BPD" or the "Department") referred Officer Michienzi to our office on January 26, 2024. The January 26, 2024, referral was premised on six civilian complaints. During the investigation, BPD forwarded eight additional complaints it received between 2023 and 2025 after the referral was made. To investigate these incidents, OAG reviewed the agency's internal investigative files associated with each incident, the policies that governed the alleged misconduct, and Officer Michienzi's disciplinary record. On January 14, 2025, OAG personnel interviewed Officer Michienzi.

II. Findings

OAG's determination is based on the five incidents described below. The findings for each incident are based on an evaluation of the evidentiary record using a preponderance of the evidence standard.

A. Incident 1, I/O2023-003

On March 13, 2023, Complainant 1A lodged a complaint with BPD alleging that officers arrived at her residence, asked her to exit her home with her hands up, asked her about guns and

drugs, and then searched the residence and her vehicle without permission. Complainant 1A was placed under arrest, charged with trespassing, and issued an appearance ticket.

Officers Michienzi and Hao Tran responded to a trespassing call in the Lovejoy District of Buffalo on March 13, 2023. They arrived on scene and spoke to the owner of the property. The property owner advised the officers that Complainant 1A and Complainant 1B had been served a notice to vacate the residence and were not supposed to be on the premises. The officers found Complainant 1A and 1B in the house and arrested them, charging them with trespassing. They conducted a pat down of Complainant 1A and searched Complainant 1B over his clothes and in his pockets. Additionally, Officer Michienzi and another BPD officer searched the vehicle that was parked in the driveway.

Because Complainant 1A and Complainant 1B were unlawfully inside the residence at the time of arrest, BPD found the search of the premise was reasonable. However, BPD found that the search of the vehicle was unreasonable because the subjects were not near the vehicle at the time of arrest. During his OAG interview Officer Tran stated the vehicle was searched and that it was “more of an inventory search because it was going to get towed.” Officer Tran indicated that they did not locate contraband in the vehicle during the inventory search and that the vehicle was searched and then towed. According to BPD’s internal investigation of this complaint, an officer in the Internal Affairs Division had a “Captain’s Conference” with Officers Tran and Michienzi to review search and seizure policies.¹

We agree with BPD’s conclusion that the search of the vehicle was not reasonable as neither complainant was in or around the vehicle at the time of the arrest. The officers were authorized to conduct searches incident to the arrest for trespassing. However, there was no basis for the officers to conduct a warrantless search of the vehicle, and there is no indication that the officers prepared an inventory of items inside the vehicle, which is a hallmark of a lawful inventory search.

B. Incident 2, EC2023-036

On May 6, 2023, Complainant 2 alleged that Officers Tran and Michienzi conducted a traffic stop with lights and sirens activated, pulled him out of his vehicle, threw him face first on the ground, and handcuffed him. According to the officers, Complainant 2 initially did not pull over after the officers activated their lights and sirens. Once the car stopped, Complainant 2 refused to step out of the vehicle and the officers stated in their IAB interviews that the man appeared intoxicated and allegedly smelled like alcohol. Officers Tran and Michienzi forcibly removed Complainant 2 from the vehicle, placed him on the ground to handcuff him, and then

¹ According to BPD, “A conference is a verbal counseling session typically conducted by a chief of a command, deputy commissioner or commissioner. There are also options for a captain or inspector to perform a conference but those are less frequently used by the department. Though a conference is not considered formal discipline, it is the first step in progressive discipline for several violations (BWC violation, Accident with minor property damage, etc.) All conferences and their subject matter are required to be memorialized by the supervisor conducting the conference, and this information is to be included in the case file prior to closure.”

placed him in the back of their patrol vehicle. Officers Tran and Michienzi conducted an inventory search and requested the vehicle be towed on the grounds that Complainant 2 resisted and refused to cooperate, and that the vehicle was in the street. Complainant 2 was arrested and charged with obstructing governmental administration (OGA) and resisting arrest. During this encounter, Officers Tran and Michienzi did not conduct a field sobriety test and did not charge Complainant 2 with DWI.² Officers Tran and Michienzi did not activate their BWC for the initial stop and the subsequent use of force and arrest of Complainant 2.

According to BPD's internal investigation of this complaint, Officer Michienzi received a "Conference" on BWC policy because he did not activate his BWC for the initial traffic stop and subsequent use of force and arrest.

C. Incident 3, IC2024-073

On July 5, 2024, Officers Tran and Michienzi conducted a traffic stop of a motor vehicle driving recklessly in the early morning hours after the Fourth of July. The officers instructed Complainant 3 to turn his vehicle off, step out of the vehicle, and put his hands up. Officer Tran told OAG that the individual was "definitely intoxicated," though there is no indication that officers performed a field sobriety test. Officer Michienzi conducted a search of Complainant 3's pockets (emptying the contents of the pockets onto the car's driver seat), handcuffed him, and placed him in the back of his patrol vehicle. They did not tell him that he was under arrest. In his officer interview, Officer Michienzi initially told OAG that he was arresting Complainant 3 for speeding, but he subsequently told OAG that he was planning to release Complainant 3 without charges until Complainant 3 later became aggressive toward the officers.

After Complainant 3 was released from the patrol vehicle, the officers deactivated their BWC.³ When Officer Tran's body camera was reactivated at 3:46:48 a.m. (having been deactivated for approximately 4 minutes and 30 seconds), it showed that Complainant 3 had taken his shirt off. A verbal confrontation ensued between him and Officer Tran. Officer Tran removed his department-issued radio and duty belt (containing his loaded firearm and ammunition) and placed them on the trunk of the BPD patrol vehicle while Complainant 3 approached him. Officer Tran advised Complainant 3 to go on the sidewalk, and as Complainant 3 walked away in compliance with this order, Officer Tran yelled, "that's what I thought you little bitch." Complainant 3 turned around, walked back towards the officers, and spoke with Officer Kiripolsky,⁴ who grabbed Complainant 3 and forcibly took him to the ground as

² Officer Michienzi indicated in his officer interview that he deferred to his partner to conduct field sobriety tests.

³ Officer Tran noted in his statement to IA that Complainant 3 was released from the patrol vehicle because the traffic stop was completed, the vehicle was going to be towed, and the tickets were being administered by Officer Michienzi.

⁴ BWC did not capture the audio of this portion of the interaction, and in his interview with Internal Affairs, Officer Kiripolsky did not provide any recollection of the specifics of this exchange.

additional officers assisted. Officer Michienzi administered a head strike to Complainant 3 while he was being handcuffed.

Subsequently, when providing a statement with Internal Affairs, Complainant 3 was arrested and charged with multiple vehicle traffic law violations and criminal violations including resisting arrest, OGA, and disorderly conduct. The charges appear to have been dismissed. Complainant 3 was not charged with DWI.

On October 2, 2024, BPD imposed three charges on Officer Michienzi which include violating the BPD BWC Policy and violating BPD Rules and Regulations. According to BPD, Officer Michienzi received a “Reprimand” for his body worn camera violation and a “Conference” regarding accurately and properly documenting uses of force.

We conclude by a preponderance of the evidence that Officer Michienzi unlawfully searched and emptied the pockets of Complainant 3. At the time Officer Michienzi searched Complainant 3’s pockets, he had probable cause for speeding or reckless driving, which are misdemeanor vehicle and traffic offenses that generally are not proper grounds for a search incident to arrest. *See People v. Howell*, 49 N.Y.2d 778, 779 (1980) (suppressing fruits of search where “an arrest was not necessary because an alternative summons was available or because the arrest was a suspect pretext.”). And because by his own statement Officer Michienzi intended to release Complainant 3 until he became argumentative with the officers, searching and emptying Complainant 3’s pockets was not a lawful search incident to arrest in any event, and thus the search of his pockets was unlawful. *See People v. Solivan*, 156 A.D.3d 1434, 1436 (4th Dep’t 2017) (suppressing fruits of unlawful search because “there is no question that a police officer is not authorized to conduct a search every time he or she stops a motorist for speeding or some other ordinary traffic infraction”); *cf. People v. Santy*, 198 A.D.3d 1377, 1378 (4th Dep’t 2021) (suppressing evidence found as a result of a frisk because “a pat down search of a traffic offender is not authorized unless, when the vehicle is stopped, there is reasonable suspicion that the defendant is armed or poses a threat to the officer's safety.”).

We also conclude by a preponderance of the evidence that Officer Michienzi employed excessive force by punching Complainant 3 in the head as the officers were handcuffing him. At the time of the strike, multiple officers were restraining Complainant 3, and he did not appear to have been offering significant resistance at that point. Therefore, assessing Officer Michienzi’s punch to Complainant’s head under the reasonableness test as articulated in *Graham v. Connor*, 490 U.S. 386 (1989), the nature and severity of the crime (speeding, reckless driving, resisting arrest, OGA, and disorderly conduct) was relatively minor. Complainant 3 was subdued by multiple officers and was not actively resisting arrest. *See, e.g., Cox v. Fischer*, 248 F. Supp. 3d 471, 480-82 (S.D.N.Y. 2023) (if proven, parole officer’s action punching unarmed plaintiff in the jaw during an arrest for a minor offense while multiple officers pushed him to the ground amounted to excessive force). Officer Michienzi also appears to have violated the departmental use of force policy, which allows for forcible take downs, wrestling or grappling, or other lesser means of force when an individual resists being taken into custody, but reserves strikes for active resistance directed at the officer, such as kicking, punching, biting, or throwing items. Buffalo Police Department M.O.P. Chapter 3 Section 6.

We note that in Incident 2 and Incident 3 the officers did not investigate or charge DWI despite believing the driver was clearly intoxicated. In Officer Michienzi's interview with OAG personnel, he indicated that he generally defers to other officers to conduct field sobriety tests because he does not "want to mess it up."

D. Incident 4, EC2022-122

On December 3, 2024, Complainant 4 lodged a complaint with BPD alleging that Officer Michienzi cut him off in traffic, used profanity, and threatened him while pulling him out of his vehicle. BWC footage shows Officer Michienzi conduct a vehicle stop, exit his patrol vehicle, and approach Complainant 4 on the driver side of the vehicle. Officer Michienzi said, "roll your windows down, roll all your windows down now. What are you doing? What are you doing? Turn your car off. Turn your car off and step out of the vehicle now, there is marijuana smoke piling out of your vehicle, is that why you almost hit us? Please step out of the car."⁵ Complainant 4 stepped out of the vehicle and Officer Michienzi instructed him to place his hands on the vehicle.

Officer Michienzi then searched inside Complainant 4's jacket pockets and sweatpants pockets and detained him in the back of his patrol vehicle. Officer Michienzi placed Complainant 4's wallet and cash on the driver's seat of his vehicle and ran a search of the complainant's identification. He then exited his patrol vehicle and advised his partner that he was not giving the complainant a DWI before Christmas.⁶ Officer Michienzi approached the back of the patrol vehicle, opened the patrol vehicle and said to the complainant, "this is your one lucky chance dude, one time, this is your one lucky chance, you are getting one lucky chance because it's Christmas."⁷ BPD investigated this incident and determined the allegation of Excessive Force be deemed as "Unfounded" and the allegations of Conduct and Procedures be deemed as "Exonerated."

However, BPD did not address the legality of Officer Michienzi's search of Complainant 4's pockets. Under the circumstances of this incident, Officer Michienzi had a reasonable basis to investigate whether Complainant 4 had been driving under the influence, and had Officer Michienzi ultimately arrested Complainant 4, a search of the pockets would have been lawful as a search incident to arrest. But, as was the case with Incident 3, without an arrest, Officer Michienzi had no valid basis to search Complainant 4's pockets. *People v. Howell*, 49 N.Y.2d at 990; *People v. Solivan*, 156 A.D.3d at 1436. Accordingly, we conclude by a preponderance of the evidence that Officer Michienzi's search of Complainant 4's pockets was unlawful.

E. Incident 5, S-250600050

In the early morning of March 1, 2025, Officers Michienzi and Ian Brown responded to a call about a vehicle that struck a pole, where they encountered Complainants 5A and 5B.

⁵ Axon_Body_3_Video_2024-12-03_2328_X60A87668 at 0:30 to 0:47

⁶ Axon_Body_3_Video_2024-12-03_2328_X60A87668 at 3:03 to 3:10

⁷ Axon_Body_3_Video_2024-12-03_2328_X60A87668 at 3:11 to 3:25

Complainant 5A subsequently filed a complaint with BPD alleging that the responding officers were discourteous and unprofessional and that she was denied EMS services and thrown in the back of a BPD patrol vehicle.

Officers Michienzi and Brown arrived on scene at approximately 1 a.m. to investigate a car crash in which a car had struck a utility pole and a neighbor had observed two people looking through the car. Complainant 5A and 5B were on the sidewalk across the street from the crashed vehicle. Officers Michienzi and Brown approached Complainant 5A and asked her who was driving the vehicle, and she responded that she did not know. Officers Michienzi and Brown told Complainant 5A and Complainant 5B to put their belongings on the ground, thereby detaining them. Officer Michienzi then instructed Complainant 5A to empty her bags. She emptied one bag and opened another to show the contents to the officers, and Officer Michienzi then walked over to investigate the car crash while his partner stayed with the Complainants.

When Officer Michienzi reached the wrecked vehicle, BWC shows that the airbags had been deployed and that the utility pole was badly damaged. Officer Michienzi opened the driver side door, moved the airbag out of the way, entered the vehicle, examined the visible areas and opened the center console.⁸ Officer Michienzi then walked back to Complainant 5A and said, “let me ask you this simple question, if you weren’t inside that car, then how is your food on the passenger seat floor? Please explain that.”⁹ Officers Michienzi and Brown ordered Complainant 5A to wait in the BPD patrol vehicle and Officer Michienzi told her that they could arrest her for obstructing the law.

The officers then spoke with Complainant 5B. Officer Michienzi instructed Complainant 5B to empty his pockets, asking “you don’t got the car key on you?” Officer Michienzi searched inside Complainant 5B’s hoodie pocket and sweatpants pockets.¹⁰ He then searched inside Complainant 5A’s bags, which were on the sidewalk, and eventually found the keys. Shortly thereafter, Complainant 5A admitted to Officer Brown that she was involved in the car crash. Officer Brown requested that Complainant 5A provide her license. While Complainant 5A was looking for her license, Officer Brown asked her if she was injured or needed medical attention, and she responded that she was not sure because her adrenaline made it difficult to tell.

BPD investigated this incident and determined the allegations of Discourtesy and Failure to Acquire Medical Attention for an Injured Person in their Custody be deemed as “Exonerated” and the allegation of Policy and Procedures be deemed as “Not Sustained.”

When Officers Michienzi and Brown arrived on scene, they reasonably could have suspected that Complainant 5A, who appeared disoriented and possibly intoxicated, had been operating the vehicle at the time of the accident and was attempting to leave the scene. It was therefore reasonable for the officers to request that Complainant 5A stop and answer questions. *See People v. DeBour*, 40 N.Y.2d 210, 223 (1976) (An officer who has reasonable suspicion that

⁸ Axon_Body_4_Video_2025-03-01_0118_D01AA512E at 3:08 to 3:50

⁹ Axon_Body_4_Video_2025-03-01_0118_D01AA512E at 4:10 to 4:45

¹⁰ Axon_Body_4_Video_2025-03-01_0118_D01AA512E at 6:36 to 7:05

a person has committed a crime may stop and detain the person for questioning, a Level 3 encounter).

However, Officer Michienzi did not have sufficient legal basis to order Complainant 5A to empty her bags, which is equivalent to a search. A warrantless search is presumptively unconstitutional absent specific and narrow exceptions. *See People v. Evans*, 84 A.D.3d 573, 584 (1st Dep’t 2011) (“Exigent circumstances that may justify the warrantless search of property within a suspect’s immediate control or ‘grabbable area’ are limited to two situations, when there is a threat to the general public and/or to the arresting officer, or when there is a reason to protect evidence from concealment or destruction.”); *People v. Marsh*, 20 N.Y. 2d 98 (1967) (“the Legislature never intended to authorize a search of a traffic offender unless, when the vehicle is stopped, there are reasonable grounds for suspecting that the officer is in danger or there is probable cause for believing that the offender is guilty of a crime rather than merely a simple traffic infraction.”). Here, Officer Michienzi did not perceive a threat to himself or the general public, and there was no concern about the destruction of evidence. He was searching for car keys. And while there was sufficient basis for Officer Michienzi to reasonably suspect that Complainant 5A may have crashed while intoxicated, he did not have probable cause at that point to make an arrest and conduct a search incident to the arrest.

Officer Michienzi’s search of the crashed car was reasonable under the circumstances. When Complainant 5A denied that she had anything to do with the crash, she disclaimed any immediate possessory interest in the vehicle and the abandonment of the car was not a response to police pressure or illegal police conduct, and Officer Michienzi could have reasonably believed that there could be injured passengers, license and registration that could establish the owner of the vehicle, or items in the car that need securing. *See People v. Hanson*, 195 A.D.2d 408, 410 (1st Dep’t 1993) (officers’ search of an abandoned knapsack was lawful when the abandonment was not a result of police pressure or misconduct).

Upon returning from the crashed vehicle, Officer Michienzi ordered Complainant 5B to empty his pockets and proceeded to search his hoodie pouch, pants pockets, and bags without a legal basis to do so. *See People v. Evans*, 84 A.D.3d at 584.

While Officers Michienzi and Brown suspected Complainant 5A may have been intoxicated, they did not request that she submit to a field sobriety test, as was the case in Incidents 3, 4, and 5 above.

III. Conclusions and Recommendations

The incidents described above constitute a pattern of unlawful searches. Officer Michienzi also failed to follow departmental BWC policy in two incidents and used excessive force in one incident.

Executive Law § 75(5)(b) requires that OAG “determine whether the subject officer... has engaged in a pattern or practice of misconduct, use of excessive force, or acts of dishonesty.” To identify a pattern of misconduct for purposes of Executive Law § 75(5)(b), we look to whether the subject officer engaged in multiple acts of similar misconduct.

Here, Officer Michienzi failed to act in accordance with Departmental policy and his training when responding to incidents and was unprofessional during several incidents:

- Officer Michienzi conducted an unreasonable search of Complainant 1A's vehicle in Incident 1.
- Officer Michienzi violated BPD policy by failing to activate his BWC for the initial traffic stop, subsequent use of force, and arrest of the complainant in Incident 2.
- Officer Michienzi conducted an unreasonable search and employed excessive force against Complainant 3. Officer Michienzi violated BPD policy by not properly documenting his use of force during this encounter. In addition, Officer Michienzi violated BPD policy by failing to reactive his BWC for a portion of Incident 3.
- Officer Michienzi conducted an unreasonable search of Complainant 4's pockets (jacket and sweatpants) after instructing him to exit the vehicle during the initial stop in Incident 4.
- Officer Michienzi did not have sufficient legal basis to conduct a search of Complainant 5A's bags or to search Complainant 5B's pockets and bags in Incident 5.

The OAG recommends the following remedial actions:

- 1) Monitoring and Progressive Discipline for Future Misconduct. The Department should develop a plan for monitoring Officer Michienzi's conduct, including periodic review of reports and video footage of arrests and uses of force by Internal Affairs or a supervisor. We recommend that a member of the Internal Affairs Division discuss the findings herein and the imperative to prevent future incidents with Officer Michienzi immediately. Additionally, these findings should be incorporated into Officer Michienzi's next performance evaluation. For any future misconduct by Officer Michienzi, disciplinary action should be progressive and account for the violations described above.
- 2) Search and Seizure Training. Officer Michienzi's searches in incidents 1, 3, 4, and 5 demonstrate a misunderstanding of search and seizure law. In addition to ensuring that Officer Michienzi attends BPD's annual training on searches and seizures, we recommend individual training for Officer Michienzi regarding search and seizure law.
- 3) Use of Force, De-escalation, and Professionalism Training. We recommend that the Department provide additional training to Officer Michienzi regarding the use of force and de-escalation techniques in addition to any such training that is required on an annual basis, as well as training regarding conducting civilian interactions with courtesy and respect.
- 4) DWI Enforcement Training. We recommend that the Department provide additional training to Officer Michienzi regarding DWI enforcement, including the proper steps for field sobriety tests.

Pursuant to Executive Law § 75(5)(c), please notify the OAG within 90 days of the actions your agency has taken in response to these recommendations.

Sincerely,

LETITIA JAMES
New York State Attorney General

By: Matthew Menendez
Assistant Attorney General
Law Enforcement Misconduct Investigative Office