

UNITED STATES DISTRICT COURT

for the

Southern District of Florida

United States of America)

v.)

PRABHAINJANA DWIVEDI,)

Case No. 12-3225 - Goodman

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of May 27, 2011 - June 26, 2011 in the county of Miami-Dade in the
Southern District of Florida, the defendant(s) violated:

Code Section
 18 U.S.C. § 242

Offense Description
 Deprivation of Rights Under Color of Law

This criminal complaint is based on these facts:

See attached affidavit

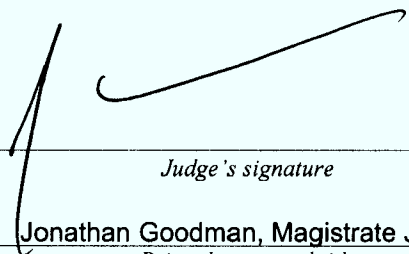
☒ Continued on the attached sheet.

Complainant's signature

Special Agent Susan Funk, FBI

Printed name and title

Sworn to before me and signed in my presence.

Date: Sep 4 2012
Judge's signatureCity and state: Miami, FloridaJonathan Goodman, Magistrate Judge
Printed name and title

AFFIDAVIT

1. I am a Special Agent with the Federal Bureau of Investigation (FBI). I have been so employed by the FBI since November 2009. Upon graduation from the FBI Academy in Quantico, Virginia, I was assigned to the Miami Division. Currently, I work on matters involving Public Corruption and Civil Rights in Miami-Dade County. My current investigations routinely include aspects of white collar crime, human trafficking, civil rights violations, and various other crimes. This affidavit is being submitted for the limited purpose of supporting a complaint and arrest warrant, and does not include every fact known to your affiant. The facts in this affidavit are based upon my personal knowledge, information provided by other law enforcement agencies, and the complainants set forth in this affidavit.
2. This affidavit sets forth probable cause to believe that Miami-Dade Police Officer Prabhainjana Dwivedi (hereinafter "DWIVEDI") under the color of law, that is, while acting as a police officer with the Miami-Dade Police Department, without lawful authority, did stop and/or detain numerous individuals, and did thereby willfully deprive those individuals of their rights secured and protected by the Constitution and laws of the United States, specifically, the right to be free from unreasonable search and seizures by one acting under color of law, in violation of Title 18, United States Code, Section 242.
3. In each of the below described incidents, DWIVEDI unreasonably detained individuals. The facts and circumstances detailing the unreasonable nature of each incident is described, including the nature of the actions, the sexually suggestive conversations,

and the unreasonable length of time of the detention. Further, as to M.M., F.L., and “B.R.”, in addition to the unreasonable detention, DWIVEDI stopped these individuals without probable cause, reasonable suspicion, or other lawful authority to conduct a stop.

4. DWIVEDI has been employed as an Officer with the Miami-Dade Police Department (MDPD) since February 28, 2005. During all material times, DWIVEDI was assigned to the midnight shift (10:00 p.m. to 6:00 a.m.) and was responsible for patrolling the areas of Key Biscayne, Metrorail and bus stations, and the area of Jackson Memorial Hospital.
5. During the months of May and June 2011, the Miami Dade Police Department Professional Compliance Bureau (MDPD PCB) received four complaints of inappropriate behavior on the part of MDPD Officer DWIVEDI. Each individual complainant described events and interactions with DWIVEDI that are similar in nature.
6. On May 27, 2011, at approximately 2:20 a.m., A.R., a 19 year old female, was leaving a night club located in Miami Dade County with two friends. A.R. stated that DWIVEDI conducted a law enforcement traffic stop for failure to have her headlights on. She did not have her vehicle’s headlights on, only parking lights. Further, DWIVEDI claimed that she was intoxicated, however, A.R. told DWIVEDI that she was not intoxicated. After making A.R. move her vehicle to a more isolated location, DWIVEDI instructed A.R. to exit her vehicle, and instructed her to sit inside the rear passenger seat of his vehicle. DWIVEDI made A.R. sit in various positions and perform various inappropriate movements while in the back seat of his police vehicle.

DWIVEDI then instructed A.R. to lower the zipper on the front of her dress down past her breasts to her mid stomach. A.R. stated that, by following DWIVEDI's instructions, she somewhat exposed her breasts. A.R. stated that she was held at the location for approximately one hour and twenty minutes before DWIVEDI left, without issuing a citation. Finally, DWIVEDI instructed A.R. to wait at that location for approximately 20 minutes, after he left. A.R. was later interviewed by MDPD-PCB and positively identified DWIVEDI in a photo line-up as the officer who stopped her on May 27, 2011.

7. DWIVEDI did not list this traffic stop on his daily activity report, nor did he advise the dispatcher of this stop. Further, DWIVEDI did not conduct a record's check or driver's license check of A.R. or the two passengers in the vehicle.
8. On May 27, 2011, at approximately 5:30 a.m., M.F., a 24 year old female, was en route to her residence from her job as a bartender on South Beach. DWIVEDI pulled alongside her vehicle and subsequently conducted a traffic stop in the area of the Golden Glades Interchange. M.F. advised that DWIVEDI approached her passenger side window and accused her of driving under the influence. M.F. was instructed by DWIVEDI to move into the passenger seat of her vehicle, at which time DWIVEDI instructed her to open the door and sit with her legs outside of the vehicle. M.F. pled with DWIVEDI that she was not intoxicated, but was a bartender and had handled alcohol that evening. M.F. requested that DWIVEDI perform a roadside sobriety test on her, to which DWIVEDI refused. DWIVEDI asked M.F. if she had a small child, as she had a child safety seat in the rear passenger seat. DWIVEDI further stated that if he arrested M.F. for driving under the influence, she would lose custody of her child.

DWIVEDI then engaged M.F. in a conversation regarding her breast enhancement, and asked if she had any photographs of her breasts. M.F. told DWIVEDI that she did have breast enhancements, and DWIVEDI asked to see photos. M.F. provided DWIVEDI with her cellular telephone so that he could view the photographs. After viewing the photos, DWIVEDI asked M.F. if she had any scars or incisions from the surgery, to which she replied that she did. DWIVEDI asked to see the scars/incisions. M.F. then lifted her shirt and showed DWIVEDI the scar. M.F. stated that DWIVEDI did not touch her breast. DWIVEDI then discussed his personal life. Following the conversation, DWIVEDI informed M.F. that she now appeared sober and could drive home. DWIVEDI then advised M.F. that he would follow her home to ensure that she got home safely.

9. M.F. stated that, upon arrival at her residence, DWIVEDI approached her and stated that he was thirsty, and asked if M.F. could provide him with a drink. M.F. stated that DWIVEDI spent over one hour at her residence talking about his personal life.
10. M.F. was later interviewed by MDPD-PCB and positively identified DWIVEDI in a photo line-up as the officer who stopped her on May 27, 2011. DWIVEDI did not list this traffic stop on his daily activity report, nor did he advise the dispatcher of this stop. Further, DWIVEDI did not conduct a record's check or driver's license check of M.F.
11. On June 5, 2011, at approximately 4:30 a.m., M.M., a 20 year old female, and K.C., a 22 year old female, were at Key Biscayne beach with their boyfriends. The four were walking from the beach at Key Biscayne near the bridge next to the research center, when DWIVEDI spotted them and yelled at them to meet him in the parking lot. The four had entered the beach by going through a hole in the fence, thus, trespassing.

Once at the parking lot, DWIVEDI asked each individual for identification. K.C. advised that her identification was inside of their vehicle; and M.M. advised that she did not have her identification. DWIVEDI told M.M. to sit in the back seat of his vehicle. DWIVEDI instructed the other three individuals to sit inside their vehicle.

12. M.M. stated that DWIVEDI asked her such questions as, "What are you wearing under your clothes?" and "What kind of underwear are you wearing?" M.M. stated that DWIVEDI continuously pointed his flashlight at her cleavage. According to M.M., this type of questioning went on for approximately 45 minutes. At one point, DWIVEDI pulled his pants zipper down. M.M. stated that, at that time, K.C. had exited their vehicle and approached DWIVEDI requesting to use the restroom. DWIVEDI permitted K.C. to use the restroom, and while K.C. was using the restroom, DWIVEDI instructed M.M. to return to her vehicle but remain seated outside of the vehicle. DWIVEDI instructed the boyfriends to close the doors and windows of the vehicle so that they could not communicate with M.M.

13. When K.C. exited the restroom, DWIVEDI claimed that K.C. had just urinated in front of everyone. In denying that claim, M.M. and K.C. both stated that K.C. had urinated in a stall in the men's restroom, which was the closest restroom to where they were located. K.C. stated that DWIVEDI instructed her to sit in the vehicle with her legs outside of the vehicle. DWIVEDI then accused K.C. of swimming without her shirt, and because she had her shirt off in front of everyone, that she should now take her shirt off. K.C. stated that after DWIVEDI said that, he grabbed the front of her shirt and pulled the shirt down. K.C. stated "No," and moved back in the seat causing DWIVEDI to release the shirt. K.C. stated that, although her breasts were not fully

exposed, DWIVEDI was able to see her breasts. DWIVEDI then let K.C. go and instructed her to return to her vehicle.

14. DWIVEDI then called M.M. back and had her sit inside of his vehicle. DWIVEDI eventually released M.M., and the group drove out of the area.

15. Both M.M. and K.C. were later interviewed by MDPD-PCB and positively identified DWIVEDI in a photo line-up. DWIVEDI did not list this encounter on his daily activity report, nor did he advise the dispatcher of this stop. Further, records show that DWIVEDI did not conduct a record's check or driver's license check of M.M. or K.C., or the other two occupants of the vehicle.

16. On June 24, 2011, MDPD-PCB conducted surveillance of DWIVEDI during his shift. During that shift, DWIVEDI was observed conducting twenty-five traffic stops of various vehicles while utilizing his marked police vehicle. Based upon surveillance unit's observations and information provided by the females who were stopped, it was determined that DWIVEDI conducted these stops without probable cause.

17. During the course of DWIVEDI's shift on June 24, 2011, F.L. was stopped by DWIVEDI while she was driving southbound on Interstate 95. Surveillance units observed DWIVEDI conversing with the driver through the passenger window for approximately 31 minutes.

18. After F.L. was released by DWIVEDI, MDPD-PCB officers subsequently stopped F.L. When asked, F.L. told them that DWIVEDI had advised her that she had been stopped for reckless driving. MDPD-PCB surveillance units, who were in the area of DWIVEDI and F.L. prior to her being stopped, did not observe any driving pattern consistent with reckless driving.

19. F.L. stated that DWIVEDI instructed her to move into the passenger seat of her vehicle.

DWIVEDI advised her that she could be arrested. In response to DWIVEDI's inappropriate questions and statements, F.L. advised DWIVEDI that she would not sleep with him or give him her telephone number. F.L. was then released without being issued a traffic citation.

20. The investigation revealed that DWIVEDI did not notify the dispatcher of the traffic stop, nor did he run a criminal history or driver license check of F.L., nor did he list the traffic stop on his daily activity report. Furthermore, it was determined that DWIVEDI did not notify the dispatcher of any of the 25 traffic stops he conducted during the course of his shift. Although he did list 3 of the 25 stops on his written daily activity report.

21. On June 25, 2011, at approximately 5:35 a.m., M.F. (previously mentioned above) notified MDPD-PCB via her cellular telephone that DWIVEDI was in the midst of conducting another traffic stop on her. The MDPD-PCB officer that answered the phone instructed M.F. to leave her phone open so that the MDPD-PCB officer could hear her conversation with DWIVEDI. While the phone line was open, the MDPD-PCB officer heard DWIVEDI advise M.F. that she was hitting the bumps pretty hard (meaning that she did not maintain a single lane of travel and was riding on the bumps located on the lane lines). At which time, M.F. stated that she had not hit the bumps. DWIVEDI advised her that he knows, because he's been doing this a long time. M.F. asked if it was a coincidence for him to be stopping her again. M.F. stated that she had not been drinking, and as of matter of fact, the last time he stopped her, she went and had herself tested and her test came back negative. DWIVEDI then started to

make small talk with her, stating that he thought that she was now working in Broward.

M.F. stated that she wasn't working in Broward, and was still working at her current job. Shortly thereafter, DWIVEDI allowed her to leave.

22. MDPD-PCB investigators observed the traffic stop of M.F. described in paragraph 21 while conducting surveillance of DWIVEDI. MDPD-PCB advised that DWIVEDI did not have probable cause for conducting a traffic stop on M.F.

23. The next shift, beginning the evening of June 25, 2011, MDPD-PCB again conducted surveillance of DWIVEDI. During this shift, DWIVEDI was observed conducting thirteen traffic stops of various vehicles, including that of an undercover officer, "B.R.". The investigation revealed that DWIVEDI notified the dispatcher of only one traffic stop, which occurred at 11:38 p.m. at Northwest 12th Avenue and 40th Street. DWIVEDI's activities were consistent with that of the previous surveillance wherein he was observed conducting several traffic stops of vehicles being driven or occupied by females.

24. The traffic stop of the undercover officer was initiated by DWIVEDI without probable cause. Upon approaching the undercover officer, DWIVEDI advised that he had stopped her for making an illegal right turn. The undercover officer reported that DWIVEDI was flashing his light onto her breasts and between her legs while at her vehicle. DWIVEDI later asked the undercover officer to exit her vehicle and stand at his passenger door. DWIVEDI then began asking the undercover officer questions, requiring her to bend down into his vehicle, apparently where he could view the undercover officer's cleavage.

25. The undercover officer had provided DWIVEDI with a false name, date of birth, and social security number. DWIVEDI advised the undercover officer that he could not find a driver license under the name she had provided; however, DWIVEDI released the undercover officer without issuing a citation.
26. On November 1, 2011, agents interviewed DWIVEDI. He agreed to speak with the agents. Agents showed him a photograph of one of the women he previously had stopped (victim AR). He said he did not recognize her. The second photo shown to him was that of victim M.F. and he said that he had stopped her. He described to the agents the stop of M.F. and that he went to her house. He admitted that he did not always notify dispatch or run license plates of the vehicles he stopped and that when he stopped individuals who appeared to be DUI, he did not always arrest them or issue traffic citations. Sometimes he would just wait with the individuals until he felt that they were sober enough to drive home.
27. He admitted to discussing M.F.'s breast enhancements, however, his account of the conversation differs from that of M.F. He claims it came up because she said she did it to try to earn more money at the bar she worked. He denied being shown the scars from the surgery. DWIVEDI admitted that they talked about an hour regarding personal matters. DWIVEDI admitted that he then said he was not going to arrest her or issue a citation, but that he was going to follow her home.
28. At her house, defendant asked M.F. for a drink. He claims that he did that because he is borderline diabetic and felt weak. He went inside and drank a Gatorade. At M.F.'s house, they talked more about family and various topics.

29. Wherefore, based on the facts stated above, there is probable cause to believe that DWIVEDI has, under the color of law, that is, while acting as a police officer with the Miami-Dade Police Department, did stop and/or detain numerous individuals, and did thereby willfully deprive those individuals of their rights secured and protected by the Constitution and laws of the United States, specifically, the right to be free from unreasonable searches and seizures by one acting under color of law, in violation of Title 18, United States Code, Section 242.

FURTHER AFFIANT SAYETH NAUGHT.



Susan H. Funk, Special Agent
Federal Bureau of Investigation

Subscribed and Sworn To Me, This 11th Day of September, 2012.



JONATHAN GOODMAN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF FLORIDA