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## POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #8

November 5, 2013

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### OVERVIEW

Complainant alleges he called for police services while experiencing mental health issues. Complainant alleges he wanted to be transported to the hospital. Complainant alleges five officers arrived and as he talked to them, one grabbed him and threw Complainant to the ground. Complainant alleges his face was slammed into the cement. Complainant alleges he was not resisting arrest during the incident, but instead attempting to receive help.

### ALLEGATIONS

1. Excessive Force: That Complainant as grabbed by five officers and thrown to the ground where his face struck the pavement causing him injury.

### OPCR AND MPD POLICIES

- OPCR Ord. § 172.20(1) Excessive Force
- MPD Policy and Procedure Manual § 5-301 Use Of Force: Based on the Fourth Amendment's "reasonableness" standard, sworn MPD employees shall only use the amount of force that is objectively reasonable in light of the facts and circumstances known to that employee at the time force is used. The force used shall be consistent with current MPD training.

### COMPLAINT PROCESSING

OPCR joint supervisors determined that if Complainant was taken to the ground by an officer causing his face to strike the pavement without cause, the officer(s) involved could have violated policies governing use of force. Hence, they assigned the case to an investigator for a preliminary investigation. During the investigation, the Complainant could not be located and did not respond to attempts to contact him/her. The preliminary investigation was concluded, and the case was closed as dismissed – failure to cooperate.

### EVIDENCE

In the course of investigating this complaint, the following steps were taken:

1. Complainant filed a written complaint.
2. Dispatch records were obtained.
3. Audio recordings of 911 calls were obtained.
4. Police reports were obtained. Reports contained three detailed supplements by officers describing the events.
5. No squad camera records of the incident were obtained.

6. No street camera recordings were obtained.
7. Medical records release forms were obtained.
8. An investigative report was created after the conclusion of a preliminary investigation.

## **SUMMARY OF EVIDENCE**

### **Complainant's Written Statement**

Complainant's brief written statement first states that he suffers from mental health issues. Complainant wrote, "All I was asking for was some help and 5 officers took it upon themselves to tackle me to the ground and restrain me." Complainant wrote that his face came in contact with the cement. Complainant wrote that, "All [he] was doing was walking along the sidewalk." Complainant again reiterated, "All I wanted was to have and get some help."

### **911 Calls/Dispatch Reports**

Witness 1 was the first to contact 911. During the call, Witness 1 stated that Complainant was threatening to kill him/her. Witness 1 called back to state that Complainant "needs to go to the psych ward" and is very drunk. Dispatch noted that a stabbing occurred at the location several days before the incident.

Complainant called 911 five minutes after Witness 1 and reported he was no longer at the location. Complainant stated in the call that he was very drunk and has been off his "meds" for approximately one month. Complainant began referring to police as "apes" and stated that "[he] will fight them if [he] need[s] to." Complainant hung up.

Complainant called back to state that he left the location, and "want[ed] the police to find [him]." Complainant reiterated that he will fight the police but also wants to go to the hospital. Complainant became very angry, referring to the police as "apes" when asked to return to his original location but agreed to do so.

Witness 1 called back approximately one minute later to report that Complainant arrived outside and was "out front talking to himself."

Dispatch records do not contain a description of the events; detailed descriptions were located in the police reports. However, records indicate that Officer 1 arrived at the location alone. Records indicate that Officer 1 contacted the complainant. Records show that seven minutes later, backup was requested and an additional squad arrived with two officers. Soon thereafter, Complainant's driver's license information was accessed by Officer 1. Officer 1's supervisor arrived at the location twenty minutes after the initial contact.

### **Police Reports**

#### *Officer 1*

Officer 1 submitted a detailed supplement to the CAPRS report. Officer 1 was notified of the 911 calls by Witness 1 and Complainant. Officer 1 was notified that a stabbing occurred at the incident location several days before the current call. Officer 1 was notified that complainant was likely intoxicated, stated that he will fight the police, and that Complainant reported that he stopped taking his psychiatric medication.

Officer 1 arrived at the scene and located Complainant in the intersection. Officer 1 alleged that Complainant began to approach the squad and Officer 1 asked Complainant to back away as "his demeanor appeared to be aggressive." Officer 1 alleged that s/he asked "what was going on" and Complainant replied that "he needed to go to the hospital." Officer 1 alleged that Complainant was slurring his words.

Officer 1 alleged that s/he asked Complainant to approach the rear of the squad and place his hands on it to be searched for weapons before transport. Officer 1 alleged that Complainant responded, "Oh no, you're not gonna[sic] treat me like them." Officer 1 alleged that s/he asked for clarification and Complainant replied, "Like a f\*ck\*ng n\*gg\*r." Officer 1 alleged that Complainant eventually complied with orders, and Officer 1 began to pat search him.

Officer 1 alleged that Complainant began to resist the pat search by rising off the squad car and turning his body to face Officer 1. Officer 1 alleged that Complainant began to place his arm against Officer 1's chest, and in response, Officer 1 grabbed Complainant's wrist to turn him and pin him to the squad car. Officer 1 alleges that s/he attempted to air for backup but could not do so.

Officer 1 alleged that Complainant continued to struggle and resist being handcuffed. Officer 1 alleged that s/he placed Complainant in a neck restraint with his/her forearm and bicep positioned on the sides of Complainant's neck to prevent strangulation. Officer 1 alleged that they struggled and Officer 1 took the Complainant to the ground. They were located in the middle of an intersection.

Officer 1 alleged that the second squad arrived while they struggled on the ground, and Officers 2 and 3 assisted in securing Complainant. Officer 1 reported that Complainant was placed in the rear of the squad, transported to a hospital, and placed on a hold. Officer 1 alleged that during transport, Complainant "accused officers of beating him and stat[ed] that he was going to sue [the police department]." Officer 1 reported the force to the supervisor when s/he arrived.

#### *Officer 2*

Officer 2 submitted a detailed supplement to the CAPRS report. Officer 2, riding with Officer 3, received the same dispatch reports regarding the 911 calls and the stabbing that occurred at the location. Officer 2 alleged that s/he arrived as Officer 1 was struggling with Complainant in the middle of the intersection on the ground.

Officer 2 alleged that s/he assisted in handcuffing Complainant. Officer 2 alleged that during this, Complainant continued to struggle while screaming that "Officers were pieces of sh\*t and monkeys." Officer 2 alleges s/he attempted to place the Complainant in the back seat of the squad but he resisted. Officer 2 alleged that s/he delivered a knee strike to Complainant's thigh, and he sat in the squad. Officer 2 reported the force to the supervisor when s/he arrived.

#### *Officer 3*

Officer 3 submitted a detailed supplement to the CAPRS report. Officer 3, riding with Officer 2, stated that s/he "hurried to [Officer 1's] location" knowing that Officer 1 was alone and had not contacted dispatch for several minutes. Officer 2 alleged that s/he arrived and witnessed Officer 1 struggling with Complainant on the ground in the middle of the intersection. Officer 2 alleged that s/he assisted in handcuffing the Complainant while he struggled. Officer 2 alleged that s/he helped place the Complainant in the rear of the squad when he resisted.

## **SUMMARY OF INVESTIGATION**

OPCR investigators attempted to contact the Complainant for a statement. The investigator called the complainant four times, each several days apart. The investigator left messages for the Complainant, but the calls were not returned.

The investigator contacted Witness 1. Witness 1 stated that s/he had not seen Complainant since the incident. Witness 1 stated that s/he did not have any contact information for Complainant.

The investigators visited the address listed by Complainant and left a business card but received no response. The investigator contacted management for the premises and left several messages for Complainant but received no response.

After a month passed without Complainant contacting the Office, the investigator concluded that Complainant could not be located. Because no recorded statement could be obtained, the complaint was dismissed for lack of cooperation.