
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #2

November 2013

OVERVIEW

Complainant alleges that she witnessed Officers 1 and 2 respond to a fight between two men. Complainant alleges that Officer 1 provoked one of the fighters, instigating another fight. Complainant alleges he did so by getting in the fighter's face and pushing him.

THE COMPLAINT

1. Violation of the Policy and Procedure Manual: That Officer 1 unnecessarily provoked an individual by getting in his face and pushing him.

OPCR AND MPD POLICIES

- OPCR Ord. § 172.20(8) Violation of the MPD Policy and Procedure Manual
- MPD Policy and Procedure Manual § 5-105(14): Employees shall not . . . do anything intended to incite another to violence.

COMPLAINT PROCESSING

OPCR Joint supervisors believed the allegations, if proven true, would constitute an A-level violation. The case was sent to coaching for resolution.

EVIDENCE

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

1. Complainant filed a complaint online and followed up with OPCR investigators.
2. Dispatch/Visinet records were obtained.
3. No police report was filed regarding the incident.
4. No squad camera recordings were available.
5. Coaching documents were prepared and sent to the appropriate supervisor for resolution.

SUMMARY OF EVIDENCE

The Complaint

In the complaint, Complainant alleges that she and several friends were standing in line at a bar when "a fight broke out." Complainant witnessed two officers respond to the fight. Complainant alleges that Officer 1 was "acting as though he was provoking one of the fighters." Complainant alleges that Officer 1 "was right in the [fighter's] face and was very intimidating in his demeanor and then he was suddenly moving the guy . . . using his body language to intimidate him."

Complainant believed the fighter to be “obviously intoxicated.” Complainant alleges that Officer 1 pushed the fighter and handcuffed him. Complainant believed Officer 1 escalated the situation.

Dispatch/Visinet Records

Dispatch/Visinet records list the incident as an on site “suspicious person.” They provide the location of the incident and the officers that responded. No additional information was provided.

COACHING

Coaching documents consisting of the complaint and dispatch/Visinet records were forwarded to the appropriate supervisor to conduct the coaching investigation. During the course of the coaching investigation, the supervisor contacted Complainant for interview. The supervisor attempted to contact one of the individuals present with Complainant after receiving his contact information. Complainant stated that the other two individuals with her were not bothered by the incident and would most likely not contact the supervisor. None of the individuals responded to the supervisor. The supervisor waited approximately one week before interviewing Officers 1 and 2.

Coaching Interview of Complainant

The supervisor contacted Complainant for additional information about the incident. Complainant told the supervisor that two males were fighting outside of a bar when Officers 1 and 2 arrived. Complainant stated that Officers 1 and 2 got in between the fighters, and Officer 1 dealt with one fighter while Officer 2 dealt with the other. Complainant stated that Officer 1 got in the fighter’s face, making him walk backwards. Complainant stated that he moved the fighter away from the location, and eventually pushed the fighter. Complainant stated that the fighter then pushed Officer 1 and grabbed him.

Complainant stated that she could not hear what was being said by the fighters or officers. Complainant stated that she filed the complaint because, “even though the guy that was in the fight was not innocent, she did not feel that Officer [1] handled it properly because he appeared to be antagonizing the male to fight instead of calming him down.” Complainant was concerned that if the individual was arrested, the report should note Officer 1’s provocation.

Coaching Interview of Officer 2

The supervisor first met with Officer 2 to discuss the incident. Officers 1 and 2 were working off duty in the area. Officer 2 stated that he did not remember specifically dealing with the fighters. Officer 2 stated that he did not observe Officer 1 push the fighter nor the fighter grab Officer 1. Officer 2 stated that the fighter was handcuffed “in an attempt to calm him down which he eventually did and [he] was later released.” Officer 2 stated that the fighter was not searched but was identified. An individual’s information was processed through dispatch close to the time of the incident, but it was unclear whether this was related to the incident.

Coaching Interview of Officer 1

Officer 1 stated that he was working off duty on the date of the incident. Officer 1 stated that he and Officer 2 responded to a fight between security at a bar and a patron. At the time the officers

responded, security had the man on the ground. Officer 1 stated that he attempted to walk the fighter away from the incident, but the fighter would not calm down and tried to get back to the security guard. Officer 1 stated that he pushed the man to prevent him from attempting to get back to the security guard, and the fighter grabbed Officer 1's arm in response.

Officer 1 stated that he learned the fighter was upset that he was admitted to the bar and then removed for being overly intoxicated. Part of the disagreement concerned a cover charge paid by the fighter that was not refunded. Officer 1 stated that the fighter was not upset with Officer 1 but was trying to get back to the security guard to continue the argument. Officer 1 stated that he attempted to explain to the fighter that this was a civil matter that should be dealt with at a later date.

Officer 1 stated that because the fighter continued to attempt to get back to the security guard, he was handcuffed. Officer 1 stated that he again explained the situation to the male, stated that he could be arrested for disorderly conduct. Officer 1 stated that he did not search the individual. Officer 1 stated that he decided to release the fighter with no citation or further action after he calmed down. Officer 1 stated that he did not instigate the fight but rather "tried to resolve the situation by talking to the male [and] did not take action until the male tried to go back to the bar that he was just evicted from."

Supervisor Recommendation

The supervisor reviewed the code of conduct policies implicated and use of force policies in regards to the push. The supervisor noted that the Complainant's statement and Officer 1's statement were largely consistent, but that the Complainant did not hear the exchange or know about its origins.

The supervisor concluded that because the fighter kept trying to get back to the security guard to continue the argument, Officer 1's attempt to move him backwards was appropriate. The supervisor concluded that the push, in response to the fighter's repeated attempts to get back to the security guard, was appropriate. The supervisor noted that the fighter was not arrested, a concern of the Complainant, and no force was used after the push.

The supervisor concluded that, per policy, no CAPRS report was required. Hence, the supervisor recommended that no policy violations occurred.

Coaching of Officer 1

The supervisor decided that Officer 1 should be coached regardless of whether a policy violation occurred. The supervisor advised Officer 1 that he should consider documenting these types of incidents in the future regardless of whether it is required by policy. The supervisor also advised Officer 1 that he should consider arresting an individual that fights with a security guard and refuses to leave the area.

Supervisor Follow Up

The supervisor called and left a message for Complainant to discuss the resolution of the Complainant. Complainant did not return the call. The supervisor also emailed to the Complainant asking her to contact the supervisor, but she did not return the email.