
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #8

November 2013

OVERVIEW

Complainant alleges that two officers came to Complainant's home to get items for Complainant's ex. Complainant alleges that she did not invite them in and they took Complainant outside. Complainant alleges that they did not explain what was going on and would not allow Complainant to make a call. Complainant alleges Officer 1 took her phone. Complainant alleges that Officers 1 and 2 allowed her ex to go through the apartment. Complainant alleges that they let Complainant's ex still in her apartment. Complainant alleges that Officer 1 looked through Complainant's phone without permission. Complainant alleges that throughout the encounter, the officers would not explain what was happening.

THE COMPLAINT

1. Violation of the Policy and Procedure Manual: That Officer 1 looked through the Complainant's phone and refused to explain to her what was happening

OPCR AND MPD POLICIES

- OPCR Ord. § 172.20(8) Violation of the Policy and Procedure Manual
- MPD Policy and Procedure Manual § 5-105(3) Professional Code of Conduct: Officers shall use reasonable judgment in carrying out their duties and responsibilities. They need to weigh the consequences of their actions.
- 5-104 Impartial Policing: All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution and statutory authority.

COMPLAINT PROCESSING

OPCR joint supervisors believed the allegations, if proven true, could constitute an A-level violation. The case was sent to the precinct for coaching.

EVIDENCE

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

1. Complainant filed a written complaint.
2. Dispatch/Visinet records were obtained.
3. No police report was filed regarding the incident.
4. Squad camera recordings were not available.
5. Coaching documents were prepared and sent to the appropriate supervisor for resolution.

SUMMARY OF EVIDENCE

The Complaint

Complainant alleged that Officers 1 and 2 arrived at her home and requested she exit the dwelling to allow her ex to retrieve property. Complainant alleged she did not know what was happening and asked to make a call. Complainant alleged that Officer 1 stated she could but not at that time. Complainant alleged that Officer 1 took her phone. Complainant alleges she was placed in the squad car while her ex went through the dwelling. Complainant alleges that officers ran her information in the squad computer. Complainant alleges she was locked in the squad while officers escorted the ex through the apartment. Complainant alleges that one of the officers stood behind the squad and looked through her phone. Complainant alleged that afterwards, she was driven down the block and released. Complainant alleged that she asked what was happening and officers ignored her.

Dispatch/Visinet Records

Visinet records indicate that Complainant's ex contacted the police department to accompany him to retrieve his property from the dwelling he and Complainant previously shared. Complainant's information was submitted to dispatch who returned available records. Officers added comments to the Visinet report, stating that Complainant's ex picked up remaining property and would meet the officers at the precinct to discuss paperwork. Further comments were added later in the day, stating the "male was advised that the female could not be arrested on a summons and paperwork did not give any other actionable info for arrest." The ex was advised that "no warrant or pickup was issued for [Complainant]."

COACHING

Coaching documentation was forwarded to the appropriate supervisor. The supervisor attempted to contact the Complainant, but the phone number provided was no longer in service. Complainant provided no other contact information. The supervisor discussed the incident first with Officer 2 and later met with Officer 1.

Coaching Interview of Officer 2

Officer 2 stated that he and his partner were summoned to assist a caller (Complainant's ex) who wanted to retrieve personal property from his former residence. The caller was able to describe the property he wanted to retrieve. The caller stated that Complainant had a warrant related to a recent domestic assault. Complainant provided a packet of paperwork related to previous incidents prepared by another law enforcement agency.

Officer 2 stated that upon arrival, Officers 1 and 2 informed the Complainant of the reason for the visit, and Complainant did not dispute ownership of the property to be recovered. Officer 2 stated that "it was clear from the attitude of both parties that they were very hostile toward each other." Officers 1 and 2 decided to ask Complainant to leave the dwelling while Complainant's ex retrieved his property. Complainant complied and was escorted to the squad car to wait.

Officer 2 stated that he escorted the Complainant's ex while he retrieved his property. Officer 2 stated that Complainant's ex continued to state that Complainant had warrants for her arrest. Officers 1 and 2 decided to check for outstanding warrants, and upon determining that there were none, released the Complainant from the squad car.

Coaching Interview of Officer 1

Officer 1 stated that he and his partner were summoned to assist Complainant's ex who wanted to retrieve personal property from his previous address. Officer 1 stated that the Complainant's ex told officers that Complainant had a warrant for her arrest related to a recent domestic assault. Officer 1 stated that the Complainant's ex provided paperwork regarding a recent domestic assault incident prepared by another law enforcement agency.

Officer 1 stated that upon arrival, Complainant did not dispute Complainant's ex's ownership of the requested property. Officer 1 stated that because of the level of hostility between Complainant and her ex, Officers 1 and 2 decided to remove her from the apartment. Officer 1 stated that there was no force or threat of force, and Complainant complied with the request.

Officer 1 stated that he did not recall holding the Complainant's phone, but he speculated that he might have held her phone to prevent her from calling others to come to the location to exacerbate the situation. Officer 1 stated "he is certain that he never looked through [Complainant's] cell phone."

Officer 1 stated that Complainant's ex returned and reiterated that Complainant had a warrant for her arrest. Officer 1 stated that he wanted to prevent further conflict between Complainant and her ex, so he agreed to check whether Complainant had any outstanding warrants. Officer 1 told Complainant's ex that the officers would meet him at the precinct afterwards to discuss the results. Officers 1 and 2 checked for any warrants, including those from outside agencies, and found none.

Officer 1 stated that they returned to the precinct to discuss the results with the Complainant's ex. Officer 1 stated that Complainant's ex was upset that she was not arrested but left the station.

Supervisor Recommendation

The supervisor concluded that Officers 1 and 2 did not violate any policies during the incident. The supervisor stated that because of the circumstances, it was reasonable to separate the parties while Complainant's ex retrieved his property from the residence. Because Complainant could not be contacted and both officers stated that they "fully explained the situation to Complainant and she understood why they asked her to step out of the residence," the supervisor found the actions "appropriate and reasonable."

Coaching

Regardless of the recommendation that no policy violations occurred, the supervisor decided to coach Officer 1. The supervisor began by asking what else could have been done to avoid the complaint. Officer 1 stated that he believed he fully explained the situation but stated that "if he takes someone's property or cell phone, he should make sure they fully understand why he is asking to hold it." Officer 1 stated that it "was possible that Complainant did not fully understand why he asked to hold her phone." Officer 1 stated that "in the future when he feels it is necessary to make this type of request, he will strive to always fully explain why he is requesting to hold someone's phone."