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**POLICE CONDUCT OVERSIGHT COMMISSION**  
Case Summary Data #4  
May 2014

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**OVERVIEW**

Complainant alleges he called 911 after a dispute with another escalated into a physical attack. Complainant alleges that he was struck twice in the face by the other party, injuring him. Complainant alleges that Officer 1 arrived, and decided that the situation was mutual combat without viewing security camera recordings. Complainant received medical attention from an ambulance that arrived, and Officer 1 allegedly told Complainant to leave. Complainant alleges that when he tried to ask Officer 1 questions about why nothing was being done, Officer 1 replied, "get the f\*ck out of here." Complainant alleges that when he asked Officer 1 not to use inappropriate language, Officer 1 stated, 'now you are going to jail' and handcuffed him. Complainant alleges that his keys were lost while being searched.

**THE COMPLAINT**

1. Harassment: that Officer 1 arrested the Complainant after the Complainant asked Officer 1 to stop using profanity.
2. Inappropriate Language: that Officer 1 told Complainant to "get the f\*ck out of here."
3. Failure to provide adequate protection: that Officer 1 did not arrest the individual that attacked Complainant.
4. Violation of the P&P Manual: that Complainant's keys were lost while being searched.

**OPCR AND MPD POLICIES**

1. OPCR Ord. § 172.20(3) Harassment
2. OPCR Ord. § 172.20(2) Inappropriate Language
3. OPCR Ord. § 172.20(6) Failure to Provide Adequate Protection
4. OPCR Ord. § 172.20(8) Violation of the Policy and Procedure Manual
5. 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.
6. 5-105 PROFESSIONAL CODE OF CONDUCT: Employees shall not use indecent, profane or unnecessarily harsh language in the performance of official duties or in the presence of the public.
7. 5-105(2) PROFESSIONAL CODE OF CONDUCT: On-duty officers shall, at all times, take appropriate action within their jurisdiction, to protect life and property, preserve the peace, prevent crime, detect and arrest violators of the law, and enforce all federal, state and local laws and ordinances.
8. 10-401 RESPONSIBILITY FOR INVENTORY OF PROPERTY AND EVIDENCE All MPD employees taking possession of property, whether evidentiary or non-evidentiary, shall place such property in the custody of the Property and Evidence Unit and complete the inventory prior to the end of their shift.

## **COMPLAINT PROCESSING**

After taking into consideration the complaint, CAPRS reports, and Visinet logs, the joint supervisors concluded that the case could likely be resolved in mediation. The case was first sent to mediation. Mediation was scheduled, and after being properly notified, Officer 1 failed to report to mediation. The case was returned to the joint supervisors. A second complaint was filed concerning Officer 1's failure to appear for mediation. The original complaint was sent to coaching to resolve

## **EVIDENCE**

1. Complainant submitted a detailed written complaint.
2. Police reports were obtained.
3. Dispatch logs were obtained.
4. Coaching documents were prepared and sent to the precinct inspector.

## **SUMMARY OF EVIDENCE**

### **Complaint**

Complainant stated that he had a dispute over a business transaction, namely that he was charged for services that were not provided. Complainant alleged that when he complained, Employee 1 punched him twice on the left side of his head. Complainant called 911 for medical and police assistance.

Complainant alleges that after he was checked by paramedics, he spoke to one of two police officers that arrived while the other officer talked to the employees of the business. Complainant alleged that he was told by the officer that an independent witness told them that Complainant started the fight. Complainant alleged that he asked the officer for a police report while trying to show the officer that the services he paid for were not completed, and the officer stated, "get the f\*ck out of here." Complainant alleged that he told the officer that he "shouldn't use that language," and the officer told him he was under arrest for "talking back and not leaving." Complainant alleged that he continued to try to show the officer that the services were not provided. Complainant was arrested soon thereafter by Officer 1. Complainant alleges that his keys disappeared at some point during the arrest process.

### **CAPRS Report**

The CAPRS report indicates that two officers responded to the scene, Officer 1 from MPD, and Officer 2 from University of Minnesota Police Department. Both officers provided supplements to the report.

### Supplement by Officer 1

Officer 1 stated that after being dispatched to the location, he first talked Complainant. Officer 1 reported that Complainant told him that he was not provided services for which he paid, and when he complained, Employee 1 punched him twice in the head. Officer 1 reported that the Complainant told him that he wanted to be checked out by EMS. Officer 1 reported that Officer 2 talked to multiple witnesses to the incident (listed in the CAPRS report). Officer 2 told Officer 1 that these witnesses all identified Complainant as the aggressor.

Officer 1 next reported that he told Complainant that he would not take an assault report as he believed this was a mutual combatant situation. Officer 1 reported that Complainant became "very upset and no longer appeared to have any discomfort." Officer 1 stated that Complainant began yelling at him, refused medical attention, and demanded a report. Officer 1 stated that

Complainant was given badge information for Officers 1 and 2. Officer 1 stated that Complainant began to yell at the employees that they would regret hitting him.

Officer 1 stated that, “fearing that [Complainant] would begin fighting with the worker if [officers] left, [Officers 1 and 2] ordered [Complainant] to leave so there would be no more trouble despite the fact he said he never paid.” Officer 1 stated that Complainant was given multiple commands to leave the area but would not begin to do so. Officer 1 stated that he arrested Complainant for obstruction of legal process.

#### Supplement by Officer 2

Officer 2 stated that he first spoke with employees of the store. Employee 1 stated that he argued with Complainant about the quality of work that was performed. Employee 2 stated that Complainant became physical and pushed the employee. He stated that they pushed each other back and forth but that he did not punch Complainant. Officer 2 stated that he next spoke with a witness from a neighboring business. The witness told Officer 2 that Complainant was the aggressor and pushed the employee first.

Officer 2 stated that he, along with Officer 1, determined the situation to be mutual combatants, and the Complainant was told to leave the area. Officer 2 stated that Complainant was told multiple times to leave, but he continued to argue with employees of the store. Officer 2 stated that after both officers gave multiple orders to the Complainant to leave that were ignored, Complainant was arrested for obstruction by Officer 1.

#### **Visinet Log**

The visinet log indicates that Complainant called for police service, alleging that he was hit after a dispute over services. Complainant alleged in the 911 call that he was threatened with a screwdriver. Both officers arrived, and Officer 1 ran Employee 1's identification. EMS reported that the incident was closed with no service. Officer 1 ran complainant's identification. The next line indicates that Officer 1 transported Complainant to jail. Officer 1 advised the jail that Complainant was uncooperative.

#### **MEDIATION**

Complainant expressed an interest in mediation during his initial conversations with OPCR staff. The case was referred to mediation, and after coordinating a date and time, notifications were sent to all parties. Officer 1 failed to report to the mediation session, and a separate complaint against Officer 1 was created.

#### **COACHING**

Allegations of inappropriate language, failure to provide adequate protection, improper property inventory, and harassment were sent to the precinct for coaching. A precinct supervisor conducted the coaching investigation, and spoke with Officer 2, three witnesses, Complainant, the employee that fought with Complainant, and Officer 1.

#### Interview of Officer 2

Officer 2 stated that the incident occurred as he described it in his report. He stated that Complainant was ordered to leave multiple times before he was arrested. Officer 2 stated that he told Complainant to “Get the f\*ck out of here” after Complainant used profanity directed at Officer 2. Officer 2 stated that Officer 1 did not use inappropriate language.

#### Interview of Complainant

The supervisor reported that he had a 40 minute conversation with Complainant. Complainant told the supervisor about the services that were not performed. Complainant told the supervisor that they got into an argument, and the employee was aggressive, punching him twice in the head. Complainant asked for a blue card so he could sue the employee.

The supervisor reported that he asked Complainant what he wanted to occur, and Complainant told him that he “wanted the employee arrested for assault so he could get his money back.” The supervisor asked Complainant if he could provide any witnesses that could corroborate his allegations, and Complainant provided the supervisor with Witness 3’s contact information.

Complainant told the supervisor that he was sure that Officer 1 used inappropriate language. Complainant also told the supervisor of another recent incident where the employee assaulted someone at work. Complainant also stated that he was not given his keys when released from jail.

#### Interview of Witness 1

Witness 1 recalled being present at the time of the incident, but did not recall details. He confirmed that he provided a statement to police.

#### Interview of Witness 2

Witness 2 is the owner of the property where the dispute occurred. Witness 2 stated that Complainant was attempted to renegotiate the price for services that were already provided, and that prompted the argument. Witness 2 stated that that Complainant and the employee pushed each other, but Complainant was not struck in the face. Witness 2 stated that he had to break up the argument approximately five times prior to the officers’ arrival. Witness 2 stated that Complainant has caused trouble in the location prior to this incident. Witness 2 stated that the claim that the employee assaulted another individual was not true.

#### Interview of Witness 3

Witness 3 was identified by Complainant as an individual who could corroborate his account. Witness 3 works at a different business in the same complex as the incident location. Witness 3 stated that he did not witness the event and could not recall the details of what he was told about it.

#### Interview of Employee 1

Employee 1 stated that Complainant “came at him in an aggressive manor; he was defending himself by pushing [Complainant] away as he was being pushed by [Complainant]. Employee 1 stated that the officers were very professional and that Complainant refused to leave.

#### Interview of Officer 1

Officer 1 stated that he did not remember all the details of the incident but denied using inappropriate language “because he knows it would generate a complaint, especially when [Officer 1] knows there was a good chance he may have to arrest someone.” Officer 1 stated that all property went with Complainant to the jail. Officer 1 explained that he has no relationship with the business owners.

### Supervisor Determination

After taking into account the statements and evidence, the supervisor determined that Officer 1 did not use profanity, advised Complainant to leave the property, and lawfully arrested him when he refused.