
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #7
January 2014

OVERVIEW

Complainant alleges that Officer 1 arrived at the location after the Complainant's daughter was accused of stealing. Officer 1 searched the Complainant's two daughters and the Complainant. The Complainant alleges that Officer 1 told the Complainant that if she paid for the item she would let them go; Complainant alleges that she refused and asked her daughter to allow Officer 1 to further search her. Complainant alleges that Officer 1 stated "f*ck this," grabbed her daughter, threw her in the squad car, and slammed the door. Complainant alleges that Officer 1 yelled obscenities about "you people," yelled obscenities directly in the Complainant's daughter's face, and cited the Complainant and her daughters for trespassing, banning them from the area.

THE COMPLAINT

1. Inappropriate Language or Attitude: That Officer 1 yelled and used profanity towards Complainant and her daughters.
2. Discrimination in the provision of police services: That Officer 1 treated Complainant and her daughters as criminals despite having no evidence that Complainant or her daughters had the stolen item.

OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20(2): Inappropriate Language or Attitude
2. OPCR Ord. § 172.20(4): Discrimination in the provision of police services
3. 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. Employees shall not use any derogatory language or actions which are intended to embarrass, humiliate, or shame a person, or do anything intended to incite another to violence.
4. 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. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for a pedestrian or vehicle stop, investigative detention, arrest, non-consensual search or property seizure.

COMPLAINT PROCESSING

EVIDENCE

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

1. Complainant submitted a detailed written complaint.
2. Visinet records were obtained.
3. No police reports were available.
4. No squad recordings were available.
5. Coaching documents were prepared and sent to the precinct inspector.

SUMMARY OF EVIDENCE

The Complaint

Complainant alleges that she and her two adult daughters were shopping, when a store employee accused her daughters of stealing a weave pony tail. Complainant alleges that she and both of her daughters had checked out with their items and were exiting the store when the store employee yelled at them for taking the item and told them he had called the police. Complainant alleged that she told her daughters to put everything on the counter and not move until the police got there. Complainant claims they waited for over ten minutes and then she asked the store employee where the police were, and he again said he had called. Complainant alleges that because she has a medical condition which makes her unable to stand for long periods of time, she called the police herself. Complainant alleges that dispatch told her that no one else had called for that location but that they would send a car.

Complainant alleges that within five minutes, Officer 1 arrived. After explaining what was going on to Officer 1, Complainant alleges that Officer 1 went through Complainant and her daughters' purses and bags and searched Complainant's daughters thoroughly. Complainant alleges that Officer 1 then went with the store employee to view store camera footage and when Officer 1 came back she said that she saw on the tape that they had picked up the pony tail and when they put it back down it was empty. Complainant alleges that Officer 1 went through their bags and purses and searched her daughters again, and still did not find the pony tail.

Complainant alleges that Officer 1 then asked to speak to Complainant and took her into an aisle of the store. Complainant alleges that Officer 1 told her that if she paid the fifty dollar value of the pony tail, that Officer 1 would let them go. Complainant alleges that she would pay for it when Officer 1 could tell her where the pony tail was and which of her daughters took it. Complainant alleges that Officer 1 went back to the store employee, came back, and pointed to one of Complainant's daughters. Complainant alleges that she told the daughter that Officer 1 identified to come over to Officer 1 so that they could go somewhere and she could be searched more thoroughly. Complainant then alleges that her daughter began to remove her clothing in front of the store, and she was crying and saying that she had not done anything.

Complainant alleges that Officer 1 then said "f*ck this," grabbed Complainant's daughter and her purse and threw her in the squad car. Complainant alleges that Officer 1 slammed the car door and yelled obscenities about "you people" and then returned to the store.

Complainant alleges that Officer 1 then yelled in the face of Complainant's other daughter saying, "When they said they called the f*cking police you don't turn around and call again, they have my personal fu*cking number to call me so they don't need to call 911." Complainant alleges that she told Officer 1 that she had called the police, and Officer 1 responded by telling Complainant that she was citing the Complainant and her two daughters with trespassing so "get the f*ck off the property now and don't come back to this mall or you will be arrested."

Visinet Report

Two Visinet reports exist for this incident. The first Visinet report describes a call by Complainant. The caller states, "EMP ACCUSING DAUG OF STEALING." No officers were assigned.

The second describes a call received immediately thereafter, again by Complainant. The record states again that "EMP ACCUSING DAUG OF STEALING." Officer 1 was assigned and arrived at the location. After running Complainant's daughter's identification, Officer 1 states that she

“sent 3” and “could not find 50 dollar item they took.” The incident duration was twenty minutes.

COACHING

Coaching was sent to the precinct inspector who referred it to the appropriate supervisor to complete. The supervisor interviewed Officer 1, spoke with the Complainant, and reviewed the Visinet report.

Interview of Officer 1

Officer 1 stated that at the time of the incident all three parties involved were excited, agitated, and became loud and uncooperative. Officer 1 stated that she did not specifically remember swearing, but that she could have to de-escalate the situation and safely put the main suspect in her squad car.

Interview of Complainant

The supervisor did not include any details regarding this interview in the coaching documents.

Supervisor's Conclusion

The supervisor found no violation for impartial policing. Because Officer 1 reviewed the video tape which “clearly showed the suspect opening the package and removing the contents” and suspected that the item was put in Complainant’s daughter’s undergarments or disposed of while being detained, the supervisor recommended no policy violation for impartial policing.

The supervisor did find that a policy violation for the use of profane language did occur, but “in this case, profanity was used to take control of an escalating situation. The suspect needed to be separated from her mother and sister, [Officer 1’s] words and actions enabled the officer to take the suspect into custody. Physical force was avoided because of the officer’s actions.” The supervisor expressed his opinion that the profanity policy is “flawed” because “profane language is commonly used by almost all suspects that officers encounter in the ... precinct.” Ultimately, the supervisor concluded that “Yes there was a policy violation of using profane language. Yes in my opinion the profane language accomplished what the officer needed to do. Yes I believe the policy is flawed and there should be exceptions. Yes the employee/Officer [1] was coached by me on the policy.”