
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #4
February 2014

OVERVIEW

Complainant alleges that during the execution of a search warrant, Officer 1 kicked the Complainant in the face and stomped on the Complainant while the Complainant laid face-down on the floor. Complainant alleges that he was not resisting or threatening during the time that the force was used against him, and that he sustained injury as a result of the force used by Officer 1. The complaint received an administrative investigation and was sent to the Police Conduct Review Panel. The Panel recommended to the chief that the allegations had no merit. The chief agreed, and found the allegations not sustained.

THE COMPLAINT

1. Excessive Force: that Focus Officer stomped on the Complainant and kicked the Complainant in the face when the Complainant was not resisting or threatening officers.
2. Excessive Force: that Focus Officer kicked Civilian Witness 1 as he laid face-down on the floor not resisting officers.

OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20(1): Excessive Force
2. 5-301.01 USE OF FORCE POLICY: 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

The joint supervisors reviewed the complaint and determined the allegations could constitute a violation greater than A-level if found to have merit. They assigned the case to a preliminary investigation. After completion of the preliminary investigation, it was determined that the case should proceed to an administrative investigation. Upon completion of the case, it was submitted to the Police Conduct Review Panel, and after their recommendation, submitted to the Office of the Chief.

EVIDENCE

1. Complaint
2. Case Report with Supplements
3. Supervisor Use of Force Report
4. Interview with Complainant
5. Interview with Focus Officer
6. Interview with Civilian Witness 1
7. Interview with Witness Officer 1
8. Interview with Witness Officer 2
9. Interview with witness officer 3
10. Interview with witness officer 4
11. Interview with witness officer 5

12. Crime Scene Photographs
13. Scene Injury photographs
14. IAU photographs
15. Complainant cell phone photographs
16. Complainant medical records
17. OPCR investigative report
18. Police Conduct Review Panel Recommendation
19. Chief Finding

SUMMARY OF COMPLAINT AND REPORTS

The Complaint

Complainant states that he was at a friend's house playing videogames with several individuals in a bedroom when a warrant was served. Complainant stated that the tactical team entered the bedroom so he moved to the floor. Complainant alleges that while on the floor, Focus Officer "started to kick and stomp on [his] face and back multiple times until the side of [his] face and nose started to bleed."

Case Report

The case report begins with a summary of the probable cause that led to the arrest of Civilian Witness 1. It states that a confidential informant provided information that Civilian Witness 1 was selling marijuana from the address and was in possession of a handgun. Focus Officer's unit conducted a search of the residence and located the gun with an altered serial number. Record checks determined that the gun was stolen from an out of state owner. The gun was found in Civilian Witness 1's bedroom. A small amount of marijuana was also discovered.

The report indicates that Civilian Witness 1 was arrested for illegal possession of a handgun and is a suspected gang member. Complainant is listed as an "other party" in the initial portion of the report.

Property and evidence listed includes the gun recovered, magazines for the gun, live cartridges, crack pipes, marijuana pipes, digital scales, baggies, marijuana, and money. Images of the scene were also inventoried as property. Ten supplements to the case are listed.

Supplement 1 by Focus Officer

Focus Officer began his report by stating his position on the warrant service team. Focus Officer stated that he was briefed on the no knock warrant to be executed and that a gun was suspected in the residence. Focus Officer was assigned to the entry team at a position of "cover."

Focus Officer stated that he entered the dwelling and announced himself as a Minneapolis police officer conducting a search warrant. Focus Officer stated that he encountered a partially opened bedroom door in the dwelling. Focus Officer made entry and encountered four individuals sitting on a bed. Focus Officer stated that Complainant "got off the bed and bolted on foot towards an open closet area." Focus Officer stated that he pushed Complainant with his hand and Complainant's movement caused him to fall forward into a closet. Focus Officer stated that he "did this fearing that [Complainant] could be armed and his action could have been to possibly flee with a weapon." Focus Officer stated that as he went to check the closet, he was forced to step on Complainant "due to the fact that the bedroom was so cluttered."

Focus Officer searched and secured the remaining areas of the dwelling without incident.

Upon completion of the search, Focus Officer stated that he was informed that Complainant had an injury. Focus Officer described the injury stating that he observed Complainant “who had a swollen and slightly bloody nose.” Focus Officer stated that Complainant told him “it had occurred when [Focus Officer] had stepped on [Complainant] causing his face to hit the floor.” Focus Officer states that multiple officers offered to provide medical attention and Complainant refused. Focus Officer notes that the supervisor on scene took photos.

Supplement 2 by Witness Officer 1

Witness Officer 1 was the supervisor assisting in the execution of the search warrant. Witness Officer 1 attended the briefing for the no knock warrant where the warrant execution team was informed that known gang members frequented the dwelling and the suspect was seen with a handgun.

Witness Officer 1 stated that his team conducted a “jump out” and approached the front door of the dwelling. The doors were unlocked and officers entered. Witness Officer 1 stated that officers secured the males inside the bedroom, and “one of them . . . suffered a bloody nose while being forced to the cluttered bedroom floor.” The rest of the house was secured without incident.

Witness Officer 1 stated that he conducted a supervisor use of force review. Witness Officer 1 outlines his reasoning in the review. He noted that the bedroom “was approximately 8’ x 10’ in size and that it was cluttered to the point of leaving very little room to maneuver.” Witness Officer stated that Focus Officer told him that he stepped directly on Complainant after Complainant made a movement towards the closet in the bedroom. Witness Officer stated that he spoke with Complainant who told him that Focus Officer either “kicked/stepped on the back of his head and that his face hit the floor.” Witness Officer 1 concluded that this was consistent with what Focus Officer reported. Witness Officer 1 took photos of Complainant prior to leaving the dwelling.

Supplement 3 by Witness Officer 5

This supplement contains information about the search but nothing related to the complaint.

Supplement 4

This supplement contains information about the search but nothing related to the complaint. The author was not involved in the incident.

Supplement 5 by Witness Officer 2

Witness Officer 2 begins by outlining his investigation that led to the issuance of the search warrant. This included a description of the handgun thought to be in possession by Civilian Witness 1.

Witness Officer 2 reported that he was assigned to the perimeter of the residence while the warrant service team entered. Witness Officer 2 stated that he “heard a male voice say ‘oh shit’ and heard the sound of people running/moving around near an open window” on the side of the residence where the Complainant and the three other individuals were found.

Witness Officer 2 listed the evidence recovered during the search of the residence and the inventory procedures he followed to maintain the evidence.

Supplement 6 by Witness Officer 2

This supplement contains information about the investigation but nothing related to the complaint.

Supplement 7 by Witness Officer 3

Witness Officer 3 observed the location before the arrival of the warrant service team and witnessed a possible narcotics transaction. Witness Officer 3 was assigned to the perimeter of the address while the warrant enforcement team conducted their sweep. After the sweep, Witness Officer 3 learned that Complainant had force used on him during the incident. Witness Officer 3 spoke with the Focus Officer's supervisor. Nothing further is reported.

Supplement 8 by Witness Officer 4

Witness Officer 4 reported that he entered the home after the scene was secured by the warrant service team. He entered the dwelling and located a gun under a dresser in the bedroom where Complainant, Civilian Witness 1, and two others were first found.

Supplement 9 by Witness Officer 2

This supplement contains information about the investigation but nothing related to the complaint.

Supplement 10

This supplement contains information about the investigation but nothing related to the complaint.

Supervisor Use of Force Report

Witness Officer 1 conducted the use of force review. He notes that Focus Officer used force on Complainant. The force detail lists the force type used as "push away," the force was directed at Complainant's torso, it achieved compliance, and caused an injury.

Witness Officer 1 next reported that he was on scene, did not collect evidence, did not identify witnesses, spoke with Complainant, Complainant was not transferred to the hospital, and did not notify IAU. Witness Officer 1 stated that Complainant was observed after the incident. Witness Officer 1 repeats the information provided in his supplement to the case report.

He noted that the bedroom "was approximately 8' x 10' in size and that it was cluttered to the point of leaving very little room to maneuver." Witness Officer 1 stated that Focus Officer told him that he stepped directly on Complainant after Complainant made a movement towards the closet in the bedroom. Witness Officer stated that he spoke with Complainant who told him that Focus Officer either "kicked/stepped on the back of his head and that his face hit the floor." Witness Officer 1 concluded that this was consistent with what Focus Officer reported. Witness Officer 1 took photos of Complainant prior to leaving the dwelling.

SUMMARY OF INTERVIEWS

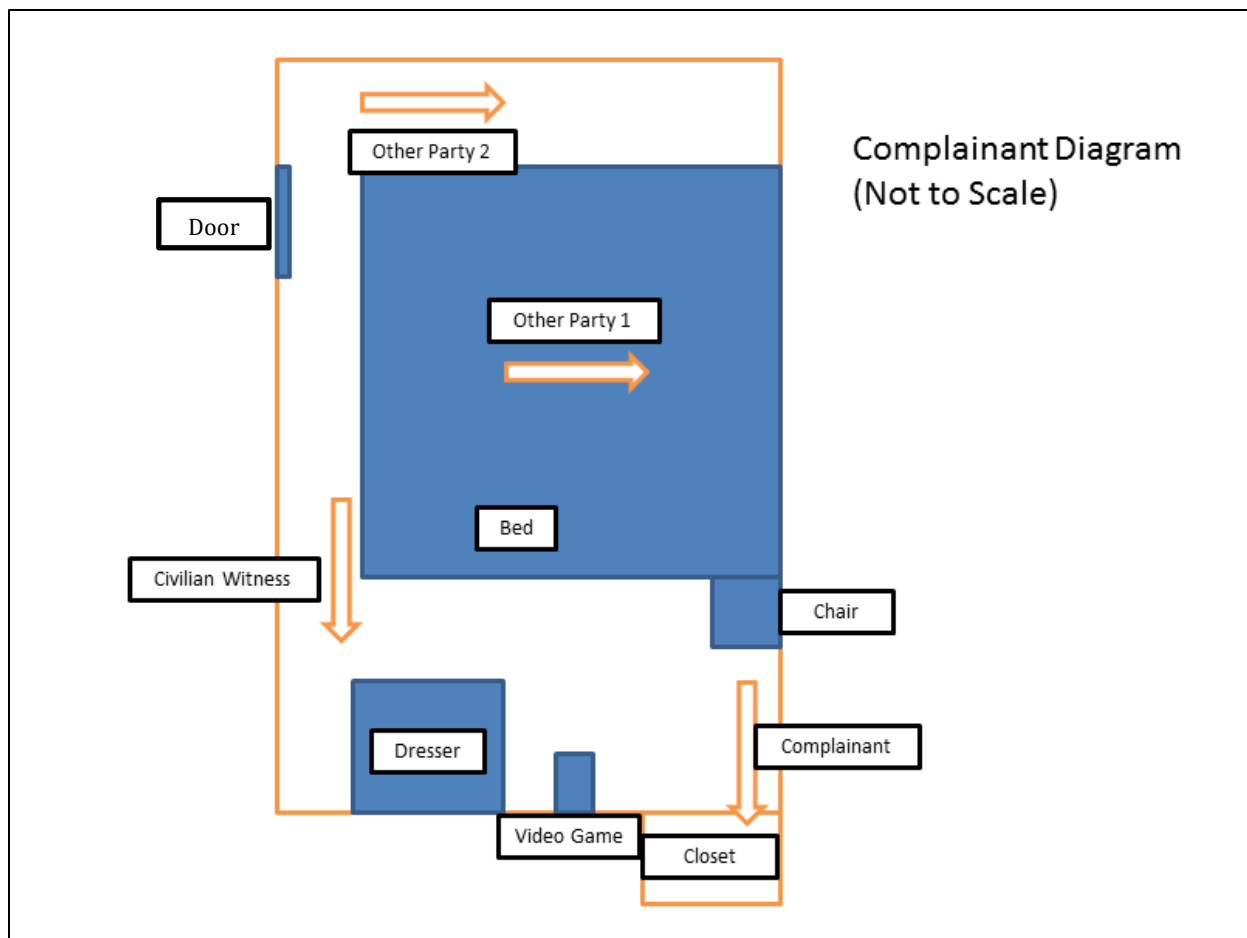
Complainant Interview

Complainant's interview began with a short description of the incident. Complainant stated that he was in Civilian Witness 1's bedroom with Civilian Witness 1 and two other individuals when they heard police enter the residence. Complainant stated that he told his friends not to move to avoid getting shot. Complainant stated that when Focus Officer entered the room, he "laid down right instantly. . . because [he] didn't them to want[sic] to have no[sic] reason to put their hands on [him] for nothin' [he] had nothin' to do with." Complainant stated that he could hear the officer's footsteps and turned his head to look at where they were coming from. Complainant stated that "[he] got kicked multiple times in [his] face and [he] was stepped on and kicked in the back of [his] head for no reason." Complainant stated that he wasn't resisting but covered his face and Focus Officer "kicked [him] in [his] face through [his] arms." Complainant stated that a sergeant came to talk to him and he told him what happened. Complainant stated that he told the sergeant that he was getting dizzy. Complainant stated that officers spoke with everyone else in the room but did not speak to him. Complainant said he was released without a citation and went straight to Hennepin County Medical Center.

After complainant's narrative, the OPCR investigator began asking more detailed questions. Complainant explained that that he was sitting in a chair in the bedroom when he heard the officers enter. They were already in the house when he heard them because the front door was unlocked by Civilian Witness 1's grandmother. Complainant stated that officers attempted to enter the bedroom but the door was blocked by the bed. When the officers entered the room, he could see their guns so he moved to the ground. Complainant reported seeing three or four flashlights in the door.

Complainant stated that he was not given orders to get on the ground, but did so because he knew the officers would be "nervous" due to the bed blocking the door. Complainant stated that "there is no room to even really move around in the room."

Complainant reported that everyone in the room went prone as soon as the officers attempted entry. Complainant stated that his arms were positioned out, stretched above his head. Complainant described the locations of the four individuals in the room and provided a hand-drawn diagram. Below is a recreation of his diagram:



Complainant described in detail how Focus Officer kicked both Complainant and Civilian Witness 1. Complainant stated that Focus Officer was positioned on the right side of his body using the wall to hold himself up. Complainant's was positioned with his head facing to his left. Complainant stated that he was kicked first in the left side of his face using a stomping motion. Complainant stated that he was kicked four times in the left side of his face and received a shoe print; Complainant stated he received a rug burn on the right side of his face.

Complainant stated that Focus Officer stepped into the closet and kicked him once on the top of the head and then kicked him with his right foot a second time using a "football kick" that "went between [his] arms" striking him in the nose and mouth.

Complainant stated that Focus Officer stepped on his back to get out of the closet, kicked Complainant again in the back of the head, and moved towards Civilian Witness 1.

Complainant described Focus Officer's use of force on Civilian Witness 1. Complainant stated that after Focus Officer moved away from Complainant, he "heard him kick [Civilian Witness 1] and [Complainant] heard [Civilian Witness 1] start screamin'." Complainant stated that he witnessed Focus Officer kick Civilian Witness 1 once. Complainant stated that no other officers kicked or stepped on Civilian Witness 1.

Complainant stated that after the warrant service team left the "scene" other officers entered the room. Complainant stated that one of the officers shined a flashlight on him and asked, "Whoa, what happened to you?" Complainant told the officer, "Your officer kicked me in my face." The

officer responded, "Awe, what did you do?" Complainant answered, "Nothing. I was just laying here."

Complainant stated that the officers picked up Civilian Witness 1, searched him, and took him out of the room. Complainant was then picked up, searched, and reported that he "was woozy." Complainant stated that his face was covered in blood, so officers wiped his face and took pictures of his injuries. Complainant stated that there "was a nice size puddle" of blood on the floor and that he continued bleeding throughout the incident.

Complainant reported that he was brought out of the room and handcuffed. He stated that he talked to Witness Officer 2 who asked what happened. Complainant told Witness Officer 2 that he was "kicked multiple times by one of [the] officers." Complainant told Witness Officer 2 that he hit his face on the floor, and another officer responded, "You don't get any pity for getting kicked." Complainant asked to leave, and an officer stated, "There's no pity on you or you don't get no le-way[sic] for getting kicked in the face." Complainant stated that he explained that "one of the two times that the officer kicked [him] when [Focus Officer] was in the closet, [his] face bounced off the ground." He reiterated that his face did not hit the floor when he first went to the ground.

Complainant was taken to the hospital by relatives as soon as he was released. Complainant told the investigator that "[his] nose wasn't broken. . . [he] had a minor fracture, very bruised nose and black eyes." Complainant also reported foot marks on the left side of his face and rug burns on the right.

Civilian Witness 1 Interview

Civilian Witness 1 reported the same initial sequence of events, stating that he, Complainant, and two other individuals were sitting in his room playing video games. Civilian Witness 1 stated that one of the individuals "said something about the police was outside" and "all of a sudden, somebody come in talkin' about Minneapolis police." Civilian Witness 1 stated that the officers attempted to enter the room but the bed obstructed the door. Civilian Witness 1 reported that the officers ordered the group to the floor and they "got on the floor with no hassle, just like they asked—said." Civilian Witness 1 stated that more than two officers entered the room.

Civilian Witness 1 stated that Focus Officer went directly towards the closet and "stomped" on Civilian Witness 1 "for no reason." Civilian Witness 1 stated that Complainant was prone in front of the closet and Focus Officer "stomped on him." Next, "[Focus Officer] got towards [Complainant's] head and got to stompin' on [Complainant's] face." After Focus Officer left the closet, he "stomp[ed] on [Complainant's] face again." Civilian Witness 1 reported that Focus Officer "stomp[ed] on [Civilian Witness 1's] back a few more times" after he moved away from Complainant.

Civilian Witness 1 stated that he did not see Focus Officer push Complainant to the floor with his foot because "once they came in, [Civilian Witness 1] went to the floor." When asked if Civilian Witness 1 saw Focus Officer kick Complainant, Civilian Witness 1 stated, "That I can't remember. . . I was so focused on him, seeing him stomping him in his face and in his back, and . . . stomping me on my back, than anything." Civilian Witness 1 reported seeing Complainant bleeding on the floor, and stated that there was room to maneuver without stepping on Complainant and Civilian Witness 1.

After Focus Officer left the bedroom, Civilian Witness 1 stated that other officers zip-tied and handcuffed the four individuals on the floor. Civilian Witness 1 reported seeing Complainant lifted off the floor, his face cleaned of blood by officers, and an officer taking photographs of Complainant. Civilian Witness 1 stated that Complainant received no other type of medical treatment.

Civilian Witness 1 was brought to the dining room and Complainant was brought to the living room area. He could not see whether Complainant was still bleeding. Civilian Witness 1 reported hearing Complainant saying “he needed some type of help.” Civilian Witness 1 was identified, searched, and brought to jail; he did not witness any events thereafter.

After Civilian Witness 1 was released from jail, he spoke with Complainant who told him he passed out from the blows to his head. Civilian Witness 1 reported that Complainant “had black eyes . . . his face wasn’t normal.” He reported that the plastic runner where Complainant was positioned was covered in “a big pile of blood” and had to be thrown away.

Focus Officer Interview

Focus Officer began his interview by describing his assignment on the warrant service team. He was assigned to enter the dwelling first and secure individuals and rooms with his partner. He described his equipment which adds approximately 60 pounds to his body weight.

Focus Officer 1 stated that he entered through the door and made his way towards the bedroom where Complainant was located. He described the loud verbal announcements he gave as, “Police, search warrant.” He stated that the search was slow and methodical because the warrant was for firearms. He entered the first bedroom after seeing Complainant and other individuals on the bed playing video games. Focus Officer stated that he gave loud verbal commands because they seemed “completely unaware that [officers] were in this home.”

Focus Officer described the bedroom as 12’ x14’ with a large TV and king-size bed that blocked the door. He described the room as cluttered with “bags of clothes stacked up and a closet that was cluttered as well.” Focus Officer stated that he ordered the individuals to “get down on the ground.” Focus Officer stated that they complied, but as he entered the room, “there was nothing else to do but essentially step on individuals as [he] proceeded to clear the rest of the room. . . a very tight area for [him] to work in.”

Focus Officer stated that “as I began to enter, one of the young men on the bed got up and I would assume out of maybe fear or confusion bolted towards a closet – like a walk-in closet that was in the room.” Focus Officer stated that he “pushed [Complainant] down with [his] foot which caused him to fall forward and collapse kind of at the foot of the bed on the floor.” Focus Officer stated that he was the only officer who could enter the room, and he secured the room alone. Focus Officer described the Complainant’s movements as “a bee-line for that closet” and that’s when he was able to “kind of push him down with [his] foot.”

Focus Officer stated that “there was no space for [him] to gingerly walk and try to avoid any type of contact” with the individuals in the room. He stated that Complainant could have been attempting to get onto the ground and that he didn’t remember his action “necessarily being that of any type of threat to [Focus Officer], but his simple movement towards that closet that was unchecked could have meant a whole host of bad things that could have occurred, and it was an instant response by [Focus Officer] to make sure that he was forced to the ground.” Focus

Officer reiterated that guns were present at the home and that Complainant “didn’t comply and get down on the ground immediately.”

Focus Officer stated that Complainant was not going down to the ground when he forced him to the floor. He described Complainant’s actions again as “a bolting motion . . . like he was going to almost run into this closet or bolt into this closet and hide.” Focus Officer checked the closet and left the room.

Focus Officer described how he stepped on Complainant, stating that he stepped on “his upper torso, his back,” but that he “wasn’t really paying attention.” He stated “it wasn’t anything malicious whatsoever. It was just what I had to do, there was no intention on stepping on people but there was no alternative option.” Focus Officer stated there was no blood in the room. Focus Officer stated there “wasn’t a chance to gingerly watch and try to check” if Complainant was bleeding while he was sweeping the room.

Focus Officer stated that he later had contact with Complainant after the scene was secured. Focus Officer was told that Complainant “had a cut on his chin. . . or in his mouth.” He described Complainant as “bloody but not bleeding. . . like it wasn’t dripping with blood but his face and mouth were bloody.”

Focus Officer stated that he is very heavy while wearing his gear and that “combined with that weight and walking, [he] didn’t maliciously intend to inflict pain or force nor did [he] check to see or even recognize that anybody had been injured.” Focus Officer “assume[d]” the injury was from stepping on him. Focus Officer stated that he spoke with Complainant when he was called back, and Complainant told him the injury occurred “when he was forced to the ground.”

Focus Officer described the first aid that Complainant received. “His mouth was wiped with like a Habistat wipe, something to kind of clean the wound to see what actual type of injury it was . . . if he was missing teeth or whatever.” Focus Officer remembered that Complainant had a “wound in his mouth around his chin.” Focus Officer stated that Complainant was offered an ambulance several times “which was refused . . . he’s like ‘it’s cool’.”

Focus Officer described the force he used on Complainant as a “push” with his foot. Focus Officer denied kicking Complainant in the face and stated that he “checked the closet without having to enter it . . . [while] standing on [Complainant].” Focus Officer stated that he could have unintentionally stepped on the back of Complainant’s head. Focus Officer stated that he “wasn’t being mean about it but I wasn’t recognizing that [he] weigh[ed] a lot at that time. . . [he] wasn’t walking light-footed.”

Focus Officer confirmed the details of his report as it was read to him to conclude the interview, reiterating that Complainant told Focus Officer that he received his injury when he was stepped on, causing his face to hit the floor.

Statement of Witness Officer 1

Witness Officer 1 began by stating his rank and assignment, namely that he was the supervisor of the warrant service team. He described the assigned roles of each team member and what that role entailed. Witness Officer 1 stated that he directed movement in the dwelling and moved throughout the entire residence. Witness Officer 1 wrote the supervisor’s use of force report.

Witness Officer 1 was informed by Witness Officer 3 that Complainant was complaining of an injury after the individuals were secured. Witness Officer 1 stated that he spoke with Focus Officer to determine how it occurred. Focus Officer told Witness Officer 1 that “when he entered inside the room, he immediately encountered four adult males and that . . . he began ordering to the floor or basically to get down.” Focus Officer stated that “a few of them remained on the bed and one of them in particular [Complainant] . . . went towards the floor and towards a closet.”

Focus Officer told Witness Officer 1 that he “forc[ed] [Complainant] to the floor, ended up stepping on his upper torso, and in order to secure . . . a larger closet.” Witness Officer 1 described the room as “extremely small, extremely cluttered.” He estimated it to be 8’x10’ in size with a “double or bigger size” bed. He stated that when they encounter such a room, they will secure it with one officer.

In describing his conversation with Complainant, Witness Officer 1 stated that “he claimed that he had either been kicked or stepped on the back of his head and that his face had hit the floor.” Witness Officer 1 stated that Complainant told him that his face hit the floor as a result of being stepped on.” Witness Officer 1 described Complainant’s injuries as a “minor bloody nose . . . some blood that came out of his nose and was on his facial area.” Witness Officer 1 stated that he took photos of his injuries, and Complainant “refused medical attention . . . an ambulance.”

Witness Officer 1 reported seeing a small amount of blood on the floor. Witness Officer 1 stated that he did not identify any witnesses to the use of force before writing his use of force report.

Statement of Witness Officer 2

Witness Officer 2 stated his rank and assignment. He confirmed that he participated in the execution of the search warrant but that he was not assigned to the warrant service team. Witness Officer 2 waited with his team outside the dwelling while the warrant service team entered and secured the location. His team entered afterwards and handcuffed those present in the dwelling after a weapons check.

Witness Officer 2 stated that he was aware that one of the individuals in the home complained of an injury and described Complainant as having “blood coming from . . . his nose mouth area, possibly both.” He further described that, “It didn’t appear to be an overwhelming amount of blood . . . it was definitely notable.”

Witness Officer 2 remembered Complainant saying “his nose was broken or injured.” Complainant did not tell Witness Officer 2 how the injury occurred. Witness Officer 2 stated that both supervisors present spoke to Complainant. Witness Officer 2 did not hear Complainant refuse medical treatment but assumed that because EMS did not arrive, Complainant refused medical treatment.

Witness Officer 2 stated that while on the perimeter of the home before the warrant service team entered, he remembered “hearing lots of stuff flinging and lots of moving around by . . . individuals inside of that room [where Complainant was located].” Witness Officer 2 stated that he did not see Focus Officer enter the room or what transpired.

Statement of Witness Officer 3

Witness Officer 3 stated that he supervised the team that waited outside the dwelling while the warrant service team cleared the home. Witness Officer 3 did not enter the home until the

warrant service team had secured it. He stated that all the occupants were in the living room when he entered and that he searched the bedroom where they were previously located. He did not recall seeing any blood on the floor.

Witness Officer 3 stated that he encountered Complainant who stated that “somebody had used force on him” but that he didn’t remember “exactly what was said.” He remembered being told “somebody used force on Complainant. . . if they stepped on him or kicked him or hit him [he has] no way to recall what he said.” Witness Officer 3 stated that he would have dealt with Complainant “if he said “I’ve been pushed to the ground . . . I’m assuming he got struck somehow . . . because Witness Officer 1 at that point was gonna[sic.] come back and take his statement.”

Witness Officer 3 called Witness Officer 1 to the scene to follow up with Complainant. Witness Officer 3 did not recall being in the same area as Witness Officer 1 when he spoke to Complainant. Witness Officer 3 did not recall any visible injuries, and stated, “I think if I would have seen them I would have probably put them in my report.”

Witness Officer 3 stated that he did not offer medical treatment but could have possibly offered an ambulance.

Statement of Witness Officer 4

Witness Officer 4 stated that he was assigned to secure the rear perimeter of the dwelling while the warrant service team entered the home. He entered after the scene was secured and began by searching the bedroom where Complainant was located. He reported that four individuals were in the room secured with temporary flex handcuffs.

Witness Officer 4 described the room as “packed with items all over the floor . . . it was very tight in there with all the clutter.” Witness Officer 4 helped Complainant up off the floor and switched his flex handcuffs with actual handcuffs. He described Complainant as having “some blood coming off his nose.” Witness Officer 4 did not recall any blood on the floor like Complainant was “bleeding profusely.”

Witness Officer 4 stated that Complainant told him the injury occurred when he “had gotten stepped on.” Witness Officer 4 reported asking Complainant if his nose felt broken and Complainant replied, “no it doesn’t feel broken.” Witness Officer 4 stated there wasn’t any “weird disfigurement by the nose . . . it just appeared that he had a bloody nose and he agreed with that.” Witness Officer 4 stated that Complainant replied, “it’s just sore and the blood’s comin’ out of it.”

Witness Officer 4 stated that Complainant did not tell him he was kicked, but instead that he was stepped on by an officer. Witness Officer 4 stated that he offered to summon an ambulance for Complainant and Complainant refused. Witness Officer 4 did not have an opportunity to report the injury because Witness Officer 1 entered the room and spoke with Complainant.

Statement of Witness Officer 5

Witness Officer 5 entered the dwelling after the scene was secured by the warrant service team. He reported seeing three or four individuals “inter-tangled on the floor” of the bedroom. Witness Officer 5 stated that Complainant looked up and had “some blood by his nose . . . and

was bleeding.” He reported seeing blood where Complainant was laying. Witness Officer 5 stated that he asked Complainant if he needed medical attention but Complainant declined.

Witness Officer 5 stated that he is an EMT and that he “couldn’t find any cuts or anything that would need stitches.” He stated that once Complainant’s nose was wiped, it did not continue to bleed. He did not report seeing any swelling on Complainant’s nose or face.

Witness Officer 5 stated that Complainant’s “chief complaint was that he was stepped on.” He did not recall anyone stating that they were kicked. Witness Officer 5 stated that Witness Officer 1 entered and took control of the situation, taking photographs of Complainant’s injuries. Witness Officer 5 did not overhear their conversation and left the room soon thereafter.

SUMMARY OF PHOTOGRAPHS

Crime Scene Photographs

The crime scene photographs include the locations where evidence was found, including the bedroom where the incident occurred. The room appears to match the descriptions provided by officers and Complainant. There are no pictures of Complainant or the location where Complainant was when the incident occurred.

Scene Injury Photographs

Three photographs were taken of Complainant at the time of the execution of the warrant. Each photo is taken head-on and there are no profile photos. Complainant appears to have dried blood around his nose and mouth. Complainant also appears to have dried blood below his left eye and on his eyelid, possible abrasions on his forehead, and swelling around the mid-area of his nose. Complainant is wearing a white shirt and no blood can be seen on the shirt. There are no pictures of the location where Complainant was when the incident occurred.

Complainant Cell Phone Photographs

Complainant took photos of his injuries with his cell phone on the day of the incident. Blood can be seen on his shirt both around his midsection and on his right shoulder. A footprint can be seen on the back of his shirt. Photographs taken later show bruising on his nose as well as under both eyes. Small abrasions appear on both sides of his face.

Internal Affairs Unit Photographs

The MPD Internal Affairs Unit took photographs of Complainant seven days after the incident. Bruising can be seen under both eyes approximately two inches in length and 1/3 inch in height. Abrasions on the right side of the face can be seen and are almost entirely healed. Complainant appears to have bruising and swelling on the right side of his back.

SUMMARY OF COMPLAINANT’S MEDICAL RECORDS

Complainant’s medical records begin with a brief statement by a registered nurse. Complainant reported being “kicked in the face and had his face stomped into the ground by police about 30 minutes [prior to arrival].” The records note “swelling to his nose, the left side of his face and bruising on his back.” He saw a second registered nurse approximately ninety minutes after the first who agreed with the first, stating that “his face mainly hurts from the police stomping and

hitting his face.” The RN stated that there were “no obvious deformity noted to nose . . . few abrasions to face.”

Complainant was seen by a doctor who reported that Complainant stated that he “was cooperative was lying on the ground but got kicked in the back of the head and face.” Complainant “does not think his nose is broken b/c he can wiggle it but that it is sore and swollen.” The doctor reports:

skin abrasions along left and right orbital bones. No hematoma on scalp. Nasal septum straight, tender to palpation, swollen. No septal hematoma seen, dried blood on outside of nares. Turbinates swollen. Patient able to breathe through both nostrils.

Hospital staff reported that no x-rays were necessary at the time of the visit and provided pain medication. He was released with instructions to return if the symptoms worsened.

OPCR INVESTIGATIVE REPORT

In the OPCR investigative report, the investigator summarized the sequence of events as follows:

1. On [], a search warrant was executed at [] at approximately [].
2. Officers [] executed the warrant.
3. The [supervisor] was [Witness Officer 1], and the team consisted of seven (7) other officers including [Focus Officer].
4. The [officers] made entry into the residence with [Focus Officer] positioned as cover.
5. [Focus Officer] was one of the first [] members to make entry into the residence.
6. Officers announced themselves as they entered the residence.
7. The Complainant, [Civilian Witness 1], and [two others] were located in the bedroom on the main floor playing video games when they heard the officers announce their entry.
8. The Complainant was seated at the foot of the bed near the outer wall and [Civilian Witness 1] was seated on the bed to the right of the Complainant.
9. [Focus Officer] made his way through the front area of the residence to the bedroom where the Complainant was located.
10. [Focus Officer] pushed the bedroom door open and the door bounced back off the bed due to the bed blocking the door from fully opening.
11. Once the door was opened [Focus Officer] ordered everyone in the room to get down.
12. The Complainant and the others complied. The Complainant got down on the floor in front of him, lying with his feet at the foot of the bed and his head towards the closet.
13. [Civilian Witness 1] got down on the floor in front of the dresser parallel to the Complainant and the other two males were in a prone position on and near the bed.
14. Once inside the room, [Focus Officer] proceeded toward the Complainant.
15. [Focus Officer] struck the Complainant with his foot and subsequently caused the Complainant's nose to bleed and blood to puddle on the floor around the Complainant's face.
16. [Focus Officer] stepped on the Complainant and [Civilian Witness 1] upon entering and exiting the room.
17. [Witness Officer 3] was working as the supervisor [] when this warrant was executed.
18. After the residence was secured, [Witness Officer 3] and the other [] officers entered to assist with the searching of the residence.

19. A[n] officer notified [Witness Officer 3] that force was used against the Complainant by a [] officer. [Witness Officer 3] then brought the matter to the attention of [Witness Officer 1] to follow-up on.
20. The Complainant was assisted up from the floor and the blood was wiped from his face.
21. [Witness Officer 1] spoke to the Complainant about the incident and took photographs of the Complainant's face.
22. The Complainant remained on the scene until his ride arrived then left the scene going to [the hospital] for treatment of his injuries.
23. According to [the] Emergency medical record for the Complainant; [Complainant] arrived by car on [the day of the incident] with the complaint of facial pain. The nurse's notes state that the Complainant reported that he was kicked in the face and had his face stomped into the ground by police about 30 minutes before arriving at the hospital. It was also noted that the Complainant had swelling to the nose and the left side of his face, abrasions to his face and bruising on his back.
24. The three (3) injury photos taken on the scene show: swelling around the mid area of Complainant's nose, slight abrasions on the forehead and dried blood around the nose, left eye and left side of mouth.
25. Injury photos taken by the Complainant with his cell phone on the day of the incident show: abrasions to the left and right side of face, swelling around the bridge of the nose and bruising under both eyes. The Complainant also took a photo of the back of his t-shirt showing smudge marks right side of back.
26. [Seven days later], the Complainant went to MPD Internal Affairs to file a complaint about the incident. At that time, photos were taken that show: bruising under both eyes, scab marks on the right side of face (temple area), and bruising and swelling right side of back.

Investigator Discussion of Evidence

- Focus Officer claimed that the Complainant "got off the bed and bolted on foot towards an open closet area," when the Complainant complied with getting down on the floor.
- Focus Officer stated that he then forced the Complainant down to the ground by "pushing" the Complainant with his foot. Due to the confined space in the room and the angle of Focus Officer from the Complainant when he entered the room, this act does not seem probable.
- Focus Officer stated that the Complainant may have sustained his injuries when he went down on the floor. Also, the Complainant would have been able to break his fall and avoid falling on his face. It should be noted that the floor was carpeted and covered with a plastic runner. The Complainant was seated at the foot of the bed across from the closet, so if he had "bolted" toward the closet as claimed by Focus Officer, he would have more than likely ended up inside the closet.

Focus Officer stated that as he entered the room he walked on individuals on the floor because there was no floor space as he approached the Complainant. Focus Officer stated that he then forced the Complainant down to the ground by pushing the Complainant with his foot which caused the Complainant to fall to the floor. Focus Officer stated that he did this because he did not have time to find floor space. Focus Officer stated that he stepped on the Complainant's upper torso area and may have "unintentionally" stepped on the back of the Complainant's head.

Focus Officer denied kicking the Complainant in the face and head which is contrary to the evidence.

Focus Officer stated that he stepped on the Complainant and others in the room due to the confined/cluttered floor space in the room. However, the injuries to the Complainant's face do not appear to be a result of the Complainant being stepped on; the injuries have the appearance of blunt force impact. The Complainant sustained abrasions to the left and right side of his face; which the Complainant stated resulted when Focus Officer stomped his foot on the left side of his face, causing the abrasion to the right side of face as it rubbed into the plastic runner. The Complainant sustained a bloody and swollen nose and two black eyes, caused when Focus Officer kicked the Complainant in the face. The Complainant sustained bruising on the right side of his back, caused when Focus Officer stomped on the Complainant's back.

The Complainant's documented injuries more than likely occurred due to a direct impact of force and are consistent with the type of injury one would sustain when coming in contact with blunt force:

Abrasions normally include only external injuries. These injuries result when the skin is rubbed away by contact with a blunt object (such as a block of wood) or rough surface (such as being dragged across a concrete floor). The signs of abrasions usually appear as lines of scraped skin with small areas of bleeding.

Contusions usually include either external or internal injuries. These injuries are the result of powerful trauma that injures an internal bodily structure (such as the rib cage) without actually breaking the skin. Contusions can be caused by blows to the abdomen, chest, or head with a blunt object such as a fist. The signs of contusions appear as a bruise beneath the skin or may not appear at all, only showing up through the use of imaging examinations. The injury occurs when the small blood vessels located beneath the skin are damaged. As a result, the unbroken skin surrounding the fragmented blood vessels swells and turns dark shades of blue, red, and purple as blood runs into neighboring tissues. Blunt Injuries, Signs Of." World of Forensic Science. Ed. K. Lee Lerner and Brenda Wilmoth Lerner. Vol. 1. Gale Cengage, 2006.

The Complainant stated that he was never offered medical treatment on the scene, and that he sought medical treatment at HCMC after leaving the scene. [Witness Officer 1], who spoke with the Complainant and conducted a use of force review, stated that the Complainant was offered and refused.

POLICE CONDUCT REVIEW PANEL RECOMMENDATION

The Police Conduct Review Panel met to discuss the case and issue a recommendation. They concluded that the force Focus Officer reported using was "within the scope of the officer's duties given the circumstances." They reported that the preponderance of the evidence does not support a merit recommendation for either allegation.

CHIEF'S FINDING

The case file was submitted to the Office of the Chief. The file was returned and both allegations of excessive force were not sustained.