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# POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #9

May 2014

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## OVERVIEW

Complainant alleges that he was arrested without officers reading him his rights and listening to his side of the story. Complainant alleges that officers did not listen to him or his girlfriend "due to [their] deafness." Complainant alleges that one of the officers made fun of Complainant and Complainant's girlfriend for being deaf and using sign language.

## THE COMPLAINT

1. Discrimination on the basis of a protected class: that Complainant was arrested after officers would not listen to Complainant or his girlfriend due to their deafness. That one of the officers made fun of Complainant and his girlfriend for being deaf and using sign language.

## OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20(6) Discrimination on the Basis of a Protected Class
2. 5-105 PROFESSIONAL POLICING: Officers shall not use any derogatory language or actions which are intended to embarrass, humiliate, or shame a person.
3. 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

The joint supervisors concluded that if true, the allegations in the complaint could result in violations greater than A-level. The case was first sent to a preliminary investigation. After Complainant did not respond to multiple attempts by the investigator to contact Complainant, the case was returned to the joint supervisors with the recommendation that the case be dismissed. The joint supervisors reviewed the available evidence and determined that there was not enough credible evidence to proceed with the complaint without the Complainant's participation. Accordingly, the complaint was dismissed for failing to cooperate.

## EVIDENCE

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

1. Complainant submitted written complaint.
2. Visinet records were obtained.

3. No police report existed.
4. No squad recordings existed.
5. 911 Call audio was obtained.
6. Squad communication log was obtained.
7. Investigators attempted to contact Complainant with no response.
8. OPCR Investigative Report was drafted.

## **SUMMARY OF EVIDENCE**

### Complaint

Complainant submitted two identical complaints using the online form. Complainant begins by alleging that he was arrested without being allowed to communicate in writing “due to [Complainant’s] deafness which got [Complainant] upset.” Complainant alleges the officers did not let him explain his side of the story, and “one of [the officers involved] was making fun of [Complainant’s] deafness and language.” Complainant alleges he was arrested without telling him his rights under the American’s with Disabilities Act and ignored his girlfriend. Complainant provided an email address and mailing address.

### Visinet

The visinet log was initiated by a call from Complainant’s brother stating that Complainant and his mother were yelling at each other. Complainant’s brother requests that he remain anonymous. The first squad that arrived requested backup with a Taser. Two additional officers were dispatched and arrived several minutes later.

Next, the first squad to arrive notified dispatch that the scene was Code 4. Complainant’s information was run, and the squad notified dispatch that Complainant would be transported to HCMC Crisis Intervention Center.

### Squad Communication Log

One of the squads responding to the call sent a message to another squad stating that the officer was on a “hot call.” No further information was provided.

### 911 Call

911 caller provided the following information: There is “a bunch of noise going on and [Caller] needs to go to sleep.” Caller’s brother and mom are fighting, and items are being thrown around. Caller stated that he just hears yelling, and he is not sure if the argument is getting physical. Caller requests that dispatch send a unit to calm the situation down. Caller states that the other parties don’t know he is calling. Caller stated that he is not afraid for his mom, but she is old and shouldn’t be involved in this type of conflict. Caller requested to remain anonymous and the call ends.

### Dispatch Audio

Dispatch audio provided the following information: the primary squad states that it is traveling to incident location. The squad requests an officer with a Taser to the call, and shouting can be heard in background. Two additional squads respond. Primary squad responds a short while later that the scene is Code 4.

## **OPCR INVESTIGATION**

In the OPCR investigative report, the investigator described the steps taken to contact Complainant as follows:

1. OPCR investigator first searched for a CAPRS report which could not be located. Complainant was not arrested, but instead transported to HCMC.
2. OPCR investigator sent an email to the address provided to Complainant explaining the need for a statement. Complainant did not respond.
3. OPCR investigator sent a letter via USPS certified mail. The letter was confirmed delivered to Complainant. The letter described the need for a statement and requested a response. Complainant did not respond to the letter.
4. OPCR investigator submitted an investigative report to the joint supervisors stating that the complaint investigation could not proceed without cooperation from Complainant.