
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary #4
June 2014

OVERVIEW

Complainant alleges he was in front of a liquor store. Complainant alleges he encountered an employee sitting outside on a break and began talking to her. Complainant alleges that Officer 1 was talking to another individual nearby. Complainant alleges that he made a comment about this to the store employee, and Officer 1 approached him and asked for his ID. Complainant alleges that he asked why, and Officer 1 threatened to tase him three times. Complainant alleges he received a ticket for loitering, begging, and trespassing. Complainant alleges his bicycle which was not returned.

THE COMPLAINT

1. Harassment: that Officer 1 conducted a pedestrian stop without reasonable suspicion or probable cause
2. Harassment: that Officer 1 cited Complainant for several crimes without cause.
3. Harassment: that Officer 1 threatened to tase Complainant in response to his questions about his citations

OPCR AND MPD POLICIES

OPCR Ord. § 172.20(3) – Harassment

MPD P&P § 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 a detailed written complaint.
2. Visinet records were obtained
3. Police reports were obtained

4. Witness 1 was interviewed

5. OPCR Investigator submitted an investigative summary

SUMMARY OF EVIDENCE

Complaint

Complainant alleges in the complaint that he had biked to a liquor store and had stopped to speak to a female employee who was on break outside the store. Complainant alleges that he heard Officer 1 speaking loudly to another individual and made a comment to the female that Officer 1 was being “ridiculous” and harassing the other individual. Complainant alleges that Officer 1 then turned to the Complainant and asked for his ID. Complainant alleges that he asked why the Officer wanted his ID. Complainant alleges that Officer 1 threatened to “Taser” him three times. Complainant alleges that the Officer 1 eventually cited Complainant for three offenses, and ordered him to leave the property without his bicycle.

Visinet:

The Visinet entry lists the incident as a “Suspicious Person” but contains no information beyond the time and date of the incident.

Police Reports

Two police reports were created involving the Complainant on the day of the incident.

CAPRS 1

The first CAPRS Report was submitted by Officer 1. Officer 1 was working off duty at the liquor store to “curb the loitering and panhandling problems that are occurring with people who try to prey on the customers that come to the store for merchandise.” Officer 1 indicated that Complainant was pestering a female employee outside the store, and asking for money. Officer 1 reported that he overheard Complainant telling the female employee that he knew she had money and to “just gimme[sic.] some!”

The report indicated that Officer 1 asked the complainant for his identification, and the Complainant became confrontational. Officer 1 stated that he told Complainant he must leave the property. Complainant tried to purchase beer from the liquor store, but was denied service due to his behavior outside the store. Officer 1 indicated that he then ID’d the Complainant and cited him for several offenses, including trespassing. Complainant was trespassed from the property for 1 year. Officer 1 indicated that Complainant yelled racial remarks at the Officer as he left the store premises. Officer 1 stated that Complainant was shouting profanity from approximately 75 feet from the store, so Officer 1 notified dispatch of his behavior.

Case Report/CAPRS #2:

Officer 2 created a second report about a theft involving complainant. Officer 2 indicated in his supplement that he was working off duty at another liquor store on the same date as the incident described in the Complaint. Officer 2 reported that Complainant walked into the store, and complained to Officer 2 about the tickets he received from Officer 1. Complainant later leaned over the counter at the store. A tip jar was found to be missing from the counter. Officer 2 reviewed the surveillance footage from the store which clearly showed Complainant taking the tip jar. Officer 2 cited Complainant for the theft by looking up his driver’s license information.

Witness #1 Interview:

An investigator interviewed a female employee listed by Complainant in the complaint. The witness interview report indicates that she saw an individual ride up on a bike, but did not hear the conversation he had with Officer 1. The report also states that the witness had no knowledge of what happened to the individual's bike, as she went back to work before the incident concluded. The witness was not the female that complainant allegedly harassed for money.

Preliminary Investigative Summary:

The investigative summary describes the incident as follows:

1. The Complainant alleged that he rode his bicycle to a Liquor store and encountered a female employee standing outside the store.
2. The Complainant engaged in conversation with the female. While speaking to the female, the Complainant observed Officer 1 outside the store speaking in a loud manner to another individual. The Complainant alleged that he made a comment to the female employee about the way Officer 1 spoke to the individual.
3. The Complainant alleged that Officer 1 then approached him and asked for his identification. The Complainant alleged that when he questioned the officer's request, Officer 1 threatened to use a Taser on him.
4. The Complainant received a citation from Officer 1 for three offenses. Complainant alleged that after Officer 1 issued him the citation, Officer 1 ordered him to leave the area without his bicycle.

The investigative summary notes that the Complaint was written and filed electronically by a third party who did not witness the incident, on behalf of Complainant. The summary states that the investigator attempted contact with the Complainant to schedule an interview. The summary indicates that the investigator made contact with the Complainant once, but the Complainant stated that it was not a good time to talk, but Complainant provided an alternate time. The report states that the investigator contacted the Complainant at Complainant's requested time, but was not able to reach him; the investigator attempted contact via phone a third time, but was unsuccessful. The summary indicated that as of the date of the summary, the Complainant had not contacted the OPCR. The investigator requested the case be dismissed as the Complainant would not provide a statement.