
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #4

August 2014

OVERVIEW

Complainant 2 in this matter is the mother of an eighteen year old male (Complainant 1) who is reported to be diagnosed with Asperger's syndrome [a form of autism]. MECC received a call from a representative of a neighboring police department requesting assistance in locating a runaway female juvenile. The runaway was reported to be in the presence of Suspect 1. This information was broadcast to Precinct [] squad cars. Officers 1 and 2 were working together in Squad [] and started to the address given.

At the same time, the Complainant and her son were engaged in a dispute inside their home (four houses away from Suspect 1's home). Complainant 1 left the residence because he feared his mother was going to call 911 to report his behavior. While Complainant 1 was walking, Officers 1 and 2 approached in their squad car. The officers drove alongside Complainant 1 and asked him to stop to talk to them. Complainant 1 ran away.

Both officers chased Complainant 1 on foot. After Officer 2 fell down, Officer 1 continued to give chase. Officer 1 caught up with Complainant's son when Complainant's son ran into his residence. Officer 1 physically removed Complainant's son from the residence, took him to the ground, and placed him into handcuffs. Officer 2 arrived at the location and assisted in taking Complainant's son into custody.

THE COMPLAINT

1. Excessive Force: Complainant alleged that Officers struck her son in the face and body while he was not resisting arrest.

OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20(1) Excessive Force
2. 5-301- USE OF FORCE: 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

Complainants 1 and 2 filed a complaint with separate written statements. After initial review, the joint supervisors determined that if true, the allegations could constitute an offense greater than A-level. The case was sent to investigation. After the investigation concluded, the completed file was sent to the Police Conduct Review Panel. The Panel recommended to the chief that the allegations did not have merit. The full case file was provided to the chief for review. The chief agreed with the Panel and issued a finding of not sustained.

EVIDENCE

1. Complainant 2 filed a written complaint with the Office detailing allegations.
2. Complainant 1 filed an additional statement with the complaint
3. Witness 1 submitted a written statement
4. Witness 2 submitted a written statement
5. Police reports were obtained
6. Statements were taken from Complainant 1, Complainant 2, Officer 1, and Officer 2
7. Audio recordings of MECC Dispatch audio was obtained
8. Photographs of Complainant 1 after the arrest were obtained
9. Maps of the incident area were obtained
10. Articles on Asperger's syndrome were obtained
11. Guiding case law was obtained

SUMMARY OF EVIDENCE

Complaint

Complainant 2 is Complainant 1's mother. Both submitted written complaints together. Along with the complaints, Complainant 1's younger cousins submitted written statements.

Complainant 2's written Complaint:

Complainant 2 stated that her "autistic son was outside cooling off" when officers approached him. Complainant 2 stated that Complainant 1 ran into her home stating, "Mom, help me, they are after me." Complainant 2 stated that soon thereafter, Officer 1 came to her house and she let him in. Complainant 2 stated that the officer pointed his gun at her dog and threatened to shoot it, and she restrained it. Complainant 2 stated that when she next looked at her son, he was outside, face down, yelling, "mom, help me, they are hurting me". Complainant stated that she kept asking the officers to release her son and that "he has aspergers, he is autistic." Complainant 2 stated that the officers "continued to beat him down" while "he was protecting his face with his hands." Complainant 2 stated that when her son put his hands behind his back, "they started punching his face." Complainant 2 stated that she then "went to check on the kids and dog." Complainant stated that Officer 3 came and talked to her after her son was detained and released.

Complainant 1's written complaint:

Complainant 1 did not provide a narrative leading up to the alleged force. Complainant 1 stated that when asked, he "put his hands over [his] head and [he] did." Complainant 1 stated that officers "slammed [him] on the ground and suffocated [him] by putting their knee on [his] back. Complainant 1 stated that his "eye is bruised and cut from the police officer punching [it] to a bloody pulp." Complainant stated that "when [he] started cooperat[ing] that's when they started punching [him] in the face."

Witness 1's written statements:

Witness 1 stated that he "just heard screaming and [Complainant 1] was saying he is sorry and that he was in pain."

Witness 2's written statement:

Witness 2 stated that approximately five officers "starting jumping on [Complainant 1] and beating him up." Witness 2 stated that the officers "don't stop not even to ask his name and it was all chaos."

CAPRS Report

The CAPRS report contains supplements by Officers 1, 2, and 3.

Supplement of Officer 1

Officer 1's Supplement:

Officer 1 stated that he and Officer 2 were assigned to a missing juvenile call where suspect 1 was alleged to be harboring the missing juvenile. He stated that he observed a "male and his physical appearance was very close to [Suspect 1]." Officer 1 stated that the male fled and Officer 1 ran after him.

Officer 1 stated that he observed the male enter a house. Officer 1 entered the house and stated that he "saw several people inside [and] a large white dog, possibly a husky coming towards [him]." Officer 1 stated, "I was alone and there was a non-compliant woman that was screaming at me, a large white dog that was approaching me, and an Actively Resistant male that just ran the equivalence of several blocks away from me and entered into a house."

Officer 1 stated that he "gained control of the male and attempted to escort him out the house by grabbing ahold of the back of his coat" and "commanded him to get down." Officer 1 stated, "The male had his hands under his body," so he "pulled on his arms, while still monitoring [Complainant 2] and keep[ing an] eye out for the dog." Officer 1 stated that he "struck the male with a closed fist in his left upper shoulder area to temporary stun his arm so that [he] could release it from under his body." Officer 1 stated that Officer 2 arrived and assisted. Officer 1 stated that he again attempted the shoulder strike but ended up striking Complainant 1 in the face. Officer 1 stated that he was able to handcuff Complainant 1 and eventually learned he was not Suspect 1.

Officer 1 stated that he learned Complainant has autism, so he decided not to arrest him for fleeing on foot and obstruction. Officer 2 concluded by stating, that Suspect 1 is an "18 year-old, white male, about 5'8" and weighs about 140 lbs. [Complainant 1] is a 18 year-old, white male, about 5'9" and weighs about 140 lbs."

Supplement of Officer 2

Officer 2 described the same initial sequence of events as Officer 1. Officer 2 stated that he caught up to Officer 1 after hearing his partner "air over the radio that he had chased [Complainant 1] to the rear of [] and that there was a female on site and a dog." Officer 2 arrived and "saw the male prone on the ground with his hands underneath his chest." Officer 2 stated that the male did not comply with his commands and turned his face to yell at Officer 2. Officer 2 stated that he pushed Complainant 1's face away from him and attempted to pull his arm from underneath him. Officer 2 stated that he eventually accomplished this and handcuffed Complainant 1.

Officer 2 stated that “[Complainant 1] told [Officer 2] that he had ran from the police because he thought his mother had called the police on him.” Officer 2 stated that “after [Complainant 1] was ID he was verbally advised regarding fleeing on foot from Officers” and released.

Supplement of Officer 3

Officer 3 stated that when he arrived, Complainant 1 was already handcuffed, had been taken into custody, and was in the back of Officer 1’s squad. Officer 1 and Officer 2 explained the situation, and Officer 3 spoke with [Complainant 1]. Officer 3 stated that he “asked him why he was running from . . . officers, and he stated that [his] mother said she was going to call the police on [him] because [they] were arguing.” Officer 3 stated that [Complainant 1] had “a small amount of partially dried blood around his nose and mouth.” Officer 3 stated that he asked if Complainant 1 “was hurt or in pain anywhere else and he said NO.” Officer 3 spoke with Complainant 2 about the situation and learned that Complainant 1 had autism. Officer 3 stated that Complainant 2 made accusations of misconduct, and Officer 3 eventually referred her to the Internal Affairs Division after no further productive conversation was likely.

Visinet Report

The Visinet report states that nine squads were assigned to the call after Officer 1 reported that Complainant 1 was running from police. The only squad to assist on the call belonged to Officer 3. Two other squads reported to the incident address but left within minutes of arrival. Dispatch logs also indicate that the time between Officer 1 radioing Complainant 1’s address and notifying other squads that Complainant 1 was secured was approximately 4 minutes.

INVESTIGATION

The OPCR Investigator took statements in the following order: Complainant 2, Complainant 1, Officer 2, and Officer 1. The Investigator obtained photographs of Complainant 1’s injuries, maps of the incident area, an article on Asperger’s syndrome, and Minnesota case law regarding the hot pursuit doctrine. The Investigator also obtained dispatch information to determine which officers were present during the arrest.

Statement of Complainant 2

In her interview, Complainant 2 stated the Complainant 1 playing board games with family and was asked to leave because he was “worked up.” Complainant 2 told Complainant 1 that she would call the police if he did not leave. Complainant 2 stated that Complainant 1 went for a walk. Complainant 2 stated that after approximately 10 minutes, Complainant 1 ran to the house and banged on the front door which was locked. Complainant 2 stated that she could not open the door so Complainant 1 went to the back door. Complainant 2 stated that Complainant 1 stated, “They are after me.” Complainant 2 stated that Officer 1 arrived before Complainant 2 could explain the statement.

Complainant 2 described the officer as “panicked.” Complainant 2 stated that Officer 1 pointed his gun at Complainant 2’s dog and gave repeated orders to secure the dog, finally stating that he would shoot the dog if it was not secured. Complainant 1 initially attempted to secure the dog and Officer 1 told Complainant 2 to secure it instead. Complainant 2 stated that she turned around to secure the dog and when she turned back, Officer 1 had her son outside, and six to eight officers were surrounding him with several on top of him. Complainant 2 stated it was dark outside, but she could see Complainant 1 on the ground, “Punches being thrown, knees on him, holding him down, restraining him.” Complainant 2 stated that Complainant 1 was

“covering his face from the ice and snow ‘cause they were pushing his face into the ice and snow and so he was protecting his face.” Complainant 2 stated that she told the officers that Complainant 1 has Asperger’s syndrome, and the officers told her to go back into the house.

Complainant 2 stated that she saw Complainant 1’s injuries after the incident. She described the injuries as “cuts on his abdomen.” Later, she stated that Complainant 1’s “face was all cut up. His eyes were swollen. His lip was swollen and bleeding. His nose was bleeding.”

Statement of Complainant 1

In Complainant 1’s interview, he stated that he left his home to calm down and saw a squad car following him. Complainant 1 stated that he ran to his house, and Officer 1 arrived. Complainant 1 stated that he was not sure how many officers arrived, but “they” pointed their guns at his dog.

Complainant 1 stated that he was unsure but thought that three officers were on top of him and told him to put his hands behind his back. Complainant 1 stated that two officers held him down while the third punched him. Complainant 1 stated that he was told to put his hands behind his back but “was too scared to do it because they would have start[ed punching him] in the back of the head.” Complainant 1 stated that he was punched in the body and at least three times in the head and eventually put his hands behind his back. Complainant 1 stated that he was handcuffed, brought to the squad car, identified, and released.

Complainant 1 described his injuries as “bruises all over [his] face . . . a cut on one of [his] knees . . . bruises and cuts on [his] elbows.”

Statement of Officer 2

Officer 2 stated that he and Officer 1 were looking for a missing juvenile who may be with suspect 1. Officer 2 stated that he is familiar with suspect 1, and Officer 2 observed an individual (Complainant 1) in the vicinity of the house who matched the description of suspect 1. Complainant 1 fled.

Officer 2 stated that he and Officer 1 chased Complainant 1 and Officer 2 stated that he fell in the snow. Officer 2 stated that he lost sight of Officer 1 when he fell and didn’t catch up to him until Officer 1 was with Complainant 1. Officer 2 stated that when he arrived, Officer 1 was attempting to get Complainant 1’s hands behind his back while Complainant 1 was laying “on his stomach with his hands underneath him, underneath his chest.” Officer 2 stated that he told Complainant 1 to get his hands behind his back but he did not, so he “tried pulling his left hand behind his back to place in handcuffs.” Officer 2 stated that Complainant 1 turned and yelled at him so he “pushed his face away from [Officer 2] and eventually [Officer 2] was able to put his left hand behind his back and hold it until they were placed in handcuffs.”

Officer 2 stated that at no time did he strike Complainant 1. Officer 2 stated that he did not see Officer 1 strike Complainant 1 but observed cuts on Complainant 1’s face.

Statement of Officer 1

Officer 1 stated that he first observed Complainant 1 walking down the street and approached him in his squad because he fit the description of suspect 1. Officer 1 stated that Complainant 1 ran from the squad when ordered to stop so he pursued Complainant 1. Officer 1 stated that he jumped several fences and caught up to Complainant 1 when he ran into a house. Officer 1 stated that he heard Complainant 1 yelling in the home, and he drew his gun to approach. Officer 1

stated that the door was open and he stepped into the door and saw a large dog walking towards him, so he pointed his gun at his dog and told those present to secure it while asking for the address.

Officer 1 stated that Complainant 2 grabbed the dog and approached Complainant 1. Officer 1 stated that he grabbed Complainant 1 by the shoulder and began to escort him outside because he did not feel safe in the home alone. Officer 2 stated that Complainant was “pushin’ away from [him].” Officer 1 stated that Complainant wouldn’t get to the ground so he pushed him causing him to fall to the ground. Officer 1 stated that he holstered his firearm, put his knee in Complainant 1’s back, and attempted to pull Complainant 1’s arms from underneath him.

Officer 1 stated that he could not, so he “gave him some kind of strike with a closed fist in his left shoulder area to . . . give him what [the police] call a stunning strike basically to soften up his muscles so that [Officer 1 could] pull his arm out.” Officer 1 stated that Officer 2 arrived and also began attempting to pull Complainant’s arm out from underneath Complainant 1. Officer 1 stated that he attempted another stunning strike and Complainant 1 “catches it a little bit somewhere in the right side of his face area, cheek, somewhere between the chin and cheek area.”

Officer 1 stated that he observed “scratches and marks” on Complainant 1.

Photographs

The first photograph shows bruising around on the side of Complainant’s face as well as scratches. He also appears to have a cut on his lip. The second photograph shows drops of blood on the snow in the backyard. The third shows a broken fence in Complainant’s backyard.

Maps of the Incident Area

Maps of the area show the route traveled during the pursuit and that the suspect lives four houses away from Complainant.

Investigative Report

The OPCR Investigator explored three issues regarding the Complaint: (1) whether Officers 1 and 2 had reasonable suspicion to stop Complainant 1, (2) whether Officer 1 could enter Complainant 1’s home based on the hot-pursuit doctrine, and (3) whether the use of force was within policy.

First, the Investigator stated that Complainant matches the description of the original suspect, and Officer 2 relayed this information to Officer 1. The Investigator recommended that, “Given the information known to the officers while they were responding to the call, the similarity of the person to the named individual’s description, and the fact that he fled on foot,” the officers likely had reasonable suspicion to pursue Complainant 1.

Second, the Investigator cited *State v. Baumann*, 616 N.W.2d 771 (Minn. Ct. App. 2000) as a case detailing a justifiable use of the “hot pursuit” doctrine in Minnesota to pursue a suspect into a home. The investigator noted similarities between the two cases:

- Officers 1 and 2 were following Complainant 1 on the basis of mere suspicion.
- Complainant 1 was similar in appearance to that of the subject of their original call.

- The circumstances of the original call were circulated by police radio and their MDC.
- When the officers attempted to detain Complainant 1 to determine his identity, he ran and tried to hide.
- Complainant 1 attempted to retreat from the officers by entering his home.

While there was some disagreement about how Officer 1 entered the home, Complainant 2 did state that she allowed Officer 1 to enter her home to determine why he was chasing her son.

Third, the Investigator compared statements regarding the force used to detain Complainant for commonalities. All were in agreement that there were multiple people and a dog inside the home. Officer 1 used this as a rationale for brining Complainant 1 outside to secure him. Once outside, Officer 1 and Complainant 1 both stated that Officer 1 gave Complainant commands to put his hands behind his back and that he did not initially comply. Officer 1 stated that he did punch Complainant 1 several times to gain compliance.

POLICE CONDUCT REVIEW PANEL RECOMMENDATION

Four members of the Police Conduct Review Panel reviewed the completed case file and were asked to issue recommendations on two allegations, whether Officer 1 used excessive force in arresting Complainant 1 and whether Officer 2 used excessive force in arresting Complainant 1. The Panel recommended that both allegations were without merit as the the force was within policy. The Panel submitted an additional memorandum with the completed recommendation requesting additional training on “Law Enforcement Response to Autism.”

CHIEF’S RESPONSE

The Office of the Chief responded within the 45 day timeframe. Allegations against Officers 1 and 2 were not sustained. The Office of the Chief did state that officers shall receive “training for dealing with persons suffering from autism” within the year.