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# POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #2

June 2015

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## OVERVIEW

Complainant alleges he was a guest at a house when officers in squad [] arrived. Complainant alleges that he answered the door and officers asked if he lived in the home. Complainant responded that he did not but would find the owner. Complainant alleges that he attempted to shut the door, and an officer responded, "No, you can't close this door." Complainant alleges that the officer grabbed him with his left hand and threw him outside. Complainant alleges that he "upper cut [Complainant] with his right fist" and stated, "I will f\*ck you up if you try anything you f\*ck, are you resisting me?" Complainant alleges he responded, "No, I'm not resisting you, I don't live here," to which the officer responded by grabbing his hair and throwing him into the street, stating, "Get out of here you f\*ck."

## THE COMPLAINT

1. Use of Force: Complainant alleges officer "upper cut" him and threw him in the street by his hair after the Complainant answered the door at a residence where he was a guest.
2. Inappropriate Language: Complainant alleges officer used the word "f\*ck" multiple times when addressing him.

## THE OPCR AND MDP POLICIES

1. OPCR Ord. § 172.20(1) EXCESSIVE FORCE
2. OPCR Ord. § 172.20(2) Inappropriate Language
3. MPD P&P Manual § 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.
4. MPD P&P Manual § 5-105(10) 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.

## COMPLAINT PROCESSING

An online complaint was filed. The complaint underwent intake investigation and was reviewed by the joint supervisors. The case was assigned to preliminary investigation. It was then returned to the joint supervisors who dismissed the case for failure to cooperate.

## **EVIDENCE**

1. Initial Complaint
2. VisiNet Report
3. Statement of Complainant

## **SUMMARY OF EVIDENCE**

### **The Complaint**

Complainant alleges he was a guest at a house when officers in squad [] arrived. Complainant alleges that he answered the door and officers asked if he lived in the home. Complainant responded that he did not but would find the owner. Complainant alleges that he attempted to shut the door, and an officer responded, "No, you can't close this door." Complainant alleges that the officer grabbed him with his left hand and threw him outside. Complainant alleges that he "upper cut [Complainant] with his right fist" and stated, "I will f\*ck you up if you try anything you f\*ck, are you resisting me?" Complainant alleges he responded, "No, I'm not resisting you, I don't live here," to which the officer responded by grabbing his hair and throwing him into the street, stating, "Get out of here you f\*ck."

### **VisiNet Report**

The VisiNet report shows a call was made reporting a loud party. Officers were on the scene for approximately 36 minutes. Comments in the VisiNet report note that the unknown male who answered the door at the residence "attempted to slam the door in officers' face and push officers away from the door." It notes that this male was "quickly dispersed", along with other onlookers in the area. It does not note use of force.

### **Preliminary Investigation**

The case was assigned to an investigator for preliminary investigation. The investigator met with the complainant to take his statement. During his interview, the complainant was unable to identify which officer allegedly used force towards him, and photos had not yet been obtained of the officers that had been on the scene.

In his interview, complainant alleges that he was attending a birthday party for a friend at the residence. He was standing in the entry way at the time, waiting for a cab to pick him and a friend up. It was at this time that the officers knocked on the door of the residence. The complainant answered, said he did not live at the home, and said he would find the individuals that did. The complainant then attempted to shut the door. The complainant alleges that the officer told him he could not do so, and that the officer dragged him outside and pinned him against the door. The officer then called the complainant a "f\*ck" and asked multiple times if he was resisting. The complainant answered that he was not. The officer then allegedly used his fist to knock the complainant's head "back into a wall", and then threw the complainant into the street by his coat and scarf. Following being thrown into the street, complainant obtained the squad car number of the officers' vehicle and then walked home. Complainant proceeded to file the complaint on the same evening of the incident.

Multiple inconsistencies between the complainant's original complaint and the interview were noted by the investigator. While the complaint alleges that the complainant was thrown in the street by his hair, in his interview, the complainant stated that he was grabbed by his coat and scarf. The complainant alleged that he was thrown into the roadway from the porch, which was

a very long distance from the front door from the residence. Additionally, in the complaint he alleges the officer used an “uppercut”, while during the interview he did not mention the “uppercut.” Rather, the officer used his fist to knock the complainant’s head into a wall.

Photos of the police officers who were present at the scene were obtained by the investigator after the initial interview with the complainant, along with aerial photos of the residence. The complainant was then contacted via certified mail sent to the address listed on the submitted written complaint. The investigator requested the complainant view the photos in order to identify the officer. The letter was returned to the Office when the delivery attempt failed and the postal service was unable to forward the letter.

A DVS system search provided a different address for the complainant, and the investigator resent the same request. On the same day, the investigator also sent an email to the email address provided by the complainant. The U.S. Postal Service confirmed delivery of the letter by certified mail to the second address. In the letter, the complainant was informed that if he did not make contact with the office, it would be understood that he no longer wished to pursue the matter. Since the receipt of that letter, the complainant has not contacted the office.

### **Dismissed for Failure to Cooperate**

The complainant never responded to the certified letter he received, he was never able to identify the officer who had committed the alleged acts against him. Without the identity of the officer, the Office of Police Conduct Review was unable to proceed with an investigation. The Joint Supervisors dismissed the case for failure to cooperate and the case was closed.