
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #6

August 2015

OVERVIEW

Complainant alleges he was stopped for Jaywalking (when no cars were in the street). Complainant alleges he was searched and put in the officer's squad car. Complainant alleges the officer took his phone for "officer safety." Complainant alleges the officer stated he would take him to jail because his ID was cracked. Complainant alleges when he asked the officer if he was going to cite others for jaywalking, he said "I already have a fish." The officer released the Complainant with a citation. Complainant alleges after he got out of the squad car he intended to walk to his car and the officer pushed him and told him to go the other way. Complainant alleges when he asked the officer why, the officer held a Taser to his head. Complainant also alleges that once he was back in his car, the officer sat blocking traffic and shined a spotlight on his car.

THE COMPLAINT

1. Inappropriate Attitude: Officer made a comment he "already have a fish," and told the Complainant he would take him to jail for a cracked ID.
2. Excessive Force: Officer held a Taser to Complainant's head, and pushed the Complainant as he walked back towards his car.

OPCR AND MPD POLICIES

1. OPCR § 172.20(2) Inappropriate Attitude
2. OPCR § 172.20(1) Excessive Force
3. MPD P&P § 5-105(14) PROFESSIONAL CODE OF CONDUCT: Employees shall not use any derogatory language or actions which are intended to embarrass, humiliate, or shame a person, or do anything intended to incite another to violence.
4. MPD P&P § 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

An online complaint was filed. The complaint underwent intake investigation, and was reviewed by the joint supervisors. The complaint was sent to the precinct for coaching. Completed and approved coaching documents were returned to OPCR.

EVIDENCE

1. Complaint
2. VisiNet Report
3. Body Camera Video

SUMMARY OF EVIDENCE

Complaint

The Complainant alleged that he was crossing the street outside of a restaurant, when he saw a squad car drive by. Complainant alleged the squad car made a U-turn and almost hit him. Complainant alleged the officer jumped out of his car and told the Complainant he was under arrest for jaywalking. According to the Complainant, he did not cross in front of any cars. Complainant alleged he was put in the back of the squad, and the officer took the phone out of his pocket for officer safety. Complainant alleged the officer asked him questions and he silently refused to answer the questions. Complainant alleged the officer threatened to take him to jail for his cracked ID. Complainant alleged while he was in the squad car, he asked why the officer did not stop other jaywalkers. Complainant alleged the officer responded "I already have a fish". Complainant alleged when he got out of the squad car, the officer pushed him, and held a Taser to his head. Complainant alleged when he was finally back in his car the officer shined a spotlight on him.

VisiNet

The VisiNet report indicates that Complainant walked from the restaurant across the street. The Complainant was not in the crosswalk, and was blocking the flow of traffic. The Complainant was stopped, identified, cited, and released.

Body Camera Video

The body camera video depicted the Complainant walking across the street in front of oncoming traffic. The Complainant was not at the intersection. The officer turned the squad around and stopped the Complainant for Jaywalking. The Complainant was put in the squad car, while the officer tried to identify the Complainant. The officer stated he would bring the Complainant to jail for failing to identify himself, and again when the officer prevented the Complainant from Jaywalking for the second time. The video confirmed the officer stated he "can only catch one fish at a time," while the Complainant was in the squad car. The video depicts the officer pushing the Complainant towards the sidewalk with the same hand he used to hold his flashlight, not a Taser.

COACHING

The complaint was sent to coaching for language and reasonable judgment. The returned documents indicate the supervisor determined no policy violation occurred. The officer stated that the "fish" comment was a common metaphor he uses. The officer did not intend to demean the Complainant. The officer stated he did push the Complainant, but did not believe it rose to the level of reportable force. The supervisor spoke with the Complainant, and told him about the coaching outcome. The supervisor stated he reminded the officer to be aware that a harmless comment may still offend someone. The supervisor advised the officer that although policy may not require a report, a CAPRS report may prevent future complaints from going forward.