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# POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #9

December 2015

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## OVERVIEW

Complainant alleges that officers pulled over an individual. Complainant alleges the individual's vehicle was unlawfully searched. Complainant alleges when the individual asked why his car was being searched, Officer called him multiple racial slurs (n\*gg\*r), punched him, and put his knee in his back. Complainant alleges that the officer hit the individual repeatedly with a metal flashlight while using racial slurs. Complainant alleges that a relative of the individual was recording the assault and was arrested.

## THE COMPLAINT

1. Excessive Force- Complainant alleges an officer punched an individual, put his knee in his back and hit him repeatedly with a metal flashlight.
2. Professional Code of Conduct- the Complainant alleges that the officer used racial slurs.
3. Illegal Search- the Complainant alleges the individual's vehicle was unlawfully searched.

## OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20(1) – EXCESSIVE FORCE
2. OPCR § 172.20(2) – INAPPROPRIATE LANGUAGE OR ATTITUDE
3. OPCR Ord. § 172.20(8) VIOLATION OF THE P&P MANUAL
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.
5. 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.
6. MPD P&P § 9-200(B) SEARCH AND SEIZURE, SEARCHING VEHICLES: Officers can legally search a vehicle in the following circumstances: (1) Plain View; (2) Medical Emergency/Life-Saving; (3) Probable Cause; (4) Protective Weapons Sweep; (5) Search Incident to Custodial Arrest; (6) Inventory Search; (7) Consent Search.

## COMPLAINT PROCESSING

An online Complaint was filed, an intake investigation made and then the case was reviewed by the Joint Supervisors. The Joint Supervisors sent the case to preliminary investigation. The investigator collected statements from the complainant, the individual cited in the complaint, and obtained the audio recording of the 911 call, the alleged squad's video, and CAPRS and

VisiNet reports. The case was then returned to the Joint Supervisors who, after reviewing the evidence, found the allegations unfounded and dismissed the case for no basis.

## **EVIDENCE**

1. Complaint
2. Statement of Individual cited in Complaint
3. VisiNet Report
4. CAPRS Report
5. 911 Call Audio
6. Squad Video
7. Photos of Allegedly Injured Individual
8. Jail Call Audio

## **SUMMARY OF EVIDENCE**

### **Complaint**

Complainant alleges that officers pulled over an individual. Complainant alleges the individual's vehicle was unlawfully searched. Complainant alleges when the individual asked why his car was being searched, Officer called him multiple racial slurs (n\*gg\*r), punched him, and put his knee in his back. Complainant alleges that the officer hit the individual repeatedly with a metal flashlight while using racial slurs. Complainant alleges that a relative of the individual was recording the assault and was arrested.

### **Statement of Individual cited in Complaint**

The individual stated that he was assaulted by an officer in the alleged incident, who threatened to "beat his f\*ckin' a\*\*" and hit him with what he thought was a flashlight in the mouth and head. He additionally stated that he was choked and punched. The individual also stated that he flinched at the officer but that officer also flinched at him.

### **VisiNet Report**

The VisiNet Report shows the alleged officers in the alleged area at the alleged time.

### **CAPRS Report**

The report notes that officers approached a scene with multiple males around a car playing loud music. When asked by officers, none of the members of the group claimed ownership of the car and the group began to retreat from the scene. But when officers then approached the car to turn down the music, the group came back and after being told to stay back, the individual cited in the Complainant, listed in CAPRS as Arrestee 1 refused to do so, threatened that the group should "beat" the officers, and flinched twice in the direction of an officer, as if he was going to punch the officer. The officer responded with an open palm strike to the individual's face on the left side, and took the individual to the ground, and handcuffed him. At the same time the other males in the group continued coming toward officers, even as officers told them to stay back. One of the officers attempted to mace members of the group but failed to because of wind. As other members of the group retreated, one member who was filming the interaction did not and was taken into custody, along with the individual upon whom force was used for obstruction, and obstruction with force, respectively. The vehicle in question was also towed.

### **911 Call Audio**

The call audio demonstrates that a community member called to report young people going in and out of a vacant home near where the alleged incident took place.

### **Squad Video**

The squad video shows a short period of time after the alleged incident where the individual noted in the Complaint is in the back of a squad car and speaking with an officer who informs him he is going to jail.

### **Photos of Allegedly Injured Individual**

Photos show an injury to the individual's chin and/or lip and a bruise on his back.

### **Jail Call Audio**

The individual noted in the Complaint stated in the call that he flinched at the officers during the incident.

### **DISMISSED FOR NO BASIS**

Evidence reviewed showed the allegations in the Complaint to be unfounded and therefore the Joint Supervisors dismissed the case for no basis.