
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #7

June, 2016

OVERVIEW OF THE COMPLAINT

Complainant, also witness, alleges that Officer 1 used excessive and unnecessary force on another outside of a grocery store due to a verbal spat. More specifically, Complainant alleges that she witnessed Officer 1 antagonize the person outside by pushing her when she was out of view of Officer 2, leading her to retaliate by attempting to strike Officer 1. Afterwards, Officer 1 grabbed the person outside by the face, shoved her into a wall, pushed her onto the ground, and then applied his knee to her back. Lastly, Complainant alleges that Officer 2 did not partake in, nor view, any part of the incident.

ALLEGED VIOLATIONS

1. OPCR Ord. § 172.20(1) – Excessive Force
2. OPCR Ord. § 172.20 (3) – Harassment
3. 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.
4. MPD P&P § 5-105 (5) – PROFESSIONAL CODE OF CONDUCT: Employees shall be decorous in their language and conduct. They shall refrain from actions or words that bring discredit to the Department.

COMPLAINT PROCESSING

Following receipt of the complaint via the online system, the matter was put before the joint supervisors for review, who determined that it be sent to preliminary investigation. At the conclusion of the preliminary investigation, the investigator recommended that the matter be dismissed for “No Basis.”

EVIDENCE

1. Complaint
2. VisiNet
3. CAPRS
4. Surveillance Video
5. Squad Video
6. Photos of injuries to Officer 2

SUMMARY OF EVIDENCE

Complaint: While in a grocery store parking lot, Complainant, also witness, claims that she witnessed a woman enter the lot simultaneously as an officer squad vehicle arrived. Complainant also asserts that, as the woman was walking, she said something in the direction of the cops to the effect of “you try living off of \$8 an hour here” and then continued to the entry way of the store but stayed outside, appearing to drink from a can. After Officer 1 entered the store, Complainant contends that Officer 2 turned and “pushed the woman standing outside...and waited for her to react.” After being pushed, Complainant asserts that the woman

swung at Officer 2, and Officer reacted by grabbing the woman by the face/head and “shoved her into a wall.” Next, Complainant contends that Officer 2 shoved the woman “down into the ground forcefully, holding her face in the snow,” and placed his knee in her back while arresting her.

VisiNet: In the report, the “Problem” is identified as “Unknown Trouble”. It is also written in the comments that the problem was changed from “OUT W. ONE” to “Unknown Trouble.” Lastly, it is noted that the woman’s criminal record was checked and that she was taken to the local jail.

CAPRS: In the public data section of the report, it is noted that the officers were doing a business check at a grocery store when they “OBSERVED” the woman throw a can of beer “ON THE SIDEWALK JUST OUTSIDE THE STORE.” Further, the notes claim that Officer 2 instructed the woman to go pick up the can prior to entering the store, prompting the woman to turn to Officer 2 and exclaim, “I AINT PICKING UP SH\$t! AND SLAPPED THE OFFICER ON THE LEFT CHEEK/NECK.” Allegedly, the slap led to scratches, bleeding and swelling. Lastly, it is declared in the notes that the woman was handcuffed and booked for “PC ASSAULT 4.”

Supplement 1: Officer 1 contends that he and Officer 2 noticed the woman standing in the northbound lane of traffic prior to entering a grocery store parking lot. After waiting for the woman to enter the parking lot, Officer 1 states that he and Officer 2 parked in the grocery store parking lot. While walking to the main entrance, Officer 1 states that he “observed [the woman] take a long drink from a beer can,” and then toss it to the ground. According to Officer 1, Officer 2 told the woman to pick up the beer and throw it in the trash, to which the woman replied that she was not “going to pick up sh\$t.”

Next, Officer 1 asserts that Officer 2 grabbed the woman by the arm and told her to again pick up the can. In retaliation, Officer 1 claims that the woman struck Officer 2 in the “head/neck area” and tried to push him away. Subsequently, Officer 1 claims that he and Officer 2 grabbed the woman’s arms, took her to the ground, handcuffed her, and then placed her in the back of the squad vehicle. Officer 1 also asserts that the scratches suffered by Officer 2 led to bleeding and swelling.

Supplement 2: Officer 2 states that, while doing a business check at a grocery store, he and Officer 1 noticed a woman take “a large gulp of an open can of beer, then throw the can on the ground.” Officer 2 contends that the woman “refused” to pick up the can when commanded to do so initially. Officer 2 next states that he grabbed the woman’s arm as she attempted to enter the store and turned her in the direction of the can, prompting the woman to yell, “I ain’t picking up sh\$t!” Next, Officer 2 claims that the woman slapped/scratched him on the left side of his face/neck area. Subsequently, Officer 2 contends that he and Officer 1 each grabbed one of the woman’s arms and “took her to the ground.”

After bringing the woman to the ground, Officer 2 states that the woman refused to put her hands behind her back and began screaming, “I’m pregnant! Why are you beating me?” Officer 2 asserts that the woman continued to resist arrest, but that eventually handcuffs were placed on her and she was eventually brought to her feet.

Lastly, Officer 2 alleges that the scratches broke skin, “causing bleeding and swelling, along with pain and a burning sensation.” Also, the beer can and photographs of Officer 2’s injuries were sent to the property and Crime Lab respectively.

Supplement 3: According to Officer 3, Officer 2 showed up to a special unit to have photographs taken of his injuries. It is noted by the Officer 3 that there are “[I]njuries to the left side of [Officer 2’s] neck.”

Supplement 4: Officer 4 claims that he read to the woman her Miranda rights. During the post-Miranda interview, Officer 4 alleges that the woman told him that “she did not assault anybody,” and that, when she attempted to put the can into the trash per an officer’s instruction,

Officer 2 charged at her. According to Officer 4, the woman also told him that she was “knocked to the ground and was stomped and kicked by three officers,” believing their actions to be reducible to prejudice as she was complying with their orders. Officer 4 also claims that the woman told him she was having headaches, cramps and some contractions. Officer 4 asserts that he told nurses of the woman’s symptoms and also informed the woman to notify the nurses of any injuries.

Supplement 5: Note by Officer 2 that Officer 2 completed a force report of the incident.

Supplement 6: Officer 5 notes that the woman was being charged with “4th degree assault.”

Supplement 7: Officer 2 notes that he obtained a copy of the surveillance footage from the grocery store parking lot camera—the footage was inventoried.

Supplement 8: Request for surveillance footage from county attorney’s office; sent to the attorney’s office.

Surveillance video: The video, which is from a surveillance camera in the grocery store parking lot about 50-70 feet away, is not of good quality. In the video, the woman can be seen crossing the middle of the street to the grocery store parking lot—almost being hit by an oncoming car in the process; to the right of the woman the squad car can be seen getting ready to turn into the parking lot. The woman enters the parking lot, and Officers 1 and 2 enter afterwards, parking just in front of the store entrance. Next, the woman walks to the front of the store entrance and pauses momentarily. Simultaneously, Officers 1 and 2 exit their vehicles—Officer 1 in front of Officer 2—and both approach the store entrance. As the officers begin to enter the store, the woman follows suit in between Officers 1 and 2, with Officer 2 trailing both the woman and Officer 1.

However, Officer 2 and another—likely woman—appear to pause right by the entrance. Next, Officer 2 can be seen behind the woman with his arm outstretched, apparently motioning her physically back outside by her shoulder. Soon after, the woman can be seen turning towards Officer 2 with her back against the wall. Next, the woman and Officer 2 can be seen grabbing each other; Officer 2 eventually motioning his hands towards the woman upper torso, perhaps around the upper chest/neck area. Officer 2 pushes the woman forcefully up against the wall with his arms clearly above his chest area, forcing the woman’s body to slightly bounce off of the wall. Next, Officer 1 appears in the footage and seems to grab ahold of the woman. Soon after, both officers bring the woman down to the ground, apparently face/chest first. Subsequently, two persons enter the area, likely customers of the grocery store, partially obstructing view of the incident. Finally, after apparently restraining the woman, the officers can be seen lifting her up and taking her to the squad vehicle and placing her inside.

Squad Video: Only partial squad video of the incident exists. In the video, the officers can be seen exiting the vehicle and approaching the entrance. However, the video then blacks out and only resumes when the officers have already apprehended the woman and can be seen taking her to the vehicle.

Photos of Injuries to Officer 2: There are a series of photos showing the injuries sustained by Officer 2 during the incident. The first shows a side profile of Officer 2; in the picture, a series of three intersecting scratches can be seen, reddish pink in color. Some of the scratches appear to be about a half-inch thick. The scratches can be seen running from the base of Officer 2’s back hairline to his collar—about 3-4 inches in length. The 2nd, 3rd and 4th pictures are close-ups of the injuries. In those pictures, it appears that at least one of the scratches has begun to scab. The last photograph also has a two-centimeter ruler placed alongside one of the injuries. The injury appears to be 3-4 times the size of the ruler.

INVESTIGATION

The investigator reviewed in his report the complaint, CAPRS report, surveillance footage, squad video, and photos of the incident. It is noted in the report that the investigator spoke to a technology specialist about missing squad video. The technology specialist told the investigator that the gap in recording was likely due to “a power failure” in the system.

According to the investigator, the woman had committed several misdemeanors—including violation of Minnesota’s littering statute and “Open Bottle Law”—and was properly ordered to pick up the can from the ground. Further, the investigator states that when the woman refused the order of the officers to pick up the can—comment that “I ain’t picking up sh\$t!”—and began to enter the store, Officer 2 “did have a valid reason to stop” and “take physical action against” her. Additionally, the investigator found that the officer’s use of force was “sufficient” in so as it was used to “physically force” the woman “into compliance” after she had refused police orders and had struck Officer 2. As a result, the investigator recommended—as there was a valid reason to stop and use of force was reasonable –that the case be dismissed for “No Basis.”