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**POLICE CONDUCT OVERSIGHT COMMISSION**  
Case Summary Data #3  
July, 2016

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**OVERVIEW OF THE COMPLAINT**

Complainant states he was heading for work, saw a squad car drive by, and then jumped in his car. Complainant states the squad then turned around and pulled next to Complainant's car. Complainant states that from the vehicle Officer 1 asked to see his ID. Complainant states he got out of the car, and gave the Officer's his ID. Complainant's ID was issued by the Mexican Consulate. Complainant states Ofc. 1 then got out of the squad car, grabbed him by the neck, pushed him against the squad car, and searched him. Complainant states he asked Ofc. 1 what had happened and received no answer. Officer 2 got out of the squad car, and with a flashlight looked into Complainant's car. Complainant states Ofc. 1 then asked him where he lived, and Complainant states he told him on the second floor of the apartment building. Complainant states he then asked Ofc. 1 again what was happening and Ofc. 1 proceeded to search the Complainant underneath his shirt, and reached into his underwear to search. Complainant states Ofc. 1 then handcuffed him and physically forced him into the squad car. Complainant states the door frame of the squad hit twice. Complainant states he was injured near his eye, and on his shoulder. Complainant states Ofc. 1 pushed him into the squad car, and he fell face first. Ofc. 2 then opened the opposite door and pulled the Complainant into the squad car. Complainant states officers then began searching his car. Complainant states he was never told a search would occur. The Complainant states that he was in the squad for a total of 20 minutes while the search occurred. Complainant states after the search occurred his car was a mess. Complainant states after the search officers released him. Officer 1 got Complainant out of the car and pushed me against the squad. Complainant states Officer 1 went to the squad and researched him, while Officer 2 searched him again. According to Complainant, Officer 2 removed his handcuffs. Officer 1 told him to raise his hands or I am going to shoot you in Spanish, threw Complainant's keys to the ground, and told Complainant to go home.

Complainant states he and his girlfriend then went to HCMC. A nurse called the Police. According to Complainant, two officers arrived. Complainant states photographs were taken of his shoulder and eye, but not his other injuries. Complainant states that he and his girlfriend requested a translator, and were told a translator would be provided. Complainant states no translator arrived. Additionally, Complainant alleges that the female officer made rude comments about Complainant's lack of a Minnesota ID, and both officers were making up excuses for the Complainant's earlier treatment.

**ALLEGED VIOLATIONS**

1. OPCR Ord. § 172.20(3) – Harassment
2. OPCR Ord. § 172.20(1) – Excessive Force
  
3. MPD P&P § 5-104– IMPARTIAL POLICING: All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for a pedestrian or vehicle stop, investigative detention, arrest, non-consensual search or property seizure.
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**

Minneapolis Emergency Communications Center/9-1-1 relayed a call they had received regarding someone who alleged to have been “assaulted” by the police to a precinct supervisor. The precinct supervisor then passed along the complaint to Internal Affairs, who then passed along the complaint to the Office of Police Conduct Review. Thereafter, an intake review of the matter was conducted by the joint supervisors who determined that the matter be sent to preliminary investigation. Upon receiving the complaint, the investigator scheduled two interviews with Complainant that Complainant failed to attend. Without Complainant’s statement, and also based upon the evidence within the file, the joint supervisors dismissed the case for “No Basis”.

## **EVIDENCE**

1. Complaint
2. VisiNet 1
3. VisiNet 2
4. CAPRS Report
5. Medical Report
6. Photos 1-13

## **SUMMARY OF EVIDENCE**

*Complaint:* In the complaint, Complainant asserts that he jumped into his car after seeing police. Complainant next states that police officers pulled up to his vehicle and asked him for his ID; in response, Complainant contends he gave the officer his consulate card. After attempting to do so, Complainant contends that Officer 1 “grabbed [him] by his neck and pushed [him] up against the vehicle.”

Next, Complainant asserts that Officer 1 searched him and Officer began 2 an inspection of his vehicle with a flashlight from outside the vehicle. After a second search of his person, Complainant alleges that Officer 1 asked him if he lived in the area and began to “reach into his underwear”.

Next, Complainant states that Officer 1, without asking him to get into the squad car, forcibly shoved him into the backseat, making contact with the door frame and Complainant’s body “twice”. During the forced placement, Complainant contends he became injured near his face and shoulder areas. Further, Complainant asserts that he was thrown face-first onto the seat and pulled by his shirt from the other back-side passenger door by Officer 2.

After being placed in the squad vehicle, Complainant contends that the officers searched his car for twenty minutes, leaving it a mess afterwards. After the search, Complainant asserts that the officers released him. However, upon being released, Complainant alleges that Officer 1 shoved him against the car and searched him again. After taking off his handcuffs, Complainant contends that Officer 1 told him in Spanish to put up his hands or he would shoot him. After this statement, Complainant contends that Officer 1 threw his keys on the ground and told him to go home.

Lastly, Complainant asserts that after telling his girlfriend what had occurred, he and his girlfriend went to a hospital so that he could be checked. While at the hospital, Complainant states that the police were contacted and pictures were taken of Complainant. However, Complainant contends that the officers did not take any pictures of his lip or wrists, which he claims had been injured during his encounter with the police. He also claims that Officer 3, who

was with the other officer examining him, was rude to him for not having a Minnesota ID. He also claims that they “made up” excuses for the way Officer 1 and 2 treated him.

*VisiNet 1:* The problem in the report is detailed as “suspicious vehicle”. In the report it is noted that the officers checked the registration of the vehicle and ran a records check of Complainant.

*VisiNet 2:* The problem is listed as “Assault Report Only”. The location of the problem is designated as “emergency room” and is further noted that the officers are, “IN ER WITH PT WHO SAYS HE WAS ASLTD BY MPLS POLICE OFCR TODAY.”

*CAPRS:* In the Public Data section of the report it is stated that Officer 1 and 2 made contact with Complainant, briefly detained him, and then released him.

*Supplement 1:* Officer 1 states that he was driving down a residential street at night when he noticed a car door open, lights on, and engine running. Additionally, Officer 1 contends that, “[o]fficers know the area to be a common area for people to come buy narcotics and that some people will leave their vehicles running to purchase drugs.” Due to the aforementioned, Officer 1 asserts that he and Officer 2 decided to turn their vehicle around to inspect whether the owner lived in the area, and also why his engine and lights were on and the door open. Upon turning around, Officer 1 contends that Complainant “shut the door and nervously looked at officers.”

Upon approaching the vehicle, Officer 1 asserts that he asked Complainant “if [he] was alright,” failing to receive a response from Complainant, instead looking confused. After such, Officer 1 claims he asked Complainant for identification to see if he lived nearby. Upon asking for identification, Officer 1 claims that Complainant got out of his vehicle, making him and Officer 2 nervous that “[Complainant] was going to run.” After this, Officer 2 claims he asked again for identification. After failing to receive a response, Officer 1 contends that Complainant grabbed a screwdriver, leading him and Officer 2 to exit their squad car. While exiting the vehicle, Officer 1 contends that they commanded Complainant to drop the screwdriver, to which he complied by dropping it on the floor.

Next, Officer 1 states that he conducted a weapons frisk of Complainant. While doing so, Officer 2 contends that Complainant kept reaching for his front pocket and officers eventually removed what they knew to be a “meth pipe”. After retrieval of the pipe, Officer 1 states that he and Officer 2 arrested Complainant and attempted to place him in the squad vehicle. However, Officer 1 contends that Complainant would not sit when ordered to do so, instead yelling to someone in a nearby residence in Spanish. Due to his resistance, Officer 1 claims that he “pushed down on the top of his head, so he was sitting on the seat.” Further, Officer 1 claims that Officer 2 pulled Complainant from the other side of the vehicle.

After placing Complainant in custody, Officer 1 asserts that he asked neighbors if they recognized or knew Complainant. Officer 1 claims that neighbors stated they had seen the car before but did not know Complainant. Also, Officer 1 asserts that the vehicle was checked for contraband due to the pipe that was found in Complainant’s possession. Officer 1 states that nothing was found and Complainant was subsequently “released and the meth pipe broken.” Officer 1 also claims that he told Complainant not to drive as he did not have a valid license.

*Supplement 2:* Officer states that he and Officer 1 noticed a car with a driver side door open and headlights on. They also observed a “Hispanic male behind the wheel wearing a white t-shirt.” Also, Officer 2 contends that a records check of the license plate revealed that the registered owner lived about 20 minutes away. Further, Officer 2 noted that the location is a “high narcotics area.” After noticing the aforementioned while passing the vehicle, Officer states that he turned the vehicle around to inspect.

Once the U-turn had been made, Officer 2 asserts that the driver side door to the vehicle closed. Upon pulling up, Officer 2 states that Officer 1 began to speak to Complainant and Complainant replied in Spanish and exited his vehicle—despite only being asked for his ID—and presented an

ID. After presenting his ID to the officers, Officer 1 asserts that Complainant was also digging in his pockets and the vehicle, "at one point pulling out a screwdriver." At this point, Officer 2 contends that he exited the vehicle not knowing the intent of Complainant and also whether the vehicle had been stolen. Next, Officer 2 asserts that Officer 1 commanded Complainant to drop the screwdriver, which he complied with. Officer 2 asserts that he picked up the screwdriver and placed it in the squad trunk.

During this, Officer 2 states that he and Officer 2 observed Complainant "going into his front right pocket." Afterward, Officer 2 claims that Officer 1 presented him with a meth pipe that was found in Complainant's front-right pocket.

Afterward, Officer 2 claims that Complainant was put in "handcuffs and escorted over to the squad car." While attempting to put Complainant in the squad car, Officer 2 alleges that Officer 1 "told [Complainant] to have a seat," but Complainant refused his orders to do so, instead shouting to some people nearby in Spanish. After such, Officer 2 contends that he pulled Complainant into the vehicle by his wrists. Despite this, Officer 2 alleges that Complainant kept sticking his head out of the vehicle, forcing Officer 2 to use his left hand to "push [Complainant's] head into the car and [use] [his] right to close the door." Officer 2 further states that he was able to do this without "slamming [his] hand or [Complainant's] head."

Lastly, Officer 2 claims he assisted his partner in checking the vehicle for contraband. After such, Officer 2 states that Complainant was released, and further noted that Complainant was wearing a "white t-shirt and blue skinny jeans."

Medical Report: It is noted in the medical records that Complainant was diagnosed with clavicle pain and acute shoulder pain on his left side.

*Photos 1-13:*

Photo 1: photo of Complainant's shoulder. The shoulder is slightly reddened.

Photo 2: Mostly a right-side facial frontal of Complainant. A hand can be seen pulling down the lower lip of Complainant. In the photo, Complainant's eyelid and upper brow/cheek area look to be slightly reddened and purple. The interior of Complainant's lower lip also appears to be slightly bloodied with small contusions.

Photo 3: Photo of Complainant's left-side profile. The area around the orbital bone appears to be slightly reddened and purple.

Photo 4: Photo of Complainant's left shoulder and upper torso. The photo is fuzzy but Complainant's shoulder appears to be reddened.

Photo 5: Right -side profile of Complainant's neck, ear and small portion of face/cheek. From the photo it appears that Complainant has a half-inch reddish ring about an inch below his ear.

Photo 6: Photo of the back of Complainant's hands. There appears to be slight reddening on the left hand, just about the wrist, about 1 ½ by a quarter inch in diameter.

Photo 7: Photo of Complainant's left shoulder. Shirt is seemingly pulled down by Complainant. What appears to be a slight scratch about 2 inches by 1/16 of an inch and an abrasion of one inch by 3/8ths of an inch can be gleaned from it. Also, the clavicle area appears to be slightly reddened.

Photo 8: An upward angled, left-side profile of Complainant. From the photo, injuries to the clavicle, shoulder and orbital area can be seen.

Photo 9: Frontal picture of Complainant's lip. From the photo, the left side of the interior lower lip is reddened and possibly slightly bloodied.

Photo 10: Slide-side profile of Complainant's orbital area. Area, as mentioned before, is reddened and slightly purple.

Photo 11: Photo of Complainant right arm and wrist. A tattoo and wrist band can be gleaned from the photo, but no noticeable injury.

Photo 12: Image of back side of hands and wrists. Right hand, as mentioned before, is slightly reddened around the wrist. There also appears to be a slightly reddened one-inch by one-inch circle on Complainant's left hand between knuckles and wrist.

Photo 13: Another picture of the back of hands and wrists. Injuries gleaned from photo similar to Photo 12.

## **INVESTIGATION**

The investigator attempted to schedule two interviews with Complainant—both a month apart. However, Complainant failed to appear to both interviews. Without Complainant's statement, the investigator recommended that the complaint be dismissed for "No Basis."