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## POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #5

September, 2016

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### OVERVIEW OF THE COMPLAINT

Complainant states he was sitting in a car when officers approached. Complainant alleges he told the officers he had a firearm in the car, and a permit to carry. Complainant alleges an officer opened the door, pulled him out, slammed him against the car, and handcuffed him. Complainant alleges when he asked the officer what was going on he was told to "shut the f\*\*\* up." Complainant alleges an officer searched his car. Complainant alleges he was forced into the back of the squad, and the door was shut on his leg. Complainant alleges after the search and identification, an officer told him he would put the gun in the back, and the Complainant should drive the f\*\*\* off. Complainant alleges the officers did not give him back his gun permit.

After the incident, Complainant alleges he called 911 to report the encounter, and was transferred to an officer. Complainant alleges the officer laughed at him and would not take a report.

### ALLEGED VIOLATIONS

1. OPCR Ord. § 172.20(1) - Excessive Force
2. OPCR Ord. § 172.20(10) – Inappropriate Language
3. OPCR Ord. § 172.20(8) – Violation of P&P
4. OPCR Ord. § 172.20(2) – Harassment
5. OPCR Ord. § 172.20(2) – Inappropriate Attitude
6. OPCR Ord. § 172.20(6) – Failure to provide adequate protection
  
7. 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.
8. MPD P&P § 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.
9. MPD P&P § 10-401 RESPONSIBILITY FOR INVENTORY OF PROPERTY AND EVIDENCE All MPD employees taking possession of property, whether evidentiary or non-evidentiary, shall place such property in the custody of the Property and Evidence Unit and complete the inventory prior to the end of their shift.
10. 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.
11. 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.
12. MPD P&P § 5-104.01 Professional Policing. If asked, provide the procedures for filing a complaint about police services or conduct.

## COMPLAINT PROCESSING

A complaint form along with a statement was submitted by Complainant to Internal Affairs, who then forwarded the complaint to the Office of Police Conduct Review. At intake review, the joint supervisors decided that the matter be sent to preliminary investigation, and assigned an investigator. At the completion of the investigation, the joint supervisors reviewed the file and dismissed it for “no basis.”

## EVIDENCE

1. Complaint
2. VisiNet
3. Interview Transcript – Complainant

## SUMMARY OF EVIDENCE

*Complaint:* Complainant alleges that he received a call from a friend in the early morning hours to pick her up as she had just gotten into a fight with her boyfriend and he had kicked her out of his car. “As [the friend] was leaving [Complainant’s] car,” he claims Officer 1 and 2 pulled up in front of his vehicle and “shined a spot light” through his “front windshield.” According to Complainant, as Officers 1 and 2 approached his vehicle from either side he informed them that, “I have a firearm in the car [and]...a permit to carry.” Complainant asserts that upon telling the officers the aforementioned, an officer told him to “shut the f\*\*\* up and get out of the f\*\*\*king car.” Complainant contends that as he opened his door in order to comply with the officer’s commands, he was “yanked” out of the car. Further, he contends that the officer threw him against the car and placed handcuffs on him. Complainant asserts that as he was thrown against the car, he asked the officers “what’s going on,” to which one officer replied to “shut the f\*\*k up” and then forcibly shoved [him] back into [his] car.” Upon being shoved, Complainant contends that the officers asked him where the gun was located, to which Complainant told them in the driver-side door. After informing the officers where the gun was located and retrieved by them, he contends that they proceeded to search the entire vehicle.

Next, Complainant contends that he was taken to the police squad and his vehicle searched by Officer 2. During the search, Complainant asserts that he told Officer 2 “why is [Officer 2] searching my car[;] [I] did not give him permission to do so,” and further elaborating that he did not mean to leave his door open as he was yanked out of his vehicle. In response, Complainant claims that Officer 1 told him that he “gave up [his] rights because he has a gun.” Complainant alleges he retorted that, “[he] also [has] a permit and did not say anyone could go [through his] car.” Following this statement, Complainant asserts that he was put into the back of the squad vehicle and the door shut on his leg.

After validating his gun and permit, Complainant contends an officer told him that his gun would be put in the trunk and that they wanted Complainant to “drive the f\*\*\* off.”

Immediately after the encounter, Complainant contends that he called 911 to file a complaint regarding the incident and was transferred two times before speaking to an officer who “laughed at [him] saying that he would not take [his] report.” Afterward, Complainant asserts that he went to the precinct and was again rebuffed by officers who told him that they would not take a “report where a cop is a suspect in a crime.”

Complainant contends that he was gun was returned to him, but his permit to carry badge was not. He also claims that he was never told the reason for the pull-over. Lastly, Complainant believes he was assaulted and his 4<sup>th</sup> Amendment rights against warrantless searches and seizures were violated.

*VisiNet:* The problem stated in the report is that of “Suspicious Vehicle.” In report, Complainant’s record was checked approximately 3-4 minutes after officers arrived at the scene. Further, the box indicating whether Complainant has taken a gun safety course is listed as “Y” for yes. Approximately 10 minutes after their arrival, the following is noted in the report:

[V]ehicle stopped for loitering in area, group of people loitering around vehicle on the corner, driver stated that he had a gun in vehicle, officers removed for officer safety reasons and later discovered he had a permit for [sic] gun.

*Interview Transcript – Complainant:* During the interview, Complainant stated that he was with another, Friend, who was taking things out of his vehicle when two officers appeared. Upon the officers approaching his vehicle, Complainant contends that he told the officers that he “had [his] firearm and permit to carry in the vehicle.” Upon telling them this, Complainant asserts that the officers told him to “get the f\*\*k out of the vehicle.” The officers’ command, according to Complainant, prompted him to put his hands up, eventually reaching over to open the door, upon which he was “yanked out” of the vehicle. Subsequently, Complainant contends that he was taken to the backdoor of his vehicle and thrown against it while simultaneously being handcuffed by Officer 1.

While being placed in custody, Complainant claims that he told the officers several times to “please let [him] know what you want me to do and [he’ll] do it.” In response, Complainant asserts that the officers again asked, “where the f\*\*k is the gun.” Complainant claims that he replied that the gun was in a “bottom compartment” of the front door. After searching the appropriate area, Complainant contends that Officer 2 found the gun and placed it on his car.

Next, Complainant contends that he was taken away to the squad car and noticed Officer 2 begin to search the rest of his car, which prompted Complainant to ask Officer 1 why Officer 2 was doing so as he had not given him permission. Complainant asserts that Officer 1 told him in reply that “since [Complainant] had a firearm on [him] [sic] he gave all of [his] rights.” During the search, Complainant—who claims to do private security—alleges that one of two security badges located next to the gun was not returned.

After being taken to the squad car, Complainant contends he was put into the back of the squad vehicle, but shortly after was taken out by the officers and told by them that his gun was not registered. Complainant states that he then informed the officers that he had a permit in his wallet which was in his back pocket. In order to retrieve the permit and wallet, Complainant contends that the officers took him out of the back of the squad and pulled his wallet from his back pocket.

When being placed again into the squad vehicle, Complainant asserts that he was shoved in and the door slammed on his leg as he was quickly trying to “scoot” his feet in. Complainant claims that after officer validated his permit to carry, the officers told him that his gun would be placed in his trunk and that he would have to “drive out of the city.”

After the incident, Complainant contends that he called 911 numerous times to file a report against the officers, but no officer arrived after four hours. Further, Complainant alleges that he went to a legal parking area near a precinct headquarters and requested that an officer come see him about filing a report. Finally, Complainant contends that an officer came to see him and, after Complainant explained the incident, proceeded to tell him that “in no way will [the officer] ever take a report where he would find a police officer as a suspect.” After this, Complainant asserts that the officer told him to leave or he would cite him for trespassing, to which Complainant replied that he was not as he was in a public, legal area. Then, Complainant contends that another officer present said that he was “feeling harassed” by Complainant and would arrest Complainant for harassment. At no time, Complainant alleges, did the officers refer Complainant to the Minneapolis Department of Civil Rights or the Office of Police Conduct Review. Complainant asserts that he was handed a blue card.

*Interview Transcript – Complainant #2:* In the transcript, Complainant states that the squad vehicle pulled up in front of his vehicle and he could not remember if emergency sirens or lights were activated, but does recall that a spotlight was flashed on his vehicle.

Complainant also claims that he tried to contact Friend, but was unable to locate her through the number he had in his phone. He also further stated that Friend was present at the scene while he was placed in custody but was eventually told to leave by the officers. More specifically, Complainant contends that officers told her to “f\*\*k off,” and also told him to do so or else he would go to jail.

Complainant was also shown some pictures of various officers and was unable to pick out the officers who placed him in custody. He did, however, recognize the desk officer who refused his complaint.

Complainant also reasserted that he was told by the desk officer to leave, to which he replied that he did not have to as he was “on a public street, parked on a public road, not bothering anybody and still in his car.” However, Complainant claims that the desk officer told him that Complainant made him “and his officer nervous.”

## **INVESTIGATION**

The investigator reviewed the VisiNet report, complaint and attempted to locate video footage of the pullover, of which none existed. Next, the investigator brought in Complainant for a series of interviews. At the conclusion of the interviews, the investigator recommended that the matter be dismissed for “no basis” as:

No evidence was located to independently collaborate [sic] [Complainant’s] allegations. [Complainant] initiated the conversation with the Officers [sic] by telling them he had a gun. The officer (s) responded in a manner to insure their safety. [Complainant] has been unable to provide his acquaintances [sic]...contact information for an interview. The language used by the officers may be best handled by a coaching document conducted by a...supervisor. [Complainant] also changed the type and quantity of badge (S) [sic] reported missing initially.