
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #6

October, 2016

OVERVIEW OF THE COMPLAINT

Complainant alleged during a domestic call, officers asked her daughter what happened and then told her to shut up when she began to answer. Complainant alleges officers did not ask to see evidence of injuries nor where the altercation occurred. Complainant reported one of the officers stated "We can either arrest all three of you right now for fifth degree assault or she (alleged assailant) can leave and you can go inside." Complainant reported she told the officer as long as she (alleged assailant) was leaving, she (complainant) was happy. Complainant alleges if officers had taken a detailed report at the scene and spoken to witnesses, her assailant would have been arrested. Complainant reported because her assailant made it to the precinct first and the police had failed to make a detailed report or an arrest (as they should have), her assailant became the victim of record instead of her and her daughter. Complainant reported she was arrested and booked when she went to the...Precinct to file a police report/supplement.

ALLEGED VIOLATIONS

1. OPCR Ord. § 172.20(2) – Inappropriate Language or Attitude
2. OPCR Ord. § 172.20(8) – Violation of P/P Manual
3. MPD P&P § 5-104 – Impartial Policing: No person shall be singled out or treated differently as a consequence of his/her race, ethnicity, national origin, gender, sexual orientation or religion. Except as provided below, officers shall not consider race, ethnicity, national origin, gender, sexual orientation or religion in establishing either reasonable suspicion or probable cause. Officers may take into account the reported race, ethnicity, gender or national origin of a specific suspect or suspects on credible, reliable, recent, locally-based information that links specific suspected unlawful or suspicious activity to a particular individual or group of individuals of a particular race, ethnicity, gender or nationality. This information may be used in the same way officers use specific information regarding age, height, weight, etc. about specific suspects.
4. MPD P&P § 7-300(IV) (D) (1) – Specific Call Procedures: In all cases of domestic violence or alleged acts of domestic abuse, a CAPRS report and supplement shall be completed immediately.

COMPLAINT PROCESSING

After receipt of the online complaint form and after an intake investigation was conducted, the Joint Supervisors decided to send the case to preliminary investigation at intake review. After the completion of the preliminary investigation, the investigator recommended that the case be sent to the Review Panel. After reviewing the file, the Joint Supervisors determined to send the case to the Review Panel. Upon deliberation, the Review Panel decided that there was not merit to any of the allegations. The case was then sent to the Chief's Office for final deliberation, whereupon the Chief decided that some of the allegations go to coaching.

EVIDENCE

1. Complaint
2. VisiNet 1

3. VisiNet 2
4. CAPRS
5. MVR Video
6. Photos 1-9
7. Affidavit of Friend
8. Affidavit of the roommate
9. Officer 5 Interview
10. Officer 6 Interview
11. Officer 7 Interview
12. Officer 8 Interview
13. Officer 4 Interview

SUMMARY OF EVIDENCE

Complaint: Complainant alleges that her daughter's girlfriend attacked her daughter; however, Complainant claims that the girlfriend called police in order to file a false police report to avoid arrest herself, claiming to have been falsely imprisoned/detained by Complainant and her daughter. According to Complainant, officers asked her if she did falsely imprison the girlfriend, and Complainant responded that they had not. Instead, Complainant claims that the girlfriend "started a fight with her daughter" and would not stop attacking her. As a result, Complainant claims that she "removed" the girlfriend from the house and thought that, when she had gone to sleep, the girlfriend had left the premises. Complainant contends that the officers did not take notes or otherwise record her conversation with them. Complainant also contends that officers did not ask about injuries or where the incident occurred, and also allegedly told her daughter to shut up when Complainant asked her daughter to explain what transpired. Complainant contends that her and her daughter had been bruised and scratched by the girlfriend.

At the end of the discussion with officers, Complainant contends that an officer told her that he could, "arrest [Complainant, her daughter and the girlfriend] right now for fifth-degree assault or [the girlfriend] can leave and you can go inside." Complainant contends that she replied to the officers that "as long as [the girlfriend] was leaving [,] [Complainant] was happy, and she also requested that officers ensure that the girlfriend left before they did.

The next day, Complainant asserts that she went to appropriate precinct to find out if the officers filed a report in regards to her allegations. According to Complainant, the officer at the desk informed her that no report had been filed and further told her that it was not possible to file a report or add a supplement to the existing report as the case was, "now with the city attorney."

After filing an order for protection, Complainant contends that an advocate urged her to file a report. After meeting with the advocate, Complainant alleges that she returned to the precinct to attempt to file a report but was again rebuffed. After telling her advocate about again being rebuffed, Complainant claims that her advocate informed her that the advocate would consult with the city attorney. After doing so, Complainant contends that the advocate told her that the city attorney also encouraged her to file, stating that it was her right to do so.

After receiving this advice, Complainant contends that she went to the precinct again with a "prepared statement and photo evidence" so that officers would add that information to the existing report. Complainant alleges, however, that when she made her request, she and her daughter were arrested by "3-4 officers" as "suspects" in the case. Further, Complainant alleges that an officer told her that they were "being arrested as a matter of protocol and not being charged with anything" and that they would be "booked and released that night". Complainant also states that she asked an officer if her statement and the photo would be added to the report and he responded that it would be. Complainant further alleges that the officers told her that the

girlfriend would also be arrested. However, Complainant asserts that officers neither added her statement to the report nor arrested the girlfriend.

Complainant believes that she was prevented from filing and subsequently arrested because the girlfriend filed first, making her and daughter “the perpetrators” and the girlfriend “the victim”. Lastly, Complainant states the following:

This has cost us a great deal of emotional distress, money and disrupted our personal and professional lives. It appears that the police officers on the scene were more interested in saving time than following protocol. It also appears that the appropriate protocol was not followed the next day when I tried twice to file a supplemental report (or my own report) the following day as the city attorney’s office advises our advocate that we had the right to file a report. I am looking for some explanation and a rectification of these incidents. I would like to know when the other party be charged and when the police plan to take complete statements for the victim and the witness.

VisiNet 1[This report has a creation date which precedes VisiNet 2 by one day]: In the Problem section of the report, the incident is labeled as “Domestic Abuse in Progress. The Following is noted in the Comments section: CLR’S ASLTD EXGIRLF & MOM...& [COMPLAINANT] WHO ARE STILL ON SITE...NO WEAPS/EMS RFD...[Description of Complainant and her daughter]...BOTH SUSPS WENT INTO HSE AND CLR IS STILL OTS FRT...CLR IS SITTING ON FRT STEPS OF HSE NEXT DOOR...CLR TALKING TO POL.

Domestic between daughter and gf who were both very dk. [D]aughter was uncooperative and verbally abusive to officers. [G]f had legal residence at house. [G]f just wanted her personal belongings and left. [N]o physical injuries seen. [A]ll parties were adv.

VisiNet 2: In the Problem section of the report, the incident is labeled as “Domestic Abuse Report Only”. In the report, the records of all the parties are checked – none have extensive records or serious offenses. In the Comments section, a note from a day after the creation of the report states that the “Incident” is “Re-opened.” This report has a creation date one day after VisiNet 1.

CAPRS: Under the Public Data section, the following is noted: [The girlfriend] came into the [omitted] Precinct to file a report for Domestic Assault. I gave her a blue card.

Supplement 1: Officer 1 contends that was working the desk along with Officer 2 when the girlfriend came to the desk claiming to have been assaulted by her girlfriend [Complainant’s daughter] and Complainant. According to Officer 1, the girlfriend told him that she had lived with Complainant and her daughter for four months. Further, Officer 1 asserts that the girlfriend told him that she was pinned to the ground and punched in the stomach and head, and scratched by Complainant and her daughter because the girlfriend threatened to leave the house. According to Officer 1, red scratches were visible on the girlfriend’s neck.

Additionally, a Domestic Violence Supplement—a series of questions relating to an alleged victim’s history with her abuser—was filled out by the girlfriend. The girlfriend noted in the supplement that she feared serious injury from Complainant and her daughter but did not why she thought so. She also intimated that threats made to her person do “NOT OFTEN” occur.

Supplement 2 [the entry date for this supplement is a day after Supplement 1]: Officer 2 contends that Complainant and her daughter entered the station, provided a blue card with a case number, and, “stated they wanted to complete a supplement for domestic assault under the case number [for this report]. According to Officer 2, he looked up the report and found that Complainant and her daughter were the suspects in the case, so he detained them until other

officers arrived to arrest them. Officer 2 asserts that Complainant and her daughter were “booked/transported” for “5th Degree Domestic Assault”. Further, Officer 2 contends that Complainant and her daughter furnished photos of their injuries allegedly sustained in their struggle with the girlfriend; Officer 2 states that he “properly inventoried” the picture “in the...Precinct Dropbox” and changed the status of Complainant and her daughter in the report “from suspects to arrested parties.”

Supplement 3: Officer 3 asserts that she attempted to interview Complainant and her daughter post-Miranda but neither would cooperate.

Supplement 4: Officer 4 states that a squad video was requested from and delivered to the City Attorney’s Office regarding the incident.

Interview of Complainant: in the interview, Complainant asserted that her daughter and the girlfriend had been having “disagreements” leading up to the incident regarding “relationship stuff”. In particular, Complainant claims that the girlfriend planned to move back to another state – a decision made that evening. According to Complainant, she, a friend, a roommate, and her daughter helped the girlfriend move bags filled with her things.

A few hours later, Complainant alleges that her friend left because it had appeared that “things were...settled down.” Not long after, Complainant contends that she heard noise from downstairs. Complainant asserts that the girlfriend was trying to enter her daughter’s room; the door was locked by the daughter because, according to Complainant, she did not want the girlfriend to enter. After the girlfriend attempted to enter through a back door, Complainant believed that the girlfriend had left.

However, Complainant contends that she was awoken by more noise coming from downstairs, prompting her to check on her daughter. After her daughter opened the door to her room, Complainant contends that her daughter told her that it was, “Nothing. Forget about it.” Complainant asserts that she could hear her daughter and the girlfriend arguing in the room. Complainant claims she was perplexed as to how the girlfriend got into the home as she had supposedly left; however, Complainant contends that she discovered a chair in front of the window to her daughter’s room, which she eventually used to hoist herself into the room and believes the girlfriend did likewise.

In the room, Complainant contends that the girlfriend was in her daughter’s bed covered by a sheet and fully clothed, goading her daughter by saying, “Do something. Do something.” In reply, Complainant asserts that her daughter kept telling the daughter to leave and also attempted to pry the blanket from the girlfriend. Complainant also asserts that the girlfriend kept telling her daughter “stop touching me,” though Complainant states she wasn’t. Complainant contends she tried to stop the fighting by telling her daughter and the girlfriend to “settle down” and also to “chill for a second”.

However, Complainant asserts that the argument only escalated: the girlfriend allegedly jumped out of the bed and wrestled Complainant’s daughter to the floor, pinning her. Complainant contends that she called the roommate to come and assist her pry the two women apart. Complainant contends that she pushed the girlfriend out of the room toward the living room and the roommate placed himself between her daughter and himself. Upon pushing the girlfriend, Complainant alleges that the girlfriend began to film her on her phone. While pushing the girlfriend to the living room, Complainant asserts that the girlfriend tried to get around her and Complainant attempted to grab her, leading the girlfriend to fall on top of Complainant. All the while, Complainant contends that the girlfriend was filming and taunting her with threats of calling the police. Finally, Complainant asserts that the girlfriend left and she locked the door behind her.

Complainant asserts that her daughter's shirt was ripped and her neck was marked from the encounter. Complainant also claims that the girlfriend gave her "bruises on [her] arms." Later that night, Complainant claims that officers arrived at her home and inquired about their relation to the girlfriend, who was outside. Complainant alleges that the officers asked specifically if her if she was "keeping [the girlfriend] here," to which Complainant responded "no".

Complainant asserts that the officer failed to ask many questions about what happened, nor did he separate all the parties involved when inquiring about the incident; Complainant likened the affair to a "free for all." Importantly, for Complainant, she claims the officer failed to look around the home for evidence of what occurred, such as the chair by the window or a broken mirror on the floor. Complainant further asserts that the officer had a "real attitude," referring to her daughter at times as, "People like you..." and telling her to shut up." Finally, Complainant alleges that the officer told her that, "...all three can go downtown and get charged with 5th Degree Assault or [the girlfriend] can leave and [Complainant and her daughter] can go inside." Complainant contends that she was content with that result but also requested that the officer ensure that the girlfriend left the area.

According to Complainant, she called her friend and related to her what occurred. Complainant contends that her friend told her that the girlfriend had mentioned to her that she planned to create a scene; the friend also mentioned that she had tried to talk the girlfriend down from making a scene.

The next morning, Complainant contends that she went to the Precinct and spoke to Officer 2 regarding the incident, informing her that she would like to file a report. After looking up some information, Complainant contends that Officer 2 told her that she could not file a report as one had already been filed. According to Complainant, when she asked if she could add a supplement to the report, she was again told by Officer 2 that she could not and told Complainant to come back later in the day when a desk sergeant was present.

After leaving the precinct, Complainant claims she and her daughter went to the Government Center to file an Order for Protection (Order) against the girlfriend. Complainant contends she spoke to advocate who was assisting with the Order for Protection and informed her of what happened and told the advocate that she would return to the Precinct to try and a supplement to the report. Complainant asserts that she did attempt to file a report or add a supplement but was again rebuffed. According to Complainant, Officer 3 told her that the duty sergeant was out on patrol and gave her a blue card with a report number on it.

After Complainant's second attempt to file a report/supplement, she alleges that she spoke to the advocate who told her that she would contact the city attorney to determine whether it was within her right to file/add a supplement. Complainant states that the advocate called her back and told her that the city attorney said she does "have a right to file" and that she should "go back there and do it."

The next day, Complainant asserts that she went to the Precinct with a pre-written statement and photographs of her and her daughter's injuries regarding the incident. Upon arriving at the station, Complainant asserts that she told Officer 4 at the desk that she had tried to file two times before and that the city attorney had indicated that she could do so. After Officer 4 asked if she had personally spoken to the city attorney, Complainant asserts that she told Officer 4 that her advocate had and then presented the pictures and statement to Officer 4.

After telling Officer 4 of such, Complainant contends that the officer asked about what had occurred but with no interest, as evinced by the officer's inability to write any of her account down. In response, Complainant contends that she asked Officer 4 if he could file her statement as a supplement. Instead of doing so, Complainant contends that Officer 4 called several

officers, who then went off to a backroom; among the officers present was Officer 2. When the officers returned, Complainant claims that they told her that she and her daughter were under arrest for “5th Degree Domestic Assault”. After being arrested, Complainant claims that officers told her and her daughter that they were not being charged but would be taken “downtown” to be booked and eventually released. Complainant alleges that when she asked about whether her statement would be included in the report, officers told her, “Oh, yes. Someone’s going to look at your statement and [the girlfriend] will be arrested...too...”

After this, Complainant asserts that her rights were read and asked if she had “anything to say,” to which Complainant stated she did not; Complainant claims that her daughter did likewise. Complainant contends that release from jail costed hundreds, and her legal representation, thousands of dollars. Eventually, Complainant contends that the charges against her and her daughter were dismissed.

Complainant states that the advocate had talked to the city attorney about the disposition (settlement) of the case, and the advocate was told that it would be dismissed. However, Complainant asserts that she did not feel comfortable to “just go by that” as she desired “to have something on record.

Lastly, Complainant asserts that no 911 call exists for the initial police call though phone records she obtained—Complainant owned the phone the girlfriend used to call 911—showed that the girlfriend had called 911 twice that evening.

MVR Video: In the video, an officer reads both Complainant and her daughter their Miranda Rights and attempts to conduct a post-Miranda interview with both, but both refuse. The daughter does tell officers, however, that they have both presented written statements.

Photos 1-9: It is hard to discern any injury in many of the photos as the pictures are in black and white. However, there does appear to be bruising and scratching on the daughter’s elbows in several pictures. Injury, however, perhaps due to the color of the photos, is not viewable on Complainant.

Affidavit of Friend: In the affidavit, the friend contends that: she is a neighbor of Complainant; the girlfriend was drunk and agitated; she tried to calm the girlfriend down; the girlfriend told her prior to the incident that she, “...would whoop [the daughter’s] a** and call the police on her”; she suggested that the girlfriend leave the residence, to which the girlfriend agreed; and she saw the girlfriend place her bags in a vehicle and assumed “everything had calmed down” prior to leaving that night.

Affidavit of the roommate: In the affidavit, the roommate asserted the following: he was called to the daughter’s room by Complainant; the door was locked; Complainant let him into the room; Complainant grabbed the girlfriend to “get her out from under [the daughter]”; he grabbed the daughter simultaneously to “get her to safety”; the daughter was yelling at the girlfriend to leave before he entered the room and as the girlfriend was being taken out of the room; he heard the girlfriend, “refuse to leave the house after being told” repeatedly to do so; the girlfriend was the “aggressor; the daughter never attacked the daughter; the girlfriend was “fully clothed”; the daughter had “injuries around her neck” and Complainant had “bruising on both of her forearms”; the girlfriend was trying to stay in the home as, “Complainant was trying to get her out the front door”; and he heard an officer say that, “Everybody can go downtown and be charged with Fifth Degree Domestic Assault, or you can stay here and [the girlfriend] can leave, and that’s the end of it.”

Officer 5 Interview: Officer 5 claims that he was at the scene to help assist another officer with the call. Officer 5 also contends that he couldn’t remember if the parties were separated, but he did recall speaking to an older female who was the “mother of somebody”, trying to understand

what had occurred. According to Officer 5, another woman was present who was “boisterous, rude”, “interruptive” and seemingly “very intoxicated”.

Officer 5 asserts that the officers were “unable to get anywhere” with his interview as “other officers basically said, ‘We’re good. We’re, we’re, we’re done. We’re out of here.’” He also recalled that the mother didn’t want anything to be done in regards to a complaint.

Officer 5 contended that another squad spoke to the caller who was near a car. Further, when asked if the officer had any indication that the daughter and the girlfriend were “roommates...significant others,” the officer responded that he did not “recall”. Further, the officer recalled, though questionably, that the caller told officers that she did not want to file a report but just wanted her “stuff”.

Officer 5 also failed to recall Complainant notifying him of a chair by the window and believed that he did not due to the distractions from her daughter; he also did not recall any males present. When asked if he told anyone to shut up during questioning, Officer 5 replied he had not, specifically stating that he prides “[himself] on not saying that to people”. Officer 5 also refuted telling daughter “People like you” or anything in regard to her “sexual orientation”.

Officer 5 did admit that “it might have been in [his] mind that, that it’s a girlfriend, girlfriend situation” but he that he has no “discriminatory” or “prejudicial” sentiments towards the daughter. When asked if he remembered injuries being shown to him by Complainant and her daughter, Officer 5 claimed he could not recall.

When pressed about filing a report when a case is known to be a domestic, Officer 5 states that he was not the “primary squad” investigating and they were with the “caller” herself.

Also, Officer 5 mentioned that his arrival time to the scene was not properly recorded in VisiNet.

Officer 6 Interview: Officer 6 claimed that he did not recall the event, and, mainly, cited VisiNet when giving answers about occurred. He also claimed that he was Officer 5’s partner the night of the incident. When asked about whether a CAPRS report supplement for domestic violence was done per policy, Officer 6 claimed that he had not checked to see if such a report existed and also that it was the primary squad’s duty to fill out the supplement.

Officer 7 Interview: Officer 7 claimed that he remembers encountering a woman outside the home who was crying, but could not recall if she made a complaint against another woman. Officer 7 also asserted that he and his partner, Officer 8, arrived at the scene for a “domestic abuse in progress”.

When asked why he did not file a report, Officer 7 claimed that, “both females were highly intoxicated...one the females was extremely verbally abusive towards us officers and one of the girls wanted her to leave and the other girl just wanted to leave.” Officer 7 also claimed to not see any signs of injury. As result, he claims he told one of the women to, “Grab your stuff and, and go.”

Officer 7 claimed to recall that Officer 5 spoke to the daughter.

When again pressed as to why no report was done, Officer 7 stated, “some of these incidents...when, when the call takers put the calls in, um, ah, they put it in according to what they think.” Officer 7 further elaborated that, “In domestics, people say things that most, sometimes don’t really happen...and it says here no weapons and refused EMS, um, so I’m thinkin’, Okay, no serious injury...and then I added these comments to the very end.”

Officer 7 claimed that he could not recall himself or other officers walking around the home to see the chair which the girlfriend allegedly used to jump into the home. Officer 7 also admitted

to calling off the call as he and his partner were primary responders to the scene. Officer 7 also admitted to making the determination that the call was not a domestic abuse case.

Officer 8 Interview: Officer 8 recalled that he had spoken the girlfriend, who told him that she had been “arguing with her girlfriend” and that “she was not hurt”.

Officer 8 claims that Officer 5 and his partner talked to Complainant and her daughter. While they were talking to Officer 5, Officer 8 contends that the daughter became “upset and started yelling,” so he and his partner grabbed the daughter and placed her in handcuffs and put her in the squad “because she was pointing her fingers yelling at Officer 5.”

Officer 8 contends that the girlfriend told him that she just wanted to leave but that Complainant and her daughter would not let her. Also, Officer 8 states that the girlfriend told him that her car had died and that, “she did not want anything done.”

Officer 8 also asserts that he was not told about the girlfriend entering the home through a chair and was not told nor saw any injuries to Complainant or her daughter.

Officer 8 could not recall why the daughter allegedly pointed her finger at Officer 5.

When pressed about why no report was done, Officer 8 states that he did not do one because, “the caller said she did not.” Further, Officer 8 claims that he does not normally file a report unless there are “facts...there are injuries or, um, there, there, you know, there, there is, there was an assault...[t]hreats.” He also asserts that nothing from the call indicated that injury or violence had occurred.

Officer 8 also claims that—as he was cover and not driver—that his partner would have ended the call and could not recall which squad arrived first.

Officer 4 Interview: Officer 4 asserts that he was performing desk duties the day Complainant was arrested. Officer 4 denied telling Complainant that he she would not be charged or arrested. He also denied placing Complainant and her daughter under arrest or recalling conversations between Complainant and other officers; he also failed to recall pictures being taken.

REVIEW PANEL

The Review Panel unanimously found no merit to any of the allegations, citing for each officer the following in support:

The atmosphere appeared to [be] somewhat drunken and disorderly. There were differing accounts of the events. The[re] is no clear or convincing evidence that inappropriate language or attitude was used while speaking with the [c]omplainants...The COMPLAINANT agreed that this was a satisfactory resolution at the time of the incident. With the information the [o]fficers had at the time of the incident, it was unclear that there was a domestic relationship between involved parties.