
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data # 3
January 2017

OVERVIEW OF THE COMPLAINT

Complainant alleges that he saw two teenage boys sitting at a bus stop with their hands on their laps when police arrived. Complainant asserts that the teenagers were not arguing with the officers. Nonetheless, Complainant claims that Officer 1 took one of the teenagers and "violently" tackled him to the ground though the teenager was not resisting. Due the allegedly alarming event, Complainant contends that he and his fiancée began to film the incident and were approached by officers yielding batons who told them to, "leave or they would arrest him for obstruction." Further, Complainant asserts that officers attempted to obstruct their filming of the incident by shining a spot light at them and blocking the scene.

ALLEGED VIOLATIONS

1. OPCR Ord. § 172.20(1) - EXCESSIVE FORCE
2. MPD 5-303 – USE OF FORCE: Minn. Stat. §609.06 subd. 1 states, "When authorized...except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:
When used by a public officer or one assisting a public officer under the public officer's direction:

In effecting a lawful arrest; or

In the execution of legal process; or

In enforcing an order of the court; or

In executing any other duty imposed upon the public officer by law."

In addition to Minn. Stat. §609.06 sub. 1, MPD policies shall utilize the United States Supreme Court decision in *Graham vs Connor* as a guideline for reasonable force.

3. **COMPLAINT PROCESSING**

The complaint was received by the Office of Police Conduct Review via the online system. Upon receipt of the complaint, an intake investigation was conducted and the matter was subsequently brought before the Joint Supervisors for intake review. Upon review of the complaint, the Joint Supervisors dismissed the matter as "unfounded".

EVIDENCE

1. Complaint
2. VisiNet

SUMMARY OF EVIDENCE

Complaint: Complainant asserts in her complaint that she was taking a walk out in her neighborhood when she noticed a police car and two "teen men sitting on a bus bench". She further asserts that the "teen men" were not, "arguing or causing problems and had their hands on their laps." However, Complainant contends that one of the officers took one of the teens, "smash[ed] him on the car" and then "violently tackl[ed] [him] to the ground."

Complainant asserts that the violence of the takedown alarmed her and her fiancé. She further asserts that the teen did not resist being arrested.

During the arrest, Complainant contends that she and her fiancé began to film the arrest. In the course of doing so, Complainant alleges that an officer approached her and her fiancé with a baton—though they were 30 feet away—and told them to, “leave or they would be arrested for obstruction.” She further alleges that the officers attempted to obstruct her and her fiancé’s ability to film by shining a spot light at them and blocking their view with squad cars. According to Complainant, She and her fiancé were “polite the entire time”.

VisiNet: The call in the report is listed as “Check the Welfare”. It is noted that the call came from a security officer.

In the report, dispatch notes the following:

MOMENTS SHARED PHOTOGRAPHY..4 STORY BLDG..PERSON WAS SEEN CLIMBING UP FIRE ESCAPE TO ROOF. SECURITY IS CKING SEC CAMERAS. ALSO ADVISING SEVERAL IN THE REAR INTOX AND LOITERING. PERSON ON GROUP WAS WITHCROUP CURRENTLY IN ALLEY....CLR WATCHING 2 MEN..2 M'S ON BIKES 2M'S ON FOOT...CLR STATING THE MALE GOT OFF THE ROOF..AND ALL MALES TOOK OFF.

CAPRS: In the Public Data section is noted that Complainant was “arrested for Trespass and Obstruction.”

Supplement 1: Officer 1 states that he was called to the scene due to a “check the welfare of a male on the roof”. Upon arriving, Officer 1 asserts that he and his partner came upon a group of four men, two who were “hovering on BMX bikes.” Upon seeing the officers’ approach, Officer 1 contends that the group began to break up, but he called the four males over to him.

Officer 1 contends that he asked the four males—of whom Complainant is included—why they “had been on the roof”. According to Officer 1, his question was only met with “dead pan” stares. Next, Officer 1 states that he asked the four males for their ID; of the four, Officer 1 contends that three of the young males claimed that they didn’t have IDs—the other male, Young Male 4, did not respond to the question. Also, Officer 1 asserts that Young Male 1 disclosed to him that he is 17-years old.

After this, Officer 1 asserts that he asked Young Male 3 to step over to the vehicle in order to identify him. While speaking to Young Male 3, Officer 1 claims that he disclosed to Officer 2 that he had “a knife on his belt”. After being told such, Officer 1 asserts that he searched Young Male 3 and found a “Gerber knife...in a sheath on his belt”, as well as red gloves, a small flashlight, a marijuana “dugout”, a lighter and other items. Officer 1 then states that he took Young Male 3 to the back of his squad.

Subsequently, Officer 1 claims that Young Male 2 was then searched without incident—he was also informed simultaneously that Officer 2 had positively identified Young Males 1 and 4.

Next, Officer 1 asserts that he called Young Male 3’s father and asked him if he knew of his son’s whereabouts and also of his possession of marijuana and other actions. According to Officer 1, the father told him that Young Male 3 was “urban exploring” and that he is a “good kid”. Further, the father told Officer 1 that his son does not break the law and that the items were a part of the “[u]rban [e]xploring” his son was doing.

After speaking to Young Male 3’s father, Officer 1 claims that Officer 2 told him that Young Male 1 had a “knife on his belt”. Upon asking Young Male 1 to stand and come to him, he claims that Young Male 1 told him that he doesn’t “consent to searches”, to which Officer 1 replied he doesn’t care. According to Officer 1, Young Male replied, “I DO care and I don’t consent to a search.” Next, Officer 1 asserts that he “grabbed” Young Male 1 by the arm in order to get him up

from the bench. However, Officer 1 claims that Young Male 1 “reeled back[,]dropping his weight into the bench.” At this point, Officer 1 asserts that he told Young Male 1 that he was under arrest. Officer 1 contends that he had to “pick up” Young Male 1 from off the bench in order to take him to his squad. In the process of doing this, Officer 1 claims that he did not have control of Young Male 1’s right hand and did not know where the knife was on Young Male 1’s person.

Upon being brought to the squad car, Officer 1 claims that Young Male 1 began screaming, “Hey! Stop! What are you doing”, and began to push his body off of the squad car, facing Officer 1. Officer 1 contends that he lost sight of Young Male 1’s right arm and, “attempted to pin [Young Male 1’s] body against the car[,]using all my weight but he resisted[,]forcing himself up to a standing upright position.”

As a result, Officer 1 asserts that he attempted a “conscious neck restraint”, and pulled Young Male 1 towards him. According to Officer 1, Young Male 1 was unbalanced and he “walked him back[,]bringing him to the ground.”

Officer 1 claims that Young Male 1 continued to resist by screaming to a passerbys, “what the f*&k! [D]id you see this[?] [T]ake a video!” After moving Young Male 1 to a face-down position, Officer 1 asserts that Officer 2 reached down and removed a knife from Young Male 1’s belt.

According to Officer 1, the security guard for the building informed him that he lives on the fourth floor of the building and heard “gravel crunching” on the rooftop above him—he also claimed to have video of two of the males climbing the fire escape while the other males assisted them in reaching the ladder.

Officer 1 states that the fire escape does not reach the ground and is about 12-15 feet in the air.

Lastly, Officer 1 notes that two “marijuana dugouts, flashlight, gloves and knives” were inventoried and that Young Male 1 was transported to a juvenile detention facility after being charged with a non-juvenile citation.

Supplement 2: Officer 3 asserts that he was assigned the case and had read the reports. Officer 3 claimed that, after review, he had found that the group had violated trespassing, weapon-carrying and obstruction of process statutes. However, it was noted that only Young Male 1 was cited for the offenses.

Focus Officer Video: The video shows Officer 1 searching and removing items from a Young Male 3’s pockets. Young Male 3 has his hands on the hood of the squad car. Officer 1 can be heard saying, “Shut up. Don’t be telling me what I can or cannot do”. Officer 1 then places the young male in the back of the squad. In the process, the young male tells Officer 1 his age (17), where he lives, his name, and his father’s phone number.

Officer 1 then calls Young Male 3’s father. During the discussion with Young Male 3’s father, he tells him that his son has been detained because his son has “marijuana”, “burglary tools”, and has been jumping on the roof of a closed business. To which it appears that the father tells Officer 1 that his son is not a burglar. Officer 1 warns the father that he may cite his son for the citations. He also tells the father that the son does not have the right to be in the area “doing what he is doing”, and that if he writes the citations, the father will have to respond to court as well.

After hanging up with the father, Officer 1 tells Officer 2 to, in reference to the Young Male 1 and another male who are sitting on a bench, to, “Just grab ‘em up and search ‘em.” He then motions to Young Male 1 with his hand and tells him to “come on over here” and to “stand up”. Young Male 1 states to the officers that he “doesn’t consent to searches”. Officer 1 replies that he “doesn’t care”. Next, Officer 1 grabs Young Male 1 by his left wrist and tells him simultaneously that he “is under arrest”. After moving Young Male 1 to the squad by controlling his wrist, Young Male 1 can be heard saying “Hey! Stop!” Officer 1 can next be seen controlling Young Male 1’s

head as he is on the ground. Young Male 1 can be heard telling the other young male seated on the bench to “take the video”. Officer can be heard saying to Young Male 1 that he said he has a knife and to get on his chest. Next, the officer asserts control of Young Male 1’s right wrist and twists it so that his open-palm is pointing toward himself. Officer 1 can be heard telling Young Male 1 that he said he had a knife on him and had told him to come over. Officer 1 then places handcuffs on Young Male 1. While doing so, Young Male 1 can be heard saying, “Dude, I gave him my f***ing knife.” After Officer 1 picked up Young Male 1 from the street, he can be heard saying to others across the boulevard, “Did you guys see that?” Officer 1 begins to search Young Male 1’s person and warns the other young male on the bench to follow his instructions when he eventually searches. Officer 1 calls another squad to the area and says “what” and “stay over there” to onlookers. Eventually, a male onlooker can be seen walking from across the boulevard toward the corner where the young males were detained. Officer 1 approaches and again warns him to “go over there”—likely meaning the other side of the street—or he would be arrested. The male onlooker is holding his cell phone out and tells the officer that he could be searched if need be. Officer 1 then appears to push the male onlooker from the back of his jacket with an open palm toward the other side of the boulevard.

After this, the other young male is told to place his hands on the squad car and is searched by Officer 1—he eventually orders him to sit on the bench as the back of the squad is filled with the other young males.

Witness Officer Video: Video begins with a view of the two young males sitting on the bench. Officer 2 is holding the IDs of both young males and asks what they were doing in the area. Young Male 1 asserts that “he is not from around here” and the other male states that he was just biking in the area. Young Male 1 tells Officer 2 that he doesn’t like Officer 2 taking a picture of his driver’s license due to his fear of information being entered into “systems” as he is currently being recruited by the United States Air Force. Officer 2 responds that he and Officer 1 had received a call about two people on bikes and walking and needed to investigate, including ascertaining who the young males are as they matched the description. Young Male 1 then tells Officer 2 that he is going to “record” what is happening as he “doesn’t want his future to get f***ed over nothing.” Officer 2 then warns Young Male 1 not to go for his waist band as that is where his knife is located.

Next, Officer 1 enters the frame and can be heard telling Young Male 1 to stand up, and also mentions I don’t care. In the process, Officer 1 can be seen grabbing Young Male 1 by his right arm and forces him from the bench. He then pushes him up against the squad car and then places his arm by the bend of the elbow around Young Male 1’s upper torso and brings him to the ground on his butt.

Officer 2 can be heard telling the other male on the bench to remain seated. Officer 2 next removes the knife from Young Male 1 as he is on his side and places the knife on the hood of the squad. The rest of the video coheres largely with the Focus Officer Video.

DISMISSAL

After review of the reports, videos and complaint, the Joint Supervisors decided to dismiss the complaint for being “unfounded”. More specifically, the Joint Supervisors determined that Young Male 1 was required to consent to the search as he matched the description of the reported trespassers and had admitted to possessing a weapon. His refusal to consent to the search, therefore, was a form of obstruction and the officer was within his right to use reasonable force to acquire Young Male 1’s compliance.