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**POLICE CONDUCT OVERSIGHT COMMISSION**  
Case Summary Data #4  
February, 2017

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**OVERVIEW OF THE COMPLAINT**

Complainant contends that he called the police to report an assault against him by a neighbor but instead was threatened with arrest by arriving officers, who he contends believed his wife's allegations that the dispute was his fault. However, he asserts that officers did not arrest him as the neighbor was not present. He also claims that, upon seeing the doctor later for his injuries as a result of the fight, he was diagnosed with a broken elbow. Later, Complainant contends that he went to a precinct to try and file a report but was instead accused of "falsifying information and shopping for a report."

**ALLEGED VIOLATIONS**

1. OPCR Ord. § 172.20(6) - FAILURE TO PROVIDE ADEQUATE OR TIMELY PROTECTION
2. MPD P&P § 5-105 (E) (2) – PROFESSIONAL CODE OF CONDUCT: On-duty officers shall, at all times, take appropriate action within their jurisdiction, to protect life and property, preserve the peace, prevent crime, detect and arrest violators of the law, and enforce all federal, state and local laws and ordinances.

**COMPLAINT PROCESSING**

The complaint was received by the Office of Police Conduct Review by way of the online form. 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 for “no basis – exonerated.”

**EVIDENCE**

1. Complaint
2. VisiNet
3. Body Worn Camera – Officer 1
4. Body Worn Camera – Officer 2

**SUMMARY OF EVIDENCE**

Complaint: Complainant asserts in his complaint that his “neighbor/significant other punched [him] repeatedly.” Complainant contends that police officers “did not see any noticeable injuries,” and after speaking to his ex-wife (significant other), blamed the incident on Complainant and refused to file a police report. Upon seeing a doctor after the incident, Complainant contends that it was uncovered that he had a broken elbow. Also, Complainant contends that the officers wanted to arrest him but refrained from doing so as he is “unemployed.”

VisiNet 1: The “Problem” is listed as “Assault in Progress.” In the report, the following is noted:

...CLR WENT TO ASK FOR WATERBILL FROM PERS INS APT/HE SAID HE DIDN'T HAVE IT AND ASLT'D CLR. THIS M IS UNK/STATED HE IS STAYING HERE BUT NOT PAYING BILLS BECAUSE HE DOESN'T LIVE HERE? PER CLR. CLR WILL BE WAITING OTS FRONT AND WAVE DOWN OFCR. EMS REFUSED...change to an[sic] neighbor trouble, civil matter over water bill, no aslt.

Body Worn Camera – Officer 1: Complainant is standing outside of the residence, by the officers' squad car. At the outset of the video, Officer 1 can be heard telling Complainant the following:

There is another dynamic here you are not telling us, OK. I'm told that you are upset because your son is coming home from the hospital and needs some care and you are upset her boyfriend is living...here, and you called and made some threats to him.

Further, Officer 1 declares that Complainant's reason for going to the residence—to fetch a water bill—makes “absolutely no sense” since it was on the day that his son was returning from the hospital. The officer also mentions that Complainant had attempted to pull his ex-wife's boyfriend from her home, leading the boyfriend to strike Complainant. After summarizing such, Officer 1 states “OK,” to which Complainant replies “OK.” [From the video, there are no apparent injuries to Complainant, nor does he appear to indicate that he has injuries anywhere on his body.]

Officer 1 then states that Complainant “did not share that before,” and further states that Complainant's “credibility is shot.” Officer 1 also contends that he has dealt with Complainant many times in the past and “knows his behaviors.” Officer 1 asserts that Complainant did not go to the residence to retrieve a “water bill” but was instead “looking for trouble.” After multiple attempts to speak, Complainant tells Officer 1 that he is not allowing him to speak, but is quickly shushed by the officer. Officer 1 goes on to state that the ex-wife had told him that Complainant had damaged the ex-boyfriend's vehicle. Complainant retorts, “What did I damage,” but the officer contends that there are pictures of the reported damage. Officer 1 next threatens to arrest Complainant for criminal damage to property and assault – Officer 2 chimes in that he could also be arrested for falsely reporting a crime. Officer 1 asserts that, if the boyfriend desires to press charges, he will arrest Complainant.

Complainant repeatedly tells the officers that he doesn't understand and is not playing games. Officer 2 tells Complainant that he had “no business trying to pull [the boyfriend] out of the house” and also “that's why [Complainant] got hit.” Officer 1 next asserts that “he would have done the same thing to [Complainant],” further stating that he had “no business pulling someone out of their home.”

Next, Officer 1 walks to the ex-wife, who is sitting on steps outside of her home, and confirms with the ex-wife that she lives in a “side-by-side” duplex next to Complainant. Officer 1 tells the ex-wife that he has dealt with them in the past and she confirms such. Officer 1 tells the ex-wife that he can't understand “what is going on with this whole thing” and why Complainant cannot “move past this stuff.”

Officer 1 then asks the ex-wife if her boyfriend is coming back, to which she states that he will not as “he is afraid of [Complainant].” Officer 1 remarks, “Oh, he is afraid of him with the police here.” The ex-wife then replies that she doesn't know “why he won't come back.” Officer 1 then states, “Well, I can come up with some ideas,” to which the ex-wife states, “He doesn't have any warrants.” Officer 1 then tells the ex-wife that she can file an

Order for Protection (OFP) with the court and that he is “good” with the ex-boyfriend not coming back.

After walking back to Complainant, Officer 1 begins to tell Complainant that he “has created a monster” and that he doesn’t mind if his ex-wife seeks an OFP against him. He also states that the, “same thing happened a few years ago.” Upon stating such, Complainant interrupts and says that a bill has not been paid, to which Officer 1 states that it is a “civil matter.” However, Officer 1 contends that Complainant’s actions constitute a “criminal matter.” He also states that the, “...fact that [the boyfriend] is not returning right now is the only thing preventing [Complainant] from going to jail.”

Next, Officer 1 orders Complainant to leave “until he can figure out how to be respectful in this situation here.” Officer 1 also warns Complainant that he may be evicted from his home upon the application of the OFP.

*Body Worn Camera – Officer 2:* [The video begins and ends at essentially the same time as Officer 1’s, and Officer 2 is situated in such a manner—generally alongside Officer 1—that what is captured in the video is more or less the same as Officer 1’s video. However, Officer 2’s video does capture a brief conversation with Complainant which occurred between when Officer 1 leaves to speak to Complainant’s ex-wife and his return. The conversation is captured below.]

Officer 2 tells Complainant that he “has to do it the legal way.” He also asks Complainant if he understands, to which Complainant replies, “yes.” He also warns Complainant to “be careful” in these kinds of situations. Officer 2 further tells Complainant that he had attempted to “pull” the boyfriend out of the house and that the boyfriend “hit” Complainant for attempting to do so. Officer 2 also proceeds to accuse Complainant of “not telling [the officers] that up front,” to which Complainant retorts that “[he] didn’t pull [the boyfriend] out of the house.” Complainant states that he only asked the boyfriend to “come out” in order to speak with him. Complainant further states that the boyfriend didn’t clean the garbage yesterday and also failed to pay a bill.

Complainant next contends that the boyfriend cleared out all the garbage and agreed to pay, which he claimed to not have a problem with. After speaking to the boyfriend, Complainant states that the boyfriend told his ex-wife about their discussion, who then became upset with Complainant and told him to “get away from [her boyfriend].” Soon after this, Officer 1 returns. [See *Body Worn Camera – Officer 1* for remainder of discussion between the officers and Complainant.]

## **COACHING**

After reviewing all the relevant material, the Joint Supervisors dismissed the complaint for “no basis” as the officers appeared to come to a reasonable conclusion that no assault by the accused party—due to the claim of self-defense and Complainant’s ever-changing narrative—happened.