
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #1
June 2017

OVERVIEW OF THE COMPLAINT

Complainant contends that he was assaulted by a security guard for a property when officers arrived. At the scene, Complainant alleges that the officers "inflamed" the circumstances by acting prejudicially toward Complainant. Further, Complainant asserts that he was threatened by both the guard and officers, and also claims that they physically "mishandled" him to the point of "nerve damage". He also claims that he was ridiculed for his sexual orientation by the guard and officers present. Body camera recordings captured the incident.

ALLEGED VIOLATIONS

- 1.
2. MPD P&P § 5-104.01 - PROFESSIONAL POLICING: Officers shall use the following practices when contacting any citizen, regardless of the reason for the contact: Be courteous, respectful, polite and professional.
3. MPD P&P § 5-105 (C)(1) – LANGUAGE: These provisions apply to all forms of communication, including but not limited to electronic communication and social networking. These provisions are in addition to the conditions in the Computer Use and Electronic Communication policy (P/P 4-220) and the Social Networking policy (P/P 7-119). 1. (A-D) Employees shall not use derogatory, indecent, profane or unnecessarily harsh language in the performance of official duties or while representing the MPD.

COMPLAINT PROCESSING

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 sent the matter to the appropriate precinct for coaching. After the officer's supervisor completed the coaching investigation, the coaching documentation was received by the Joint Supervisors, who then approved it.

EVIDENCE

1. Complaint
2. VisiNet Report
3. CAPRS Report
4. Videos 1-3

SUMMARY OF EVIDENCE

Complaint: Complainant states in the complaint that officers "reported to an incident" while he was "cuffed and being assaulted by a security guard" for the property. Complainant further states that the Focus Officer "inflamed the circumstance [,] acting with extreme prejudice and lack of professionalism." He claims that there was "[p]hysical mishandling with no resistance to the point of nerve damage and bruising" and that he was not informed of the reason for his arrest nor Mirandized. Lastly, Complainant indicates that he was "ridicule[d] for life style/sexual orientation."

VisiNet Report: The Problem listed on the report is for a "Fight," which was called in by a staff member of hotel. The notes section of the report states, "...FRT DESK—GUEST IN PHYS WITH

SEC. BM. 40 WRG BLK JKT AND GLASSES.” About 5 minutes after these notes the incident is C4 (short hand for “Code 4”) or established as under control (A OK).

CAPRS Report: In the report, Complainant is charged with Disorderly Conduct, Trespassing and Open Bottle. He is also listed as having a warrant for his arrest.

The Public Data section states that, “Officers responded to a reported FIGHT,” and “positively identified” the Complainant, who was discovered to have an active warrant. In the report, the arresting citizen is listed as the security guard of the hotel.

Supplement 1: Upon arriving to the doors of the hotel, Officer 1 contends that he could hear Complainant “screaming incoherently through the closed glass doors.” Upon entering the hotel, Office 1 asserts that he saw Complainant being “pinned to the ground face down [sic] by [the security guard,” who asked the officers to assist. He also asserts that a small crowd was gathered nearby and Complainant was “screaming profanities and causing a disturbance.”

Officer 1 contends that Complainant was eventually handcuffed after a brief struggle. Upon searching Complainant incident to arrest, Officer 1 claims that a, “large metal flask containing a suspected alcoholic beverage was located in [Complainant’s] possession.”

After being placed in the squad car by the officers, Officer 1 asserts that Complainant began to kick the squad car door, leading him to open the door and tell him that “it was in his best interest to stop kicking the door.”

A short while later Officer 1 states that Complainant’s partner showed up and began to question Officer 1 and Focus Officer about Complainant’s arrest. Officer 1 claims that he told the partner that Complainant was under arrest and would be transported to a local jail shortly.

After this, Officer 1 asserts that the partner walked toward the squad door, prompting Focus Officer to step between the squad door and the partner and warn the partner to not “interfere with our duties” or be arrested for obstruction.

According to Officer 1, he spoke with the security guard about the incident and he informed him that Complainant was in an, “extremely DK state...began yelling and had an attitude with staff...was not listed as a guest on any room list,” and “stated he was there to visit his friend who was a guest at the hotel.” Officer 1 claims that he was also told that the security guard informed Complainant that he would have to leave the hotel as he was not on the guest list and drunken behavior, and attempted to “guide” Complainant with an open hand upon his back out the door. However, Officer 1 states that the security guard told him that Complainant “spun around” without “provocation” and pushed the security guard “backwards to a wall.” After this, Officer 1 claims that the security guard told him that he took Complainant to the ground.

After the arrest, Officer 1 asserts that the security guard filled out a “citizen’s arrest form and formal trespass notice.” Upon transport, Officer 1 contends that a warrant was uncovered for Complainant from another county. Also, Officer 1 asserts that Complainant complained about his handcuffs being too tight and he loosened them to the point where he was able to fit his “index finger between the handcuff and [Complainant’s] hands.”

Supplement 2: According Focus Officer, he could hear Complainant “yelling from inside” as he “approached the front door.” As he entered the hotel, Focus Officer claims that he could see a security guard “physically restraining a male [Complainant] on the ground” and that the security guard appeared to be “struggling to keep [Complainant] subdued.” Focus Officer notes that Complainant was in a “hunched over prone position” when he told him that he was police and informed him to stop moving. After this, Focus Officer asserts that he told Complainant he was under arrest and ordered him to put his hands behind his back. Upon attempting to arrest Complainant, Focus Officer asserts that Complainant placed his right hand behind his back and was cuffed, but lifted his body when Focus Officer attempted to grab his right hand,

forcing Focus Officer to push Complainant “back down to the ground.” Eventually, Focus Officer asserts that Complainant was handcuffed and his cuffs were checked for “proper spacing.”

According to Focus Officer, he found a metal flask with alcohol smelling inside was found in Complainant’s right jacket pocket. Focus Officer also notes that Complainant’s speech was slurred, and eyes were “glassy and watery,” leading him to believe that Complainant was “under the influence of alcohol.”

Focus Officer contends that Complainant told him that he was doing nothing wrong and had merely “gone inside and...gone up to a room and come back down.” Focus Officer further noted that Complainant admitted to not registering as a guest though it was 3:37 in the morning.

After speaking placing Complainant in the squad car, Focus Officer asserts that Complainant began “kicking the inside of the squad door constantly,” stating that “he had to urinate,” to which Focus Officer allegedly told him that he would be able to use the toilet at the jail. After this, Focus Officer contends that Complainant began to “complain about the handcuffs hurting him,” though he had “appropriately spaced the cuffs.” Later, Focus Officer asserts that Officer 1 “checked the cuffs and confirmed that the cuffs were properly spaced.”

Later, Focus Officer contends that Complainant’s husband showed up and started “asking questions and started to address [Complainant] inside the back of the squad car.” After telling the husband to back away from the vehicle as he feared that the husband may reach for the door, Focus Officer contends that the male briefly stared him and slowly walked back to the curb. After his initial warning, Focus Officer asserts that the husband “approached the car within” an arm’s length and warned him to move away or be arrested for obstruction. At this point, Focus Officer contends that the husband asked for his name and badge number, which he provided. He claims that Officer 1 did as well.

Enroute to the jail, Focus Officer claims that he was notified by Officer 1 that someone was following their vehicle, “matching lane changes and...turns exactly.” Upon arriving at the jail, Focus Officer claims that he discovered that it was Complainant’s husband and kept a close eye on the car as they entered the jail garage. At the jail, Focus Officer contends that Complainant was booked for “trespassing, disorderly conduct, and loitering with an open bottle.” Also, Focus Officer asserts it was uncovered that a warrant had been placed on Complainant from another county.

Video 1: At the beginning of the video, Focus Officer enters the hotel and Complainant can be seen on the ground with the security guard on top. Complainant can be heard saying, “I have done nothing wrong.” Next, Focus Officer can be heard telling Complainant to put his hands behind his back and Complainant can be heard saying “absolutely.” Next, the officers can be seen bringing Complainant’s right arm behind his back and is then instructed to bring his left behind as well. However, Complainant is unable to do so and falls on his side. Eventually, officers flip Complainant on to his back and finish cuffing him.

Complainant next states that he is “not hurting him or doing anything improper.” Focus Officer responds that Complainant “should not have been fighting in the first place here, genius.” Complainant’s response cannot be heard but Focus Officer can be heard stating, “Really, why are you on the ground.” Complainant can next be heard saying, “Because he is a f**king a***ole,” to which Focus Officer responds rhetorically and sarcastically, “And you’re not? Kind of look like one right now, don’t you, ‘cause you’re the one in handcuffs.”

After this, Complainant asks to be stood up and Focus Officer replies that he will not until he “feel[s] like it.” Focus Officer also states to Complainant, “How much you work with me depends on how well we treat you.” The security guard can be heard saying that Complainant was confrontational, and Complainant attempts to speak but is told by Focus Officer to “shut up.”

Eventually, Complainant is stood up and Focus Officer begins a search of his person, removing at one point a silver flask, which Complainant asks for. After opening the container Focus Officer and appearing to smell its contents, Focus Officer tells Complainant that he has violated open container laws and a small argument about whether the flask constitutes an “open container” ensues. Focus Officer eventually asks Complainant if he wishes to “get smart with us” and further asks him derisively if he has “come on vacation, leave on probation.” When Complainant admits to being confused by the statement, Focus Officer replies “it’s like Vegas.” Complainant again does appear to understand what Focus Officer is saying, prompting Focus Officer to sarcastically reply, “And you are a highly intelligent man, huh? You don’t know what probation means?”

Next, Complainant professes his innocence and mentions that his first time traveling to the city was for a party for then-mayor R.T. Rybak. Complainant further states that he has not “argued or dealt with anything improper.” He further states that he “went upstairs, had time with his friend, and went outside – and that was it.”

Focus Officer next asks if Complainant is on the guest registry of the hotel and he replies that his friend had given him the card to his room. Focus Officer tells him that it is against Minnesota innkeeper laws to not be on a hotel registry. After this, Complainant asks for Focus Officer’s badge number, to which Focus Officer replies:

Wanna smart off with me right now, cause you can go jail right now, so shut your mouth and just sit there, cause all you are doing right now is digging a hole, because you are being a d**k.

After this, Focus Officer walks Complainant to the squad car and tells him he needs a “timeout” and refers to Complainant as a “petulant child.” At one point, Focus Officer tells Complainant to “sit in or I’ll make you sit in” as Complainant complains about the tightness of his cuffs.

Complainant next tells Focus Officer that his actions are “not necessary,” to which the officer replies by shutting the door and saying “Oh, look, you are actually in the squad car now, voila.”

Video 2: Focus Officer appears in the video pulling out forms from his squad car. At one point, he opens the passenger door and Complainant can be heard saying that he needs to use the restroom, to which Focus Officer replies “Do you see a bathroom around here, no?” A male (husband) can be seen coming from the across the street and approaches the officers and another male; after arriving, he asks about why Complainant is in the squad car.

Next, the other male asks the officers about the charges and further why Complainant’s actions constitute disorderly conduct, to which Focus Officer mentions that Complainant’s actions constitute “shock and alarm.” The male begins to respond, “Even if,” but is quickly cut off by Focus Officer who replies that can “stack on” charges” such as “innkeeper laws” and “open container.”

At one point, Complainant’s husband approaches the passenger door where Complainant was placed in the squad, to which Focus Officer warns him to “step away” from the car, citing security concerns. The husband then steps away from the vehicle. Shortly after, the husband asks the officers for their names and badge numbers, to which both comply.

Later, the husband can be seen approaching Complainant’s passenger area, to which Focus Officer tells him again to step away or he will be arrested. The husband again steps away from the vehicle and shrugs.

The husband also asks questions pertaining to custody and bail, to which the officers give some answers. Simultaneously, the security guard fills out a form. After the completion of the form, the officers begin their transport of Complainant.

Video 3: A video of the transport of Complainant. Complainant continues to tell the officers that he did nothing wrong and says that he supports police officers. Very little confrontation occurs in the squad vehicle. Upon arrival at the jail, Complainant is notified of a warrant in another county and Officer 1 attempts to explain to him the process for making bail or release.

COACHING

The matter was sent to coaching the appropriate precinct supervisor who stated in the coaching document that he reviewed relevant reports, videos and spoke with Complainant regarding the incident. After reviewing such and speaking to the officer, the supervisor noted that Focus Officer had been coached and a policy violation was found. According to the supervisor, Focus Officer agreed with the supervisor that his use of language and tone was inappropriate. The supervisor also claims that Focus Officer claimed he would “reevaluat[e] how he deals with citizens” due to the disciplinary issues facing his former partners. Further, the supervisor contends that Focus Officer stated he had “made a conscious effort to watch what he says and how he does it” in order to prevent becoming well known to the Office of Police Conduct Review and Internal Affairs. The supervisor further states that Focus Officer wishes to be a “good example” for other officers.

Lastly, the supervisor contends that he stressed to Focus Officer to use deescalation techniques and avoid using harsh or derogatory language and to remain “professional in all situations.”