
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #3
June 2017

OVERVIEW OF THE COMPLAINT

Complainant--who is a delivery driver--alleges that an officer followed him and assumed that the officer wished to pull him over, so he pulled over and turned on his emergency lights. Afterward, Complainant asserts that the officer pulled over in front of Complainant. After "30 seconds," Complainant states that he beeped his horn as a way of communicating to the officer "what do you want." Complainant contends that, despite this, the officer failed to do anything, so he turned off his hazards and again continued driving.

Complainant asserts that the officer continued to follow him and he again pulled over, turned on his hazards, and beeped his horn. After this, Complainant states that the officer finally turned on his lights. Complainant claims that the officer approached his vehicle and, upon coming up to his window, asked the officer the reason for the officer following Complainant. Complainant claims that in response the officer answered quixotically, "I'm following you?" Complainant claims that he responded that the officer was following him through every lane change. After this, Complainant asserts that the officer asked him for his insurance and driver's license. Complainant states that he asked the officer why he was being pulled over, to which the officer replied that Complainant kept honking at him and believed that Complainant needed his help.

Next, Complainant contends that he requested the officer contact his sergeant to talk to him about the situation. Upon asking the officer to contact the sergeant, Complainant claims that the officer told him "No!" and kept asking for Complainant's driver's license. After giving the officer his license, Complainant asserts that he pushed the "OnStar" button in his vehicle and contacted the precinct, requesting a sergeant.

After this, Complainant asserts that he asked the officer if he was refusing his request for the sergeant, to which the officer replied, "YES! I'm trying to find out what is going on with you first." In reply, Complainant contends that he told the officer that he "shouldn't have followed [him]" and "pulled [him] over several times."

Next, Complainant contends that the officer returned to his squad to do a "check" and subsequently three more squads arrived. Meanwhile, Complainant asserts that he was able to get in touch with the sergeant on duty via phone and told him that he would personally go the precinct to file a complaint. Complainant also asserts that the officer, after he had returned from checking his license, had told him that he pulled him over because "[he] honked his horn at [him] and thought [he] wanted something."

While en route to the precinct, Complainant claims that he was escorted to the precinct by a "4[-] car police escort" as a form of "intimidation." Complainant further contends that he threw a "peace sign" to the officer and the officer "laughed and smirked" in a way Complainant believed to be sarcastic.

At the precinct, Complainant claims that the sergeant on duty spoke to him and told him that he was pulled over for "erratic" driving.

ALLEGED VIOLATIONS

1. OPCR Ord. § 172.20(3) – HARASSMENT

2. MPD P&P § 5-103 – USE OF DISCRETION: The police profession is one that requires officers to use considerable judgment and discretion in the performance of their daily duties. Officers have a large body of knowledge from Department policies and procedures, training, their own professional police experience and the experiences of their fellow officers to guide them in exercising proper judgment and discretion in situations not specifically addressed by Department rules and regulations. In addition, officers must always adhere to the following principles in the course of their employment with the Minneapolis Police Department:

POLICE ACTION - LEGALLY JUSTIFIED: Officers must act within the limits of their authority as defined by law and judicial interpretation, thereby ensuring that the constitutional rights of individuals and the public are protected. 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. (11/17/15)

EQUALITY OF ENFORCEMENT: Officers shall provide fair and impartial law enforcement to all citizens.

LOYALTY: Officers shall be faithful to their oath of office, strive to uphold the principles of professional police service, and advance the mission of the Department.

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 dismissed it for “no basis.”

EVIDENCE

1. Complaint
2. VisiNet
3. CAPRS
4. Videos 1 and 2
5. MVR

SUMMARY OF EVIDENCE

Complaint: Complainant--who is a delivery driver--alleges that an officer followed him and assumed that the officer wished to pull him over, so he pulled over and turned on his emergency lights. Afterward, Complainant asserts that the officer pulled over in front of Complainant. After "30 seconds," Complainant states that he beeped his horn as a way of communicating to the officer "what do you want." Complainant contends that, despite this, the officer failed to do anything, so he turned off his hazards and again continued driving.

Complainant asserts that the officer continued to follow him and he again pulled over, turned on his hazards, and beeped his horn. After this, Complainant states that the officer finally turned on his lights. Complainant claims that the officer approached his vehicle and, upon coming up to his window, asked the officer the reason for the officer following Complainant. Complainant claims that in response the officer answered quixotically, "I'm following you?" Complainant claims that he responded that the officer was following him through every lane change. After this, Complainant asserts that the officer asked him for his insurance and driver's license. Complainant states that he asked the officer why he was being pulled over, to which the officer replied that Complainant kept honking at him and believed that Complainant needed his help.

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his license, Complainant asserts that he pushed the "OnStar" button in his vehicle and contacted the precinct, requesting a sergeant.

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While en route to the precinct, Complainant claims that he was escorted to the precinct by a "4[-] car police escort" as a form of "intimidation." Complainant further contends that he threw a "peace sign" to the officer and the officer "laughed and smirked" in a way Complainant believed to be sarcastic.

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VisiNet: The Problem section is listed as Traffic Law Enforcement and the listed time is 3:320 AM. The total response to the call is about three minutes. In the notes section, the officers commented the following:

[D]river was driving irradically [sic], changing lanes and pulling to the shoulder multiple times. [D]river honked at us. [W]e then pulled behind the vehicle and made contact. [D]river was upset.

CAPRS: Public Data section states solely "Officers made contact with [Complainant] at the above location."

Supplement 1: Officer 1 asserts that Complainant was driving "erratically," making "multiple lane changes." At one point, Officer 1 states that Complainant:

...Abruptly pulled over to the right shoulder...and came to a stop...then proceeded eastbound and passed our squad...then pulled on the shoulder again...its hazard lights activated.

Officer 1 contends that Officer 2 had to back their squad behind Complainant's vehicle. Upon making contact with Complainant, Officer 1—who approached from the passenger side—contends that Complainant was "verbally aggressive" toward Officer 2 and "kept interrupting him." Officer 1 also claims that Complainant accused the officers of "harassing and following him." He further asserts that Complainant kept trying to contact the on-duty sergeant and was subsequently released.

Supplement 2: Officer 2 contends that upon first encountering Complainant's vehicle he noticed that Complainant's driving behavior was odd as he made "several lane-changes and pulled over to the side of the road." Nonetheless, Officer 2 asserts that he kept driving.

According to Officer 2, Complainant passed their vehicle and pulled in front of the officers and again, "pulled over to the side of the road and honked his horn about 3 times...with the hazard lights on." Due to the driver's behavior—the pulling over, honking and hazard lights--, Officer 2 reversed his car behind Complainant's vehicle as he thought that the driver "needed assistance."

Upon approaching the vehicle, Officer 2 claims that he asked Complainant if he needed “anything,” to which the Complainant asked Officer 2 “is there a reason you guys keep on following me[,] sir.” Officer 2 asserts that he told Complainant that he was not following him, to which Complainant asserted “I went from one lane[,] you guys followed me[,] I went to the other lane and you guys got behind me.”

Next, Officer 2 contends that he asked for Complainant’s driver’s license and insurance. According to Officer 2, Complainant asked again about why he was pulled over, to which the officer replied that Complainant “honked his horn” and he believed that he needed help. Despite this, Officer 2 claims that Complainant kept accusing him of harassment and requested a sergeant. Officer 2 asserts that he told Complainant he would have to assess the situation first before he could do that. As he was stating such, Officer 2 contends that Complainant kept “interrupting [him] and got on the phone with OnStar systems of his vehicle.”

Officer 2 noted in his report that the areas he was patrolling is known as a “high[-]crime area” where people are known to traffic in drugs and prostitution.

After returning to his squad to run the license and insurance of Complainant, Officer 2 contends that he called his supervisor to inform him of the situation and his supervisor told him that he would contact Complainant. Upon returning to the vehicle, Officer 2 asserts that Complainant had already obtained his supervisor’s number. After this, Officer 2 claims that he told Complainant to have a good night and that he was “good.” Officer 2 asserts that they continued in the direction they were already heading, toward the police station.

Videos 1 and 2: Upon reaching Complainant’s vehicle, Complainant states quickly to Officer 2, “Is there a reason you guys keep on following me?” Officer 2 responds, “I’m following you,” to which Complainant asserts, “Sir, you went from one lane and got behind me, went to another got behind me.” Further, Complainant states to Officer 2, “Sir, can you tell me why you are stopping me, please.” Officer 2 responds “cause you are honking on [sic] me,” to which Complainant replies, “Right, cause you keep following me.” Officer 2 tells Complainant “...thought you needed something.” Immediately, Complainant requests Officer 2 to “get a sergeant.” Officer 2 tells Complainant in response, “No, no, give me your driver’s license and insurance, please.”

After this, Complainant asks for Officer 2’s name and the officer obliges. Again, Complainant asks for a sergeant and Officer 2 tells him that he needs to “investigate what is going on with [Complainant] first.” Further, Complainant tells Officer 2 that he pulled behind him several times and activates his OnStar, requesting that he put through to the Minneapolis Police Department due to being “harassed” by one of its officers.

After Officer 2 requested to see Complainant’s insurance, he points his phone to the officer and tells him “What does that say” and then asks the officer “what other questions do you have.” The officer tells him that he needs to run Complainant’s name and begins to walk to his squad. During the walk back to the squad, Complainant can still be heard saying something from his vehicle. Upon entering the vehicle, the officer exclaims slowly in exasperation “Oh, my god.”

In the second video, Officer 2 is now standing outside of his squad and at least two other squads are present. Officer 2 turns to one of the officers and asks if he “knows” Complainant, to which he responds affirmatively.

Next, Officer 2 gets into his vehicle and calls the sergeant on duty and tells the sergeant (the supervisor) that other officer knows Complainant and that he began complaining once the officer engaged in a discussion with him. The sergeant tells Officer 2 that he will handle the situation and asks him to get Complainant’s phone number.

Upon returning to Complainant’s vehicle, Officer 2 taps Complainant’s windows as a gesture for him to roll them down. Upon doing so, Complainant asks the officer “what do you need, sir” and

instructs him that the officer that he is talking to his supervisor. Complainant further tells the officer to “please, don’t be rude; I’m not being rude to you.” At this point, Officer 2 attempts to ask Complainant for his phone number to give to his supervisor and Complainant mentions that he already has it. Officer 2 then hands Complainant his ID and walks away, simultaneously saying “good night.” Meanwhile, Complainant can be heard saying something as Officer 2 walks away.

Video 2: The video takes place almost exclusively in a precinct lobby and comes from the supervisor’s camera. Upon meeting the supervisor, Complainant tells the supervisor that he will file a complaint. He informs the supervisor, more specifically, that Officers 1 and 2 followed his lane changes for “5 seconds” and that officers stopped their car parallel to his on the street when he pulled over initially, which led him to honk at them. Complainant stated that he does not wish to play a “cat and mouse” game anymore with officers. He also stated emphatically that if officers think he “is suspicious,” then they should pull him over.

Complainant also claimed that he asked Officer 2 about the “problem” and asked to speak to a supervisor, which he refused. He also asserted to the supervisor that he told the officers to stop following him and also mentioned to the supervisor that similar incidents have occurred to him in the past—at least three times.

According to Complainant, he was coming home from delivering food as a driver, which takes him all over town. Complainant also stated that he is “African American.”

Complainant asked the supervisor, almost rhetorically, why the officers didn’t pull him over the first time. According to the supervisor, it is not “good tactically” to pull up in front of a vehicle. Further, the supervisor stated that where Complainant stopped is a “high prostitution area.” Also, the supervisor mentioned that officers at times, though not in this particular situation, will pull up their report system to see if someone has been arrested for prostitution in the past.

Next, the supervisor asked if Complainant has a sticker of his delivery company on his car to alert officers to his job. Complainant mentions that he has an app for his calls and that his company does not require a sticker to be placed on the vehicle.

The supervisor states that he does not want Complainant to have to be inconvenienced again. Complainant asserts that one’s “past record” does not matter, only if they have been doing something illegal or not. The supervisor states that he used to work the same beat as his officers and asserted that a “bulk of traffic [on the street] at 3 AM is out there to pick up a prostitute.” To which Complainant contends that he is being followed during the day as well.

Next, the supervisor tells Complainant that he will notify day-shift officers of Complainant’s plate info so that they know that he is a delivery driver, and also tells him that he doesn’t want Complainant to feel like he is being “harassed.” The supervisor also tells Complainant that Officer 2 thought the Complainant needed help. When asked about what is on the dash cam, the supervisor states that he only sees the squad car moving behind Complainant and the interactions that ensued afterwards.

According to Complainant, Officer 2 followed him for about 18 blocks and that he witnessed Officer 2 laughing at him from a stop sign after he gave the officer a “peace sign.” Complainant also mentions that the officers who stopped him are not black. Complainant also mentioned to the supervisor that Officer 2 immediately asked for his license and ID, and refused to call out a supervisor. The supervisor stated that officers are not required to “get a supervisor out.”

The supervisor also tells Complainant that he would like to handle his concerns personally as he supervises the officers but does not wish to dissuade Complainant from filing a

complaint. The supervisor asks Complainant what his “end game” is, to which Complainant replies that he wanted the supervisor to know about what happened and file a complaint.

After it is agreed that Complainant wishes to file a complaint, the supervisor spends an additional 30 minutes explaining the complaint process and other ancillary issues pertaining to videos and the like.

MVR: Video shows the squad vehicle slow down and reverses behind another vehicle with flashing hazards. The rest of the video is more or less captured in the other videos.

DISMISSAL

After reviewing the relevant video and documentation, the Joint Supervisors dismissed the case as Complainant’s behavior and other factors—including the time and area in which Complainant was pulled over—gave the officers reasonable, articulable suspicion that criminal activity was afoot; thereby, allowing the officers to both follow and briefly detain Complainant.