

---

POLICE CONDUCT OVERSIGHT COMMISSION  
Case Summary Data #4  
June 2017

---

## OVERVIEW OF THE COMPLAINT

Complainant alleges that she was waiting with friends for an "Uber ride" when "[f]our officers on horses...threw two devices that emitted smoke," leading her eyes to immediately swell shut. Complainant also contends that her friend began to throw up as a result of the smoke. Additionally, Complainant contends that she did not have any interaction with the officers prior to the incident and that she and others around her were law abiding. Lastly, Complainant asserts that her eyes were still swollen more than 16 hours after the incident.

## ALLEGED VIOLATIONS

1. MPD P&P § 5-306 – USE OF FORCE – REPORTING AND POST INCIDENT REQUIREMENTS: It is alleged that officers did not report their use of force or follow post reporting requirements,
2. MPD P&P § 5-313 – USE OF CHEMICAL AGENTS - POLICY: It is alleged that officers did not use care to ensure that only intended persons are exposed to the chemical agent.
3. MPD P&P § 5-313.01 – USE OF CHEMICAL AGENTS – POST EXPOSURE TREATMENT/AID: It is alleged that officers did not provide post exposure treatment (medical aid) for a person that has been exposed to a chemical agent.

## 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 preliminary investigation. Following the preliminary investigation, the Joint Supervisors closed the case pending further information.

## EVIDENCE

1. Complaint
2. VisiNet Report
3. CAPRS Report
4. Video
5. Interview with Complainant
6. Witnesses

## SUMMARY OF EVIDENCE

Complaint: Complainant states in the complaint that “four police officers were nearby on horses and threw two devices that emitted smoke.” They allege that their “eyes immediately swelled shut” and that Witness 1 “began to throw up.” Complainant states that there was no conversation with any of the officers, and that none of the officers checked to make sure they were OK.

In a subsequent social media post, complainant adds that a civilian bystander “literally ripped his shirt off his back and wiped my eyes and was telling me how I breathe through it.” Complainant also alleges they “yelled at the policemen on horses and they shrugged their shoulders.”

The complainant and a parent also contacted MPD via Facebook Messenger reiterating the alleged incident, and were directed to Internal Affairs.

VisiNet Report: A VisiNet search was conducted for incidents within a five block radius within an hour of the time of incident listed in the complaint. The only incident potentially related was a fight, where mace was utilized on the scene and mounted patrol officers were present. This incident occurred approximately two blocks from the bar the complainant had departed from.

CAPRS Report: The CAPRS report for the potentially related incident states that there was a fight involving “5-10 males” who were maced after refusing to disperse. The report indicates that the chemical agent was effective and that the group dispersed.

Video: Body worn camera does not show the application of chemical agent, nor is the complainant captured on the video. Of note, traffic cones are visible in the video, and the complainant does mention seeing traffic cones in the investigation interview. There is no Squad nor Safe Zone video.

Complainant Interview: Complainant recalls celebrating with friends at an unidentified bar prior to visiting the Pourhouse, which the party left around 1:45am, after the interior lights had been turned on. Complainant recalls seeing light rail tracks after leaving The Pourhouse, then walking to her right, but cannot recall where the group went from that point other than seeing traffic cones in the street and standing on a corner.

Complainant recalls the group “spreading out” while walking and seeing mounted patrol officers passing her, but does not recall seeing a disturbance. A short time after the mounted patrol officers passed, the Complainant’s eyes swelled shut and she couldn’t breathe or talk. One of the complainant’s friends, Witness 2, told Complainant that mounted patrol officers had thrown a “grenade looking” device “like a block away” and a second, similar device closer to the Complainant’s location. Complainant contends that the devices exploded and emitted smoke, although admits that they “weren’t paying attention” and “didn’t see what happened.”

Complainant stated that they did not talk to any officers nor attempt to flag any officers down, although they claim one of their friends, Witness 3, was “screaming” at the officers, asking “why did you just throw something at my friends?” Complainant was asked if the chemical agent was used by mounted patrol officers or someone else, to which they responded, “yeah, I have no idea.”

Witnesses: The four friends who were with Complainant, Witnesses 1-4, were provided with the investigator’s phone number in addition to the investigator making multiple phone calls to each of the four friends and leaving multiple phone messages with complete contact information over a one month period. Phone contact was made with two of the four witnesses who requested to talk on a later date/time, and several phone calls were placed on the requested date(s)/time(s) that went unanswered.

## **CASE CLOSURE**

Based on the evidence and analysis available in the preliminary investigation, the Joint Supervisors closed the case pending further information from witnesses or other parties as it could not be determined which officer(s) deployed the chemical agent that allegedly affected the Complainant, nor determine whether or not the use of the alleged chemical agent was appropriate.

