
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #9
March 2018

OVERVIEW OF THE COMPLAINT

It is alleged that the officer released a "non-public police report to the media".

ALLEGED VIOLATIONS

1. MPD P&P § 4-501 – CONFIDENTIAL DEPARTMENT RECORDS, REPORTS AND INFORMATION: Numerous official files, documents, records, reports and information held by the MPD or in the custody or control of MPD employees are regarded as non-public and/or confidential. Employees shall not access, disclose or permit the disclosure or use of such files, documents, reports, records, or information except as required in the performance of their official duties and consistent with State and Federal law related to data practices. If an employee is uncertain of the status of any document, he/she should consult with the MPD Data Practices Specialist or supervisor of the Records Information Unit.
2. MPD P&P § 6-202 – RESPONSIBILITY OF MPD EMPLOYEES: All inquiries, including requests for interviews, will be directed to the Public Information Officer (PIO). Inquiries regarding "on-scene" incidents shall be referred to the ranking officer (or designee) in charge at the scene. Only factual public information related to that incident shall be released. Updates to that incident may be obtained by contacting the PIO during normal business hours.
 - No MPD employee should initiate a media contact without going through the PIO.
 - Inquiries regarding current investigations shall be referred to the PIO.
 - MPD employees shall not release information on any case where the progress of an investigation may be jeopardized by premature media coverage.
 - MPD employees shall not represent opinion as fact.

COMPLAINT PROCESSING

The matter was brought to the attention of the joint supervisors, who then decided to open a case in relation to it. At Intake Review, the matter was sent to investigation and an investigator was assigned. At the conclusion of the investigation, the matter was brought before the Review Panel.

EVIDENCE

1. VisiNet
2. CAPRS Report
3. Statement of Officer 1
4. Statement of Officer 2
5. Statement of Focus Officer
6. Special Order

SUMMARY OF EVIDENCE

VisiNet: The Problem section in the report is listed as "Receive Information." It is noted in the Comments section that, "...CLAIMS THE M[S] THREATENED TO KIDNAP HER AND LIVE IN HER HSE/IT DIDN'T MATTER THAT SHE WAS MARRIED BECAUSE SHARIA LAW WAS NUMBER 1." The call was completed within three hours after the officers were assigned.

CAPRS Report: The public comment section notes that the “victim was threatened by a group of young men outside her home.”

Supplement 1: According to Officer 1, the victim was “distraught and alone.” Officer 1 asserts that the victim stated that a group of men—who she identified as Somali—parked in front of her home and began to ask her about marrying them and “other things that scared her.” More specifically, Officer 1 claims that the victim told him that the group of men told her that that they wanted to “live her” and “marry.” Further, Officer 1 asserts that the group of men told her that it would be permissible to rape and kidnap her under “Sharia” law. Officer 1 also comments that the victim told him that the men were in the area for a few hours, walking from a nearby beach to their car.

According to Officer 1, the victim stated that the group consisted of “20-30 Somali males” in their 20s. Officer 1 also claims to have spoken to a neighbor who showed him a video of about “10 Somali males acting rowdy.”

News channel broadcast screenshot: Appears to be a screenshot of a CAPRS report with clearly visible case number and supplement number. Only the day, and not the year or month, is scribbled out with pen or marker, as is the name of the author of the supplement. Many parts of the body of the report are readable even from a distance. The screenshot is allegedly of a TV news broadcast.

Other media reports: several articles from non-mainstream media such as Jihad Watch and Creeping Sharia with article headlines such as “Minnesota: Muslim ‘refugees’ threaten community with rape, mainstream media covers up the incident” and “Minneapolis: Somali Muslim ‘youths’ invade suburban neighborhood, threaten to kidnap, rape residents.” All the articles are commentaries on the incident in the CAPRS report.

Statement of Officer 1: Officer 1 states that, depending on the coding of a report, it may go out to multiple officers and units as the report may have more than one code attached. Officer 1 also asserted that it is possible for outside agencies, such as the Federal Bureau of Investigation, to be notified of certain cases, which is what occurred in this case. Officer 1 also stated that Focus Officer had been notified of the report as part of his job duties.

Officer 1 also stated that his office was in charge with distributing “email blasts” to parties with a right to know with the appropriate CAPRS number. However, Officer 1 asserted that his office did not provide the report itself.

Statement of Officer 2: Officer 2 asserts that he heard of the report of, as he put it, “a group of Somali males who had been kind of going around—for lack of a better term—terrorizing people.” According to Officer 2, there were attempts to connect the incident to other criminal incidents in the metro and charging was considered.

Later, Officer 2—who is a supervisor of Focus Officer—contends that he was notified of an email requesting that Focus Officer give a statement for the OPCR investigation. After noticing the email, Officer 2 asserts that he emailed the Focus Officer about why he was asked to give a statement; however, Officer 2 contends that Focus Officer failed to reply to his email.

After this, Officer 2 claims he approached the Focus Officer in person about the matter and the Focus Officer told him, “Well, I was trying to be sneaky and it backfired.” When questioned further, Officer 2 states that Focus Officer told him about “what had occurred.” According to Officer 2, Focus Officer told him that the incident “pi**ed [him] off” and that he thought, “...the public should know about those guys and that particular case, so [he] gave a copy to the news media.”

Officer 2 asserts that Focus Officer had previously released confidential information to another employee in the City that was eventually leaked to the media. (See footnote below).

Officer 2 contends that he told the officer that, just like the previous incident, he cannot “decide on [his] own” when to release information to the media. Officer 2 also states that he told the Focus Officer that he should be forthcoming in his interview with Internal Affairs/OPCR. Officer 2 also asserts that he told Focus Officer that this would likely be a bigger deal than “simply being told...don’t do it again.”

Further, Officer 2 mentioned that the incident had been brought to the attention of the administration after the victim became upset with the potential of having her identity disclosed as it would have “some impact on her personal life and well-being.”

Also, Officer 2 asserts that Focus Officer told him that the CAPRS report was visible in a TV news media story but did not disclose if he gave the media a hard copy.

Statement of Focus Officer: Focus Officer stated that he often refers cases to other units when necessary. He also asserted that an “overwhelming majority of Homeland Security cases do not get investigated.” However, upon further questioning, he assented that in this case it was routed to other units for investigation but also mentioned that there was no “investigators assigned to [the case].” Focus Officer also stated that he had referred the report to another unit to “look into.”

Focus Officer admitted to providing the report to “some general tip lines on a couple of news channels that [he] emailed them a copy of the report to.” Focus Officer also elaborated that, “There was a couple of ‘em I tried that I could not ‘cause of the, my computer is an old computer and it didn’t have the right software to upload a thing to their tip line on their websites.”

Focus Officer could not recall when asked whether he supplied the entire report or just the supplement; instead, Focus Officer asserted that he had “redact[ed] a lot of stuff...and when [he] sent it...there wasn’t a lot of pertinent information.” Focus Officer also claimed that he printed and scanned the CAPRS report, and also that he sent the document through his personal email account.

According to Focus Officer, he believed the incident was “serious” as there was a:

...single woman being terrorized by a group of 25-30...I’m, I’m calling ‘em terrorists because that’s what they are. Um, claiming they wanted to rape her, they could use Sharia [l]aw and move in and take over her house. Um, at the same time, a lot of this same type of behavior is going on over in Europe, um, and I think we all know what’s happening over there. Ah, I knew this case was not going to be investigated because I’ve been doing this job for about three years and, as I said before, there’s probably only been a handful of cases that have actually got investigated. Um, much better cases than this that have more information. Basically, about the only time that a case would get investigated is if there was a name attached where had...I actually ID’d a suspect.

Focus Officer further elaborated that he felt a need to bring it forward as there was “no facial recognition” or anything of the like to ID the suspects. Focus Officer also stated:

Um, I felt if I tried to bring it forward, it would be squashed because of the political nature in our city right now. Um, they don’t want to offend anybody. Um, and I was also afraid possibly that, you know, if I tried to do something publicly, that I may be looked bad upon, that I might be considered anti-whatever, anti-Muslim or whatever. Um, so I decided to do this kind of covertly, hoping that news media would do their own independent investigation. But, obviously, there’s [sic] lazy news investigators and so they chose to decide and show my report instead.

Also, Focus Officer stated that he did not speak to a Public Information Officer (chief media correspondents for the Minneapolis Police Department) regarding the incident and was sure he had reviewed a special order from the police chief relating to the release of non-public data.

At the end of the interview, a union representative for the officer chimed, “[He] sent it to general media, to, to, distribute to the media thinking you were doing the right thing.”

Special Order: The order reminds officers that they are governed by MPD policy, and state and federal law. It also reminds officers that there may be civil and criminal penalties for violating the law. It also details that only authorized personnel are allowed to communicate with non-MPD personnel regarding “critical incidents, traumatic incidents, misconduct investigations or media requests.” Below this is a listing of MPD policies that apply and a reminder of a provision pertaining to disclosure in the union contract. Finally, at the bottom of the document is a sign and date page affirming knowledge of the aforementioned.

REVIEW PANEL

The Review Panel unanimously found merit to both allegations, noting that Focus Officer “acknowledged that he released...a non-public report in a manner not consistent with State and Federal law” and also that his duties do not involve “media relations.”

Upon completion of the panel, the officer was officially discharged by the Chief. However, Focus Officer grieved his firing and an arbitrator found instead that, though the City of Minneapolis (City) was within its right to discipline Focus Officer (reasonable and with just cause), “extenuating circumstances”—such as concerns over the undermining of public and internal trust—proved that the City’s attempts to fire Focus Officer were unfounded. The arbitrator noted that, in relation to the undermining of public trust, a neighbor of the victim who was concerned about the release of her information never filed a suit against the City, a complaint against Focus Officer or appeared before another government agency. The arbitrator also contended that the officer would be “amendable [sic] to corrective action” as he had apologized for disclosing the report at both his Loudermill, Garrity and VPA hearings, and reported the disclosure prior to being asked for a statement. Further, the arbitrator contended that though Officer 2 inquired “about the [OPCR] statement, it was [Focus Officer] who reported his misconduct prior to any formal statement.” In sum, the arbitrator noted:

The purpose of progressive discipline is to place employees on notice of improper behavior in order to give them a chance to correct their behavior. The substantial evidence establishes that [Focus Officer] has accepted responsibility, learned from his mistake, and is amenable to correcting his behavior. These disclosures certainly represent extenuating circumstances.

Also, the arbitrator asserted that MPD’s discipline matrix provides a baseline of 20-hour suspension for “news media violations.” The arbitrator also stated that the City’s attempts to analogize the firing of an employee in a separate City department for releasing confidential information was not sufficient as that employee was not governed by the same discipline matrix and there was no evidence that the other city employee had a, “long, unblemished service record, replete with informal commendations, thank you’s [sic], formal awards, and exceptional performance reviews with the City.”¹

¹ This incident is the same as the one mentioned by Officer 2 in his discussion with Focus Officer about his prior release of information. In that discussion, Officer 2 asserts that Focus Officer had given non-public information to a non-MPD City employee, who leaked the information to the media and was eventually fired.

