
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #8
July 2018

OVERVIEW OF THE COMPLAINT

Complainant alleges that officers told them to "get the f*** out of the store" and used "violent body language" before apprehending him. He also contends that an officer grabbed his hair while placing him under arrest. Complainant also alleges that their folding knife was put on hold illegally as it was not a part of the investigation.

ALLEGED VIOLATIONS

1. MPD P&P § MPD P&P § 5-303 – AUTHORIZED USE OF FORCE: Minn. Stat. §609.06 subd. 1 states, "When authorized...except as otherwise provided in subdivision 2, reasonable force may be used upon or toward the person of another without the other's consent when the following circumstances exist or the actor reasonably believes them to exist:

When used by a public officer or one assisting a public officer under the public officer's direction:

In effecting a lawful arrest; or

In the execution of legal process; or

In enforcing an order of the court; or

In executing any other duty imposed upon the public officer by law."

In addition to Minn. Stat. §609.06 sub. 1, MPD policies shall utilize the United States Supreme Court decision in Graham vs Connor as a guideline for reasonable force.

The Graham vs Connor case references that:

"Because the test of reasonableness under the Fourth Amendment is not capable of precise definition or mechanical application, its proper application requires careful attention to the facts and circumstances of each particular case, including:

The severity of the crime at issue,

Whether the suspect poses an immediate threat to the safety of the officers or others, and; Whether he is actively resisting arrest or attempting to evade arrest by flight.

The "reasonableness" of a particular use of force must be judged from the perspective of the reasonable officer on the scene, rather than with the 20/20 vision of hindsight.

The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments - in circumstances that are tense, uncertain, and rapidly evolving - about the amount of force that is necessary in a particular situation."

Authorized use of force requires careful attention to the facts and circumstances of each case. Sworn MPD employees shall write a detailed, comprehensive report for each instance in which force was used.

COMPLAINT PROCESSING

After receipt of the complaint, an intake investigation was conducted and the matter was brought before the joint supervisors, who decided to coach the focus officer exclusively on the alleged use of force.

EVIDENCE

1. Complaint
2. VisiNet
3. CAPRS
4. BWC video

SUMMARY OF EVIDENCE

Complaint: —See Overview of the Complaint.

VisiNet: The call is listed as Suspicious Person. The Complainant's record was run by the focus officer and the officer spent approximately two hours at the scene. Two other officers assisted.

CAPRS: According to the Public Data section, the complainant was arrested for disorderly conduct and was found to have "narcotics, and a capped syringe." According to the report, the drugs and syringe were destroyed and a "FOLDING KNIFE" released. It's important to note that the knife was released from property the day after the complainant filed his complaint.

Supplement Officer 1: Officer 1 contends that he was at a gas station with other officers when Complainant—who had entered the store with another person—began talking to the officers about a host of topics ranging from life to religion, and also asked if the officers if they could buy him a coffee.

According to Officer 1, he thought Complainant was "emotionally disturbed because he wasn't making sense," but then overheard two employees of the store telling the person who entered the store with Complainant to pay for his items. Shortly after, Officer 1 asserts that the person left without paying for the items. Officer 1 contends he told Complainant that the person he came with was waiting for him outside, and supposedly this prompted Complainant to start cursing at the officers. Officer 1 also claims that Complainant backed into an officer while he was yelling. Afterwards, Officer 1 contends that Complainant was placed under arrest for "disorderly" and that narcotics and a knife were later found on him.

Supplement Officer 2: Officer 2 contends that Complainant approached officers and engaged in conversation. Officer 2 asserts that Complainant's erratic actions led him to believe that he was possibly under the influence or emotionally disturbed.

According to Officer 2, Complainant was asked to leave by Officer 1, and Complainant became belligerent. Officer 2 asserts that he also asked Complainant to leave and he continued to get upset. During this, Officer 2 asserts that Complainant backed up further into the store, eventually backing into a stationary officer, who then "escorted" Complainant out of the store and placed him under arrest. Later, Officer 1 states that "a capped syringe and a knife" were found in Complainant's pockets.

Supplement Focus Officer: Focus Officer contends that he was congregating with other officers drinking coffee when he noticed a, "...Hispanic [male] standing near the Red Box dispenser and looking into the store." Upon greeting the male (person who entered store with Complainant), Focus Officer contends that the male became nervous, which then led Focus Officer to keep an eye on him. Focus Officer also claims that

Complainant—who he describes as a “black male”—was “gesturing with his arms and hands with an angry look on his face” while speaking to his partner.

Focus Officer claims that when he entered the store, he heard Officer 1 and Officer 2 tell Complainant to leave the store. According to Focus Officer, he noticed Complainant had a “k-blade knife attached to his belt on his back...left side.”

Focus Officer also states that he was behind the Complainant, observing his actions, when Complainant bumped into him, leading Focus Officer to push him away and utter something to the effect of, “Don’t come up on me man [sic].” During the push, Focus Officer contends that Complainant began to twist and turn on him. Focus Officer contends that he became concerned about the knife and grabbed Complainant with both hands, eventually pushing him up against an outside wall of the store. Focus Officer alleges that this interaction pushed off his body worn camera.

Focus Officer asserts that he had a difficult time restraining Complainant but eventually handcuffed him. During the apprehension, Focus Officer states that he “felt an object in [Complainant’s] left-front pants,” which eventually turned out to be a used syringe.

Officer 1 body worn camera video: Officer 1 tells Complainant “Let’s go,” but Complainant moves from the entrance back into the store. Complainant is facing the door, toward Officer 1, and continues to speak to Officer 1. Meanwhile, Focus Officer can be seen in the video coming around the convenience store counter, stopping a few feet behind Complainant. Complainant barely bumps into Focus Officer and Focus Officer states “Don’t come up on me.” Complainant replies to Focus Officer, “I didn’t see you.”

Officer 1 then turns toward door, opens it and holds it open. Complainant can be heard saying “this is an attack” and Focus Officer and Complainant can next be seen going through the door. Focus Officer has his hand on Complainant’s right arm and his left on the back of Complainant’s sweater and pushes him into the convenience store wall. Officer 1 can be heard telling Complainant that his “...dude stole shit,” to which Complainant asserts that he didn’t steal anything. Officer 1 retorts that Complainant was attempting to distract officers while the male attempted to steal. Complainant next asserts that his apprehension is a “false arrest.” Officer 1 then turns around the corner of store, out of view of the arrest.

Officer 2 body worn camera video: Captures most of what Officer 1’s video captures. However, the video also captures Focus Officer’s video falling off while he is pushing Complainant toward the outer wall of the store. Also, the video captures Complainant asking for a name and being told to “shut your mouth” by Focus Officer, to which Complainant states “make me shut up.” Focus Officer pulls a syringe from Complainant and hands it to Officer 2. Officer 2 can next be seen grabbing Complainant by the back of his hair and pushing him toward a squad car thirty feet away, all the while saying “shut your mouth.”

COACHING

The supervisor claims that he/she spoke with officers, reviewed CAPRS and body worn cam video. The supervisor asserts that he/she was unable to reach Complainant. According to the supervisor, Focus Officer did not remember grabbing Complainant’s hair, only his sweater. Upon review of the video, the supervisor asserts that Complainant was “hostile” toward officers and the grabbing of Complainant’s hair—whether it occurred or not—was appropriate as it was an, “acceptable and reasonable way to control and restrict the complainant’s movement, given

the complainant's size, aggressive resistance, possible impairment, and prior possession of knife and syringe." Therefore, no policy violation was found or coaching done.