
POLICE CONDUCT OVERSIGHT COMMISSION

Case Summary Data #2

November 5, 2013

OVERVIEW

Complainant was stopped by Officers 2 and 3 after giving away or selling a cigarette to another and allegedly obstructing the flow of traffic. Complainant alleges he was searched without consent.

ALLEGATIONS

1. Harassment: That Officer 2 harassed the complainant by stopping and searching him without cause.

OPCR AND MPD POLICIES

- OPCR Ord. § 172.20(3) Harassment
- MPD Policy and Procedure Manual § 5-104 Impartial Policing: 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.
- 5-105 Professional Code of Conduct: Officers shall use reasonable judgment in carrying out their duties and responsibilities. They need to weigh the consequences of their actions.

COMPLAINT PROCESSING

OPCR Joint supervisors determined that Officers 2 and 3 were directed to stop the Complainant by Officer 1. If Officers 2 and 3 frisked the Complainant without cause, the allegation would constitute an A-level violation. The joint supervisors sent the case to the precinct inspector for coaching.

EVIDENCE

In the course of investigating this complaint, the following steps were taken:

1. Complainant spoke with civilian investigators who assisted him with filing his complaint.
2. Dispatch records were obtained.
3. Police reports were obtained. Reports contained two detailed supplements describing the events.
4. No squad camera records could be obtained; Officer 1 was on foot while Officers 2 and 3 were in a vehicle not equipped with a recording system.
5. No street camera recordings could be obtained.

6. Coaching documents were created and sent to the precinct inspector
7. Coaching documents were returned by the precinct inspector with comments

SUMMARY OF EVIDENCE

Complainant's Statement

Complainant alleged that while walking down the street, he gave a cigarette to a woman and proceeded onwards. Complainant alleged that he crossed the street after being signaled to cross by a driver who was at a complete stop. Complainant alleges that after he crossed the street, Officer 2 ordered Complainant to stop and to place his hands upon his head. Complainant alleges that when he asked why he was being stopped, Officer 2 and Officer 3 approached him and asked if they could search Complainant. Complainant alleges he refused, and Officer 1 proceeded to search him after grabbing his hand. Complainant alleges that he was given a citation for peddling and obstructing traffic. Complainant alleges that he had money in his pocket and had no reason to sell a cigarette.

Police Reports

Officer 1 provided a written supplement to the police report. Officer 1 alleged that s/he witnessed the Complainant conduct a hand to hand transaction, providing a cigarette to another and receiving money in return. Officer 1 alleged that s/he followed Complainant and witnessed him walk into oncoming traffic, causing a car to slam on brakes to avoid hitting complainant. Officer 1 alleges that s/he contacted two uniformed officers (Officers 1 and 2) to apprehend Complainant and cite him for peddling and interfering with traffic.

Officer 2 provided a written supplement to the police report. Officer 2 alleged that s/he was asked to stop Complainant and did so. Officer 2 alleged that s/he asked Complainant to stop and that the Complainant walked away. Officer 2 alleged that s/he asked Complainant several times to stop several times before he did so. Officer 2 alleged that s/he asked for ID, and the Complainant was upset. Officer 2 alleged that Complainant "had a mad angry look on his face, and the tone of his voice and words were hostile." Officer 2 alleged that s/he told Complainant s/he was placing handcuffs on the Complainant for the "[Complainant's] safety and Officers."

Officer 2 did not indicate that s/he searched the Complainant or the reasons for the search.

Officer 2 alleged that s/he told the Complainant that that Complainant would be ticketed for peddling and interfering with traffic, and the Complainant replied, "I f*cking gave a cigarette away!" Complainant allegedly stated that he was being profiled and would go straight to Internal Affairs. Officer 2 alleged that s/he removed the handcuffs and departed without incident.

COACHING

Coaching documents were forwarded to the precinct inspector. The precinct inspector reviewed Complainant's written statement and CAPRS reports. After review of the evidence, the Inspector concluded that no policy violation occurred, and determined that the stop and seizure were lawful. The precinct inspector called the complainant to notify him of the outcome and left a voicemail message.