
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #2
March 2014

OVERVIEW

Complainant was driving behind officers. Officers slowed and almost stopped in the middle of a two way street, and Complainant passed on their right. Officers stopped Complainant, and Complainant alleges that Officer 1 stated, "What the f*ck is your problem." Complainant was "resisting" and attempted to open his door. Complainant was pulled out of the vehicle and walked to the squad car. Complainant alleges that he was searched and placed in the squad car. Complainant alleges that Officer 1 repeated three times, "resist." Complainant alleges that he was kept in the squad car for ten minutes while another squad pulled up with a puppy to show the officers. Complainant alleges that the officers checked their email and discussed a lunch invitation, responding to the email.

THE COMPLAINT

1. Harassment: That Officer 1 used profanity and goaded Complainant to resist; held Complainant in the squad car for ten minutes to issue a citation.
2. Impartial policing: That officers stopped the Complainant without cause.

OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20: Harassment
2. 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. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause for a pedestrian or vehicle stop, investigative detention, arrest, non-consensual search or property seizure.

COMPLAINT PROCESSING

OPCR joint supervisors believed that the allegations, if proven true, would constitute an A-level violation. The case was sent to coaching for resolution.

EVIDENCE

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

1. Complainant submitted a detailed written complaint.
2. Visinet records were obtained.
3. No police reports were available.
4. Squad recording was obtained.

5. Coaching documents were prepared and sent to the precinct inspector.

SUMMARY OF EVIDENCE

The Complaint

Complainant alleges that he was driving his work van to his job when he was pulled over. Complainant alleges that the squad car that pulled him over had slowed in front of him to about ten miles per hour and began driving in the middle of the street. Complainant alleges that he drove around the squad car on its right and was immediately pulled over.

Complainant alleges that Officer 1 yelled “What the f*ck is your problem” as she approached his vehicle. Complainant alleges that he asked Officer 1 why he was being pulled over and that Officer 1 did not answer his question, stated that she thought Complainant was on drugs, and asked for Complainant’s license. Complainant alleges that he removed his license from his wallet and again asked Officer 1 what he had done. Complainant alleges that Officer 1 asked him if he “always drove like that” and Complainant stated that he didn’t know what she meant. Complainant alleges that Officer 1 then said that Complainant was resisting and attempted to open his van door. Complainant alleges that because the door was locked, Officer 1 reached into the van, opened the door, and physically pulled him from the van. Complainant alleges that Officer 2 was standing outside of the van and took Complainant’s left wrist and walked him to the squad car.

Complainant alleges that Officer 1 put her hand in his jacket pockets and pants pockets. Complainant alleges that Officer 1 asked if Complainant had anything that he was not supposed to have. Complainant alleges that he told Officer 1 that he did not know what she meant, and Officer 1 responded, “Anything that can be used as a weapon” and Officer 2 responded, “Drugs.” Complainant alleges that he responded no and Officer 1 continued the search of his pockets, removing his house keys and placing them on the hood of the squad car. Complainant alleges that while Officer 1 was searching his pockets, she said three times, “Resist.”

Complainant alleges that Officer 2 then put Complainant in the back of the squad car. Complainant alleges that Officer 1 asked him twice if he was on drugs, to which he responded no. Complainant alleges that Officer 2 asked Complainant if he had had too much espresso.

Complainant alleges that Officer 1 told Complainant that he had passed their squad on the right. Complainant alleges that he passed on the right because he had observed other squad cars and thought Officer 1 and Officer 2’s squad car was patrolling which is why it slowed down. Complainant alleges that he told Officer 1 that when she stopped the squad in the middle of the street, he passed her on the right to continue on his way to work. Complainant alleges that Officer 1 told him it was a one way street. Complainant again explained why he had passed the squad.

Complainant alleges that Officer 1 stated “that there was something wrong with [Complainant],” and that she was going to give him a ticket to “teach [him].”

Complainant alleges that he was kept in the squad car for ten minutes. During this time, Complainant alleges that Officer 1 thanked another passing squad car for bringing his puppy. Complainant alleges that he asked if the officers could close his van door so his battery would not die. Complainant alleges that Officer 1 checked her email, that Officer 1 and Officer 2 then discussed an emailed lunch invitation, and that Officer 1 responded to the invitation email.

Complainant alleges that the officers “then figured out what they were writing me a ticket for.” Officer 1 handed Complainant the ticket and asked him if he knew what to do with it. Complainant responded no and Officer 1 explained that there were instructions on the ticket.

Complainant alleges that Officer 2 then opened the squad door and he left the squad car, retrieving his keys from the hood, and returning to his van. Complainant had been issued a ticket for passing on the right and following too closely to another vehicle. Complainant alleges that despite being written a ticket, the officers never checked his insurance.

Complainant alleges that his treatment by Officer 1 was hostile, threatening, and unwarranted. Complainant explained that he has been “left feeling unsafe. To be treated this way as an African-American Male [sic.] less than six blocks from my home... while I was heading to work is understandably cause for alarm. If Officer 1 is unable to act professionally during a routine traffic stop I question her ability to perform the more complex and potentially dangerous duties asked of Police Officers.”

Visinet Report

The Visinet report indicates that Officer 1 and Officer 2 initiated the traffic stop en route. The report indicates that the entire stop was completed within sixteen minutes.

Squad Recording

The squad recording shows Officer 1 and Officer 2 initiating the traffic stop. No audio was recorded during the time Officer 1 was speaking to the Complainant in his van. The recording shows Officer 1 pointing to an area behind the van, trying to open Complainant’s van door, reaching in to the van to open the door, and then grabbing Complainant. Officer 1 and Officer 2 escorted Complainant to the hood of the squad where Officer 1 searched Complainant’s pockets and placed Complainant’s keys and wallet on the hood of the squad car. Officer 1 took Complainant’s license from the wallet. Audio from the recording indicates that Officer 2 did comment regarding a “puppy” to another squad car. The audio also relays the dialogue between Complainant and Officer 1. Officer 1 does ask Complainant if he is on drugs. Officer 2 does ask if Complainant has had too much espresso. Officer 1 and 2 continue to talk through the remainder of the video, but in the audio is very quiet. The entire video recording of the stop, from the point in which Complainant is pulled over until the point in which Complainant drives away, lasts approximately seven minutes and fifty-eight seconds.

COACHING

Coaching was sent to the precinct inspector who referred it to the appropriate supervisor to complete. The supervisor spoke with the Complainant, interviewed Officer 1 and Officer 2, and reviewed the Visinet report and squad recording.

Interview of Complainant

Complainant stated that he was treated poorly by the officers during the traffic stop. Complainant reported that the officers were unprofessional in that they used profanity, pulled him from his vehicle, searched him, and detained him for ten minutes. Complainant stated that another officer pulled up with a “puppy” in his squad car. Complainant also stated that the officers conducted other business in his presence.

Squad Recording

The video shows a van passing the squad car on the right. Officer 1 is the driver of the squad car and Officer 2 is the passenger. The stop is initiated with the squad car’s emergency lights. The video shows Officer 1 approaching the van on the driver’s side. There is no audio recorded at this

time. The supervisor stated that it appears from her body language that Officer 1 is explaining the violation to the driver. Officer 1 reaches in and opens the van door. The supervisor stated that from her hand movements it appears that Officer 1 requests the driver to step out of the van. It appears that this “request goes unanswered then [Officer 1] reaches in and escorts the driver from the van.” Officer 2 joins Officer 1 and they escort Complainant to the hood of the squad car. At this time, the officers pat search Complainant and remove “heavy” items from his pockets and place them on the hood of the car. The driver is then seated in the rear of the squad car.

The audio recorded in the squad car does record that Officers did ask the driver if he was high or on drugs. The driver in the squad says, “Can’t believe you asked me if I was on drugs, who stops in the middle of the street.” The Complainant also says, “I’ll fucking pay it and it will be done.” A K-9 squad drives by and Officer 2 refers to the K-9 as a “puppy.”

Officer 1 issues Complainant the ticket and informs him that he can pay it or set up a court date. Complainant is released and leaves in his van.

Interview of Officer 1

Officer 1 stated that she remembered the traffic stop involving Complainant. She recalled that Officers were in the process of searching for a burglary suspect at the time of the traffic violation. Officer 1 stated that when she tried to explain the violation to Complainant he was not focused on her but was trying to manipulate a cellphone which was mounted on the dashboard of his car. Officer 1 stated that she asked for Complainant’s driver’s license and Complainant continued to be distracted.

Officer 1 stated that she may have said, “What the f*uck is your problem” after attempting to get Complainant’s attention.

Officer 1 stated that Complainant was removed from his car “after it seemed he was resistant to answer basic questions.” Officer 1 stated that she and Officer 2 had to research the moving violation statute number while inside the squad.

Interview with Officer 2

Officer 2 recalled the traffic stop involving Complainant. Officer 2 was unable to hear the conversation between Officer 1 and Complainant while Complainant was in his van because he was on the passenger side of the car. Officer 2 stated that he remembered Complainant handling an electronic device which was on the dashboard when Officer 1 was next to the driver’s side door of the van.

Supervisor’s Conclusion

After reviewing the complaint, including the interviews and squad recording, the supervisor concluded that Officer 1 said that she may have used “foul language” during the traffic stop. The supervisor stated that he coached Officer 1 as to the negative impact of the use of this language.

The supervisor further stated that “Officers have the right to ask drivers if they are under the influence of drugs for the purpose of detecting impaired drivers.” The supervisor stated that it appeared that the Complainant was “non-compliant and unresponsive to basic questions, and was therefore removed from his car.” The supervisor also stated that the Officers did a general

pat search for weapons prior to placing him in the squad car. The supervisor stated the he, “see[s] no evidence that supports [the Complainant’s] claim that officers attempted to goad him to resist.” Finally, the supervisor concluded that the ten minute duration of the stop was not an excessive amount of time considering that the officers had to research the statute.

Following his review, the supervisor called Complainant and “attempted to explain the context of the stop and the police perspective on his complaint.” The supervisor informed Complainant of the video recording of the traffic stop and advised him that Officer 1 had been coached on the use of foul language. Complainant “abruptly ended [their] phone conversation.”