
POLICE CONDUCT OVERSIGHT COMMISSION
Case Summary Data #2
March 2014

OVERVIEW

Complainant and Civilian Witness 1 were in a vehicle that was struck by bullets in a drive-by shooting. Complainant alleged that Officer 1 responded and used excessive force by pushing Complainant into the squad's rear door, used excessive force by pushing Complainant upon his release causing him to fall to the ground, and kept complainant's money totaling \$1200.00.

THE COMPLAINT

1. Excessive Force: that Officer 1 pushed Complainant into the rear passenger side door of the squad car, and also pushed him to the ground.
2. Theft: that Complainant's wallet was removed from his pocket and ultimately returned, but that \$1200 was not returned to Complainant.

OPCR AND MPD POLICIES

1. OPCR Ord. § 172.20(1): Excessive Force
2. 5-301.01 USE OF FORCE POLICY: Based on the Fourth Amendment's "reasonableness" standard, sworn MPD employees shall only use the amount of force that is objectively reasonable in light of the facts and circumstances known to that employee at the time force is used. The force used shall be consistent with current MPD training.
3. OPCR Ord. § 172.20(5): Theft
4. 10-401 RESPONSIBILITY FOR INVENTORY OF PROPERTY AND EVIDENCE: Employees shall not retain any property or evidence that has come into their possession through the course of their official duties, for personal use.
5. 10-407 INVENTORY OF COIN AND CURRENCY: Cash envelopes containing more than \$200.00 shall have the signature and employee number of a supervisor on the envelope. Sworn employees may issue a MPD Receipt for Currency (Form MP-3414) to the person from whom the cash was obtained.

COMPLAINT PROCESSING

The joint supervisors reviewed the complaint and determined the allegations could constitute a violation greater than A-level if found to have merit. They assigned the case to a preliminary investigation. After completion of the preliminary investigation, it was determined that the case should proceed to an administrative investigation. Upon completion of the case, it was submitted to the Police Conduct Review Panel, and after their recommendation, submitted to the Office of the Chief.

EVIDENCE

1. Complaint
2. Case Report with Supplements (Witness Officer 2, Officer 1, Witness Officer 3, Witness Officer 1)
3. Visinet Report
4. Interview with Complainant

5. Interview with Officer 1
6. Interview with Witness Officer 1
7. Interview with Supervisory Officer 1
8. Squad video
9. Insurance Claim E-mail
10. OPCR Investigative Report
11. Police Conduct Review Panel Recommendation
12. Chief Finding

SUMMARY OF COMPLAINT AND REPORTS

The Complaint

The Complainant was riding in his car with Civilian Witness 1, when they were the victims of a drive-by shooting. Civilian Witness 1 called 911 regarding the shooting. Complainant and Civilian Witness 1 met Officer 1 and Witness Officer 1 in the parking lot behind Complainant's apartment building. Complainant alleges that when the officers arrived at the parking lot they ordered Complainant out of the vehicle, escorted him to the squad car, and ordered him empty his pockets and place the removed items on the hood of the squad car. Complainant alleges that Officer 1 pushed him into a rear door of the

Case Report/CAPRS

The case report indicates only that “[o]n the above date and time there were sounds of shots fired at the above location. I met with V1 who told me he had been shot at while he was in his car. V1’s car had a bullet hole in the front bumper.”

Supplement 1 by Witness Officer 2

This supplement contains information about the shooting and subsequent investigation, but this officer was not involved in the Complaint, nor did he witness the events in the Complaint. He did, however, state that a third party witness told him that she heard shots and then saw through her window, overlooking the scene of the shooting, two vehicles which she could not make out. She indicated that multiple shots were fired.

Supplement 2 by Officer 1

Officer 1 was working with his partner, Witness Officer 1. Officer 1 stated that they arrived at the address provided but were unable to locate the victim’s vehicle, when the vehicle drove in and stopped in front of their squad. Officer 1 stated that he walked towards the passenger side of the vehicle and began speaking with the passenger, Complainant. Officer 1 stated that he noticed a “marble sized chunk” of marijuana stuck on the passenger door of the vehicle; “[i]t appeared that the passenger inside of the vehicle had maybe attempted to dump marijuana from inside the vehicle and a chunk of it had stuck to the door.”

Officer 1 stated that he had Complainant step out of the vehicle. Officer 1 stated that he conducted a search of Complainant for weapons, “because of the nature of the call,” and for further evidence of drugs. Officer 1 stated that after nothing was found, he asked Complainant to sit in the rear of the squad car so that Officer 1 could question him further. Officer 1 stated that Complainant “cooperated and did as he was asked.”

Officer 1 stated that he then conducted a search of the driver, Civilian Witness 1, who was already speaking with his partner, Witness Officer 1. Officer 1 states that he asked Civilian Witness 1 to sit in the squad car so that they could further investigate and that Civilian Witness 1

refused. Officer 1 stated that he then put Civilian Witness 1 in handcuffs and placed him in the squad.

Officer 1 stated the following reasons for detaining both Complainant and Civilian Witness 1 in the squad: “due to the nature of the call with multiple guns and multiple shooters involved I was not certain that, even though they claimed to have been shot at, that they did not return fire. I was concerned that a firearm may be inside the vehicle and wanted to keep them outside and away from the vehicle until it could be checked. I found it strange that they had fled from the original scene only to call police several minutes later from one of the male’s home address to report the incident despite the fact that both of the males in the vehicle had working cell phones in their possession. I was also concerned because they were still driving their vehicle, which had been shot at, when we arrived and had not remained in the rear of the address where they said they were going to be. The fact that I discovered marijuana stuck to the outside of the car was also concerning. I believed there may be more to their story and wished to detain them at the scene until we could determine exactly what had occurred.”

Officer 1 stated that the driver, Civilian Witness 1 became immediately upset that Officer 1 asked him to sit in the squad. Officer 1 stated that Civilian Witness 1 said that he wanted to speak to his attorney and refused to answer any more questions.

Officer 1 stated that he did speak with Complainant on the scene. Officer 1 stated that Complainant explained the situation, until Civilian Witness 1 told him not to talk anymore.

Officer 1 stated that neither Complainant nor Civilian Officer 1 were injured by any of the bullets that struck the vehicle, and that both were released on the scene after refusing to provide any more details about the shooting. Officer 1 stated that Civilian Witness 1 was given a blue card.

Officer 1 stated that Civilian Witness 1 said that he was very upset about being handcuffed. Officer 1 stated that he tried to explain to Civilian Witness 1 but that he said he was going to the station to speak with a supervisor. Officer 1 stated that at no time was any force used on Civilian Witness 1 and he was not injured by any officer on the scene.

Supplement 3 by Witness Officer 3

This supplement contains information about the shooting and subsequent investigation, but this officer was not involved in the Complaint, nor did he witness the events in the complaint. This officer, however, stated that another third party witness had heard eight to ten gun shots. After surveying the scene of the shooting, this officer found five spent shell casings at one location, and an additional spent shell casing at another nearby location.

Supplement 4 by Witness Officer 1

Witness Officer 1 was working with his partner, Officer 1. Witness Officer 1 stated that he met with Civilian Witness 1 in the alley in the rear of the address provided. Witness Officer 1 stated that “[g]iven that it was a shots fired call with multiple shooters, and that there was a small amount of marijuana on the passenger side door, [Officer 1] then placed [Civilian Witness 1] in the back of the squad. [Civilian Witness 1] was very upset and not compliant.” Witness Officer 1 stated that he tried to speak with Civilian Witness 1, but that he refused to answer any questions and told Complainant not to answer any of Witness Officer 1’s questions.

Witness Officer 1 stated that he observed a bullet hole in the bumper of the car. Witness Officer 1 stated that Civilian Witness 1 did not require any medical attention and was given a blue card.

Visinet Report

The Visinet report indicates that a third party called 911 regarding "Sound of Shots Fired;" the report also indicates other third party witnesses called regarding hearing ten to twelve shots fired. Civilian Witness 1 called the police indicating that his vehicle was hit by shots that he saw coming from a gold minivan, being shot by both the driver and passenger in that van. The caller/Civilian Witness 1 said he would wait behind the address provided to meet the police. Officer 1 and Witness Officer 1's squad was assigned, as well as Witness Officer 3, Witness Officer 2 (and his partner's) squad, and an additional officer were assigned following the third party's call. Officer 1 and Witness Officer 1 were assigned, a call was received regarding Officer 1 and Witness Officer 1's squad: "Victim denying police service. Irate cab driver calling in from cell ... swearing at TC that police assaulted him and that he received no help after his cab was shot at. Caller advised he is going to the precinct to file a formal complaint with the officers their about the 'brutality.'"

Squad Video

The visual for most of the video is just Civilian Witness 1's car stopped in front of the squad. The video only records the last two minutes and twelve seconds of the stop. The audio of the video for the most part appears to be Civilian Witness 1 speaking with Officer 1. The individual speaking, believed to be Civilian Witness 1, accuses the police of sending the shooters and then argues with Officer 1 about the marijuana. Officer 1 then orders Civilian Witness 1 to put his hands on his head after the handcuffs are removed; this order is repeated multiple times. The officers are then asked to return the belongings removed and Officer 1 responds that both items are on the hood of the car. Civilian Witness 1 asks if he is free to go; Officer 1 responds that he is free to go and tells him to have a good night.

The other officer, Witness Officer 1, speaking into his radio indicates that the victims were uncooperative. One of the victims asks for Officer 1's badge number, which he immediately gives and repeats. Officer 1 tries to explain about the marijuana on the passenger-side door.

The squad leaves the scene. The video then shows Civilian Witness 1 making a call on his cell phone. As they drive away, the officers briefly discuss that the two individuals were uncooperative, before the video cuts off.

Insurance Claim E-mail

A Claim Representative from an insurance company e-mailed Officer 1, Witness Officer 2 and Witness Officer 3 to set up interviews to discuss each officer's findings of the shooting case. The driver/Civilian Witness 1 had filed a claim alleging vehicle damage from striking a parked car and claiming injuries of four other people who he stated were in the car at the time of the incident. Witness Officer 2 responded to the e-mail, indicating that there was no damage to any vehicles in the street and that a witness he spoke with never described a vehicle accident. He did describe that the tracks in the snow indicated a vehicle hitting the curb. He explained that Civilian Witness 1 did not call until after getting him and that he was told that Civilian Witness 1 was "uncooperative with officers in the investigation."

The Claim Representative again emailed Officer 1 and Witness Officer 3 seeking more details. Officer 1 responded that the "occupants inside of the car were uncooperative." He explained that he only saw two people in the car and could not remember either of them saying anything about striking another car. He also stated that he observed no damage aside from the bullet holes.

Officer 1 Employee Profile:

Investigators obtained the focus officer's profile card, including a list of past complaints.

SUMMARY OF INTERVIEWS

Statement of Complainant

At the conclusion of the interview it was discovered that the recorder had malfunctioned. There is therefore no transcript of the interview; however, the interviewer summarized the interview as follows.

Complainant described the events of the shooting, in a manner consistent with the 911 call.

Complainant identified Officer 1 as the officer who used excessive force on him and kept the \$1,200. Complainant stated that Officer 1 pushed him into the front open exterior driver's side door jamb of the squad car. The investigator noted that this is inconsistent with his initial report that he had been pushed into the rear door of the squad. Complainant stated that he was not injured.

Complainant stated that he was handcuffed and placed in the rear of the squad car. He also stated that there was no marijuana on the passenger side of the vehicle, and that he had been the passenger. The investigator noted that this is inconsistent with the police report of Officer 1.

Complainant stated that he and Civilian Witness 1 arrived first in the parking lot and waited for the police. The investigator noted that this was inconsistent with the Visinet report and officer reports.

Complainant stated that he had \$1,200 in his possession. He said that \$900 was given to him by Civilian Witness 1 as a gift to pay rent. He said he was given the additional \$300 by a relative. Complainant did not see Officer 1 take his money, but stated that when he was given back his possessions, including his wallet, after being searched and detained, he later discovered that the \$1,200 was missing. Complainant believes that Officer 1 must have taken it.

Complainant agreed that Civilian Witness 1 was very upset and uncooperative with the officers, and told Complainant not to talk to the officers regarding the shooting. Complainant stopped talking to Officer 1 about the shooting.

Complainant stated that there was a third person in Civilian Witness 1's car at the time of the shooting. Complainant explained that this third person went to his apartment because he was so shaken up from the shooting, while Complainant and Civilian Witness 1 waited for the police.

Complainant stated that he did not report the allegations of excessive force or the missing money to Supervisory Officer 1, because Civilian Witness 1 was so upset at the police station. Complainant stated that Supervisory Officer 1 explained to him the complaint filing process.

Statement of Officer 1

Officer 1 identified the Complainant and Civilian Witness 1 from photographs of each provided by the interviewer, and identified Civilian Witness 1 as the driver of the vehicle and Complainant as the passenger on the night of the incident. Officer 1 had seen the squad video and noted that Complainant was not captured in the video and identified that Civilian Witness 1 was in the video. Officer 1 stated that he activated the video remotely through his portable mic to document the uncooperative and uncompliant behavior of the Complainant and Civilian Witness 1.

Officer 1 stated that he and his partner drove, Witness Officer 1, drove to the back of the apartment building where they had been asked to meet but could not locate the vehicle. They were about to call dispatch to do a call-back to locate the victim, when their vehicle in the alley and stopped in front of the squad.

Officer 1 stated that he exited the squad, walked to the passenger's side of the vehicle and began speaking with the passenger, Complainant. Officer 1 stated that while speaking with Complainant, he noticed a "marble-sized chunk" of marijuana stuck to the door of the vehicle; it appeared the passenger may have attempted to dump the marijuana from inside the vehicle and a chunk had stuck to the door. Officer 1 stated that he had Complainant step out of the vehicle and conducted a search of him "for weapons because of the nature of the call and for further evidence of drugs." Officer 1 found no weapons. Officer 1 recalled Complainant having a lot of papers and a cell phone in his pockets, which Officer 1 removed from his pockets and placed them on the hood of the car, but did not recall any large amount of cash. Officer 1 stated that he then asked Complainant to sit in the rear of the squad so that he could question him further about the incident and Complainant cooperated.

Officer 1 stated that he conducted a search of the driver who was out of the car and speaking with Witness Officer 1. Officer 1 stated that he asked Civilian Witness 1 to sit inside the squad so that they could further investigate what had occurred. Officer 1 stated that Civilian Witness 1 refused. Officer 1 stated that he then handcuffed Civilian Witness 1 with his hands behind his back, and placed in in the squad. Officer 1 stated that Complainant was never handcuffed. Officer 1 believed that Complainant was on the rear driver's side and Civilian Witness 1 was on the passenger side when both were seated in the back of the squad car. Officer 1 stated that no force was used in this call.

Officer 1 stated, "Both parties were detained in the squad ... for the following reasons: Due to the nature of the call, with multiple guns and multiple shooters involved, I was not certain that even though they claimed to have been shot at that they did not return fire. I was also concerned that a firearm may still be inside the vehicle and wanted to keep them outside and away from the vehicle until it could be checked. I also found it strange that they had fled from the original scene, only to call police several minutes later from one of the male's home addresses to report the incident, despite the fact they both had cell phones, working cell phones, on them inside of the vehicle at the time of the incident. I was also concerned because they were still driving their vehicle, which had been shot at, when we arrived and had not remained in the rear of the address where they said they were going to be. The fact that I had also discovered marijuana stuck to the outside of the car was also concerning. I believed there may be more to the story and wished to detain them at the scene until we could determine exactly what had occurred."

Officer 1 stated that Civilian Witness 1 immediately became upset about being asked to sit in the squad. Officer 1 stated that he tried to explain but Civilian Witness 1 said that he wanted to speak to his attorney and refused to answer any more questions. Officer 1 stated that Complainant gave him a brief summary of what happened, before Civilian Witness 1 told him not to speak.

Officer 1 stated that neither Complainant nor Civilian Witness 1 was injured by any of the bullets that struck their vehicle. They were both released from the scene after they refused to speak, and Civilian Witness 1 was given a blue card.

Officer 1 stated that Civilian Witness 1 asked for his badge number and Officer 1 gave it to him. Officer 1 stated that Civilian Witness 1 stated that he was very upset with Officer 1 for handcuffing him. Officer 1 stated that he tried to explain, but Civilian Witness 1 said he was going to go to the station to speak with a supervisor.

The interviewer asked Officer 1 if he took any items out of Civilian Witness 1's pockets and "Is that a practice you usually do when searching?" Officer 1 responded, "Typically yes, we'll remove cell phones... and just check if there's any large bulges or anything. Usually it's... it's easier just to pull the items out and just set them somewhere." Officer 1 stated that this is a practice that he would consistently do.

Again, Officer 1 stated that he did not notice any large sums of cash. Officer 1 stated that he did not keep any of the property. Officer 1 stated that he did not push either Complainant or Civilian Witness 1 into the squad door while securing them in the back seat, and did not push either of them hard enough to fall upon releasing them. Officer 1 also stated that neither of them fell on their own, though Civilian Witness 1 may have slipped on some ice while walking away from the squad.

Officer 1 stated that neither Complainant nor Civilian Witness 1 made any accusation or inquiry regarding the money; nor did he recall them making any allegations regarding police misconduct.

Officer 1 stated that Complainant and Civilian Witness 1 came into the station towards the end of Officer 1's shift. Officer 1 stated that he briefly spoke to Supervisory Officer 1, who had just started his shift, to explain what had occurred at the scene. Officer 1 stated that at that time Supervisory Officer 1 did not mention money to him, and that he did not know what force to which the Complainant and Civilian Witness 1 were referring.

Officer 1 also stated that about three months after the incident he received an e-mail from an insurance investigator. Officer 1 stated that he and another officer corresponded back with her, basically saying that they had not seen the damage or multiple passengers as had been claimed.

Statement of Witness Officer 1

Witness Officer 1 was shown photographs of Civilian Witness 1 and Complainant and was unable to recognize either. He did not remember which squad he was working at the time of the incident, but stated that he was working with a partner, Officer 1. Witness Officer 1 had seen the squad video and identified himself and Officer 1 in the video, but could not remember who the other male in the video was, but did recall that it was one of the two individuals in the vehicle involved in the shooting. Witness Officer 1 could not recall if the male in the video was the same male that spoke to him on the scene and could not recall who activated the video camera, but could recall that there was an additional person on the scene not captured in the video recording. Officer 1 could also not recall which individual had been the driver and which had been the passenger.

Witness Officer 1 stated that he approached the driver's side of the vehicle and spoke with the driver while Officer 1 "pulled out the passenger and advised me to do the same with the driver... He later told me it was because there was marijuana in plain view." Witness Officer 1 stated that he then did a pat search of the driver, put him in handcuffs, and placed him in the back of the squad. Witness Officer 1 described the driver as "very uncooperative. He didn't want to answer any questions and while in the back of our squad he informed the passenger not to answer any of my questions." Witness Officer 1 could not recall what kinds of questions he was asking the driver. Witness Officer 1 stated that there were bullet holes in the front end of the vehicle.

The interviewer asked Witness Officer 1 what caused them to handcuff victims. Witness Officer 1 stated, "I was advised by my FTO to." Witness Officer 1 could not recall if either the driver or passenger's behavior was cooperative or uncooperative from the onset. Witness Officer 1 could not remember if he took anything out of the driver/Civilian Witness 1's pockets. When asked if he ordinarily removes anything from the pockets of people he searches and, if so, where he puts those items, Witness Officer 1 stated, "I normally remove hard objects that are possibly weapons and place them on the front of my car." Witness Officer 1 could not recall taking anything out of Civilian Witness 1's pockets. Witness Officer 1 also stated that he did not observe Officer 1 do this with the passenger/Complainant.

Witness Officer 1 could not recall how long the Complainant and Witness Officer 1 were in the back of the squad car. He also could not remember them making any false accusations or acting in a way that would "heighten [his] awareness" (as the interviewer put it).

Witness Officer 1 stated that he did not observe Officer 1 using excessive force with Complainant, neither pushing him into the squad door when he secured him in the squad nor pushing him hard enough to fall on the ground upon release. Witness Officer 1 could not remember if he saw either the Complainant or Civilian Witness 1 slip or fall on their own.

Witness Officer 1 did not observe Officer 1 keep any money that belonged to either Complainant or Civilian Witness 1. Witness Officer 1 stated that neither of them accused Officer 1 of taking or keeping the money at the scene; nor did they make any allegations on the scene regarding any police misconduct.

Witness Officer 1 did recall that one of the individuals was upset about being handcuffed, and both stated that they were the victims and why were they being handcuffed. Witness Officer 1 recalls that they were uncooperative despite attempts to explain to them why they were being handcuffed.

Witness Officer 1 stated that no force was used against either the Complainant or Civilian Witness 1 while putting them in or releasing them from the squad.

Statement of Supervisory Officer 1

Supervisory Officer 1 stated that he spoke with the driver, Civilian Witness 1 on the day of the incident when he came to the station to make a complaint. Supervisory Officer 1 identified Civilian Witness 1 from his photograph and stated that the other photograph (of Complainant) looked familiar, but he was unsure if he spoke to him. Supervisory Officer 1 stated that one of the individuals, Complainant or Civilian Witness 1, asked for information on how to file a formal complaint and Supervisory Officer 1 provided both with a document that he wrote, which included "CRA," the phone number, the date and time, and his badge number.

Supervisory Officer 1 stated that both individuals were upset because they did not understand what happened during the police conduct, including being handcuffed and placed in the rear of the squad car. He stated that he asked them if the responding officers had told them why that was being done and both said yes. Supervisory Officer 1 stated that one of the two individuals said that they thought they were treated like criminals.

Supervisory Officer 1 stated that he attempted to explain what might have happened; he stated, "I set it up this way for the two of them too—they had been involved in a shots fired and as I understood, witnesses weren't certain if... the occupants of one vehicle was shooting at another, or if the two vehicles were shooting at each other, so there were shots fired in between. And I explained that if I had been in that position – I wasn't, but if I had been in that position – I'd want to make darn sure that there weren't still weapons in the car, even though they were the ones that called." Supervisory Officer 1 stated that this explanation did not help the Complainant or Civilian Witness 1. Supervisory Officer 1 stated that he told them that his explanation was all hypothetical because he was not there.

Supervisory Officer 1 also stated that he wrote and gave Civilian Witness 1 and Complainant individual, identical blue cards, which identified the officers involved and provided the case number.

Supervisory Officer 1 stated that at the time Civilian Witness 1 and Complainant came to the station, he spoke with Officer 1. He asked Officer 1 if there was anything unusual he needed to know before speaking with the Complainant; Officer 1 said there was not, except that he noticed he still had a driver's license from one of the individuals, which he gave to Supervisory Office 1 who then gave it to Civilian Witness 1.

Supervisory Officer 1 stated that neither Civilian Witness nor Complainant made any allegation regarding either officer taking or keeping \$1,200 cash.

OPCR INVESTIGATIVE REPORT

In the OPCR investigative report, the investigator summarized the sequence of events as follows:

1. Complainant [] was a passenger in a vehicle involved in a drive-by shooting [].
2. [Officer 1 and Witness Officer 1] of Squad [] were dispatched to meet [Complainant] behind his apartment building located at [] in Minneapolis. Upon officers arriving, [Complainant] was not there, forcing [Officer 1] to contact dispatch for a call back. [Complainant] eventually arrived in [], driven by [Civilian Witness 1], and met officers in the alley behind aforementioned address.
3. [Complainant] was the front right passenger in [], and upon contact with him, [Officer 1] observed suspected marijuana on the outside of [Complainant's] door, thus believing [Complainant] may have attempted to dump marijuana from inside the vehicle. [Complainant] denied that marijuana was on the outside of the door and stated he does not use marijuana.
4. Based on the nature of the call (drive-by shooting involving multiple vehicles and multiple shooters/guns called in by several citizens), the plain view of narcotics, and the observation of bullet holes in the vehicle [Complainant] was an occupant of, [Complainant] was removed from the vehicle, pat searched and secured, unhandcuffed, in the backseat of Squad []. [Complainant] stated he did not sustain any injuries from the alleged excessive force used by [Officer 1]. [Officer 1] denied pushing [Complainant] into the rear squad door and denied pushing [Complainant] upon his release, causing him to fall to the ground.
5. During the search of [Complainant], [Officer 1] stated he remembered removing lot s of papers and a cell phone from his pockets and then placing them on the hood of the car. [Officer 1] denies seeing, removing or keeping any amount of cash from [Complainant's] person.
6. When asked for documentation to account for his possession of the \$1,200.00 he had accused [Officer 1] of taking/keeping, [Complainant] stated [Civilian Witness 1] had given him a gift of \$900 that same day (because Complainant is unemployed) and that the other \$300 was given to him by a relative. Attempts were made to contact [Civilian Witness 1] but [Civilian Witness 1] did not respond back.
7. Because he was pat searched and detained, [Complainant] believed he was treated like a criminal; however, [Officer 1] made several attempts (on video) to explain to [Complainant] that his ([Officer 1's]) actions were based on the nature of the shooting call and the presence of narcotics. [Complainant] did not want to listen or accept [Officer 1's] explanation. [Complainant] ([and Civilian Witness 1]) was released at the scene as he was uncooperative with [Officer 1] in telling him what had happened regarding the drive-by shooting. ([Complainant] was listed as Victim #2 in CCN [].)
8. After his contact with [Officer 1], [Complainant] along with [Civilian Witness 1] (and other unknowns), went to the [] Precinct to file a complaint. [Supervisory Officer 1] attempted to resolve the complaint, but was unsuccessful. [Supervisory Officer 1] gave [Complainant] the proper information to file a formal complaint, which [Complainant] did, 46 days after the alleged incident. While at the [] Precinct with [Supervisory Officer 1], a t no time did [Complainant] make allegations to [Supervisory Officer 1] that he was pushed by [Officer 1], nor did he make the allegation that [Officer 1] had kept \$1,200.00 cash belong to him.
9. [Witness Officer 1] denied the allegations made by [Complainant] against [Officer 1].
10. MVR video from Squad [] was observed by this investigator and there is no audio or video evidence recorded that supports [Complainant's] allegation that unauthorized or excessive force was used against him by [Officer 1], nor that [Officer 1] removed from his ([Complainant]) pockets, and then retained, \$1,200.00 cash belonging to [Complainant].

Investigator Discussion of Evidence

Allegation 1: Force

- Complainant [] filed a Police Conduct Complaint From with the Office of Police Conduct Review on [].
- [Officer] 1 did encounter [C]omplainant [], identifying him as the passenger in the vehicle that had been involved in a drive by shooting. Upon contact with passenger [Complainant], [Officer 1] observed a marble-sized chunk of marijuana on the outside passenger door, thus believing [Complainant] may have attempted to dump marijuana from inside the vehicle.
- Based on the nature of the call (drive by shooting involving multiple vehicles and multiple guns) and the plain view narcotics, [Officer 1] removed [Complainant] from the vehicle, pat searched him and secured him in the back of the squad, unhandcuffed.
- [Complainant], along with [Civilian Witness 1], was upset with [Officer 1] and [Witness Officer 1], because they had detained him in the rear seat of the squad, treating him like a criminal. [Officer 1] made several attempts to explain to both parties the purposes of their actions based on the nature of the shooting call and the presence of narcotics but neither [Complainant] or [Civilian Witness 1] cooperated by listening to or accepting [Officer 1's] explanation
- [Officer 1] denied pushing [Complainant] into the rear squad door and denies pushing him upon release, causing him to fall to the ground.
- MVR video from Squad [] was observed by this investigator and there is no audio or video evidence recorded that supports [Complainant's] allegation that unauthorized or excessive force was used against him by [Officer 1].

Allegation 2: Property

- [Officer] 1 did encounter [C]omplainant [], identifying him as the passenger in the vehicle that had been involved in a drive by shooting. Upon contact with passenger [Complainant], [Officer 1] observed a marble-sized chunk of marijuana on the outside passenger door, thus believing [Complainant] may have attempted to dump marijuana from inside the vehicle.
- Based on the nature of the call (drive by shooting involving multiple vehicles and multiple guns) and the plain view narcotics, [Officer 1] removed [Complainant] from the vehicle, pat searched him and secured him in the back of the squad, unhandcuffed.
- During the search of [Complainant], [Officer 1] stated he remembered removing lots of papers and a cell phone from his pockets and then placing them on the hood of the car. [Officer 1] denies seeing, removing or keeping any amount of cash from [Complainant's] person.
- Complainant], along with [Civilian Witness 1], was upset with [Officer 1] and [Witness Officer 1], because they had detained him in the rear seat of the squad, treating him like a criminal. [Officer 1] made several attempts to explain to both parties the purposes of their actions based on the nature of the shooting call and the presence of narcotics but neither [Complainant] or [Civilian Witness 1] cooperated by listening to or accepting [Officer 1's] explanation.
- MVR video from Squad [] was observed by this investigator and there is no audio or video evidence recorded that supports [Complainant's] allegation that Officer 1 removed from his pockets, and retained, \$1,200.00 cash.

POLICE CONDUCT REVIEW PANEL RECOMMENDATION

The Police Conduct Review Panel met to discuss the case and issue a recommendation. They concluded that there was no merit to support the use of force allegation. They also determined that there was no merit to support the theft allegation.

CHIEF'S FINDING

The case file was submitted to the Office of the Chief. Staff reviewed the case and determined Officer 1 exonerated on both the use of force and property inventory allegations.