

EXHIBIT

310



Minneapolis
City of Lakes

Police Department

Janeé L. Harteau
Chief of Police

350 South 5th Street - Room 130
Minneapolis, MN 55415-1389

612 673-2735
TTY 612 673-2157

July 1, 2015

Officer Deitan Dubuc
VCAT
Minneapolis Police Department

Officer Dubuc,

RE: IAU Case Number #15-01031
LETTER OF REPRIMAND

The finding for IAU Case #15-01031 is as follows:

MPD P/P 7-405 Initiating or Continuing a Pursuit.....SUSTAINED (Category B)

You will receive this Letter of Reprimand. This case will remain a B violation and can be used as progressive discipline for three years until 1/14/2018, which is from the date of incident.



The case will remain in the IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge from employment.

Sincerely,

Janeé Harteau
Chief of Police

BY:

Deputy Chief
Kristine Arneson



www.ci.minneapolis.mn.us
Affirmative Action Employer



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CITY002782

Page 2
Officer Deitan Dubuc
Letter of Reprimand

I, Officer Deitan Dubuc, acknowledge receipt of
this Letter of Reprimand.



Officer Deitan Dubuc

7/01/15
Date of Receipt



Commander Catherine Johnson

07/01/2015
Date

CC: Commander Johnson
Personnel
IAU

EXHIBIT

311

February 22, 2016

Officer Heather Sterzinger
First Precinct
Minneapolis Police Department

RE: IAU Case Number #15-05840
Notice of Suspension (10 hours suspension without pay)
Letter of Reprimand

Officer Sterzinger,

The finding for IAU Case #15-05840 is as follows:

MPD P/P 5-303 Use of Force.....SUSTAINED (Category C)
MPD P/P 5-105(10) Professional Code of Conduct.....SUSTAINED (Category B)

As discipline for this incident you are suspended for 10 hours without pay.

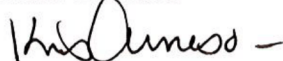
In addition, this letter will serve as a Letter of Reprimand for 5-105(10) Professional Code of Conduct. Y [REDACTED]

[REDACTED] The case will remain in the IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge from employment.

Sincerely,

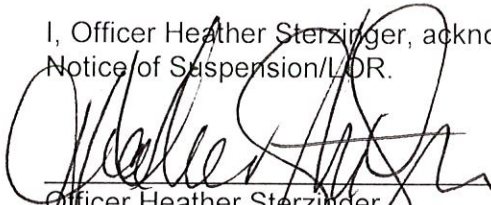
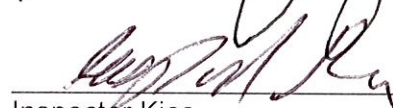
Janee Harteau
Chief of Police



By: Kristine Arneson
Assistant Chief

Page 2
Officer Heather Sterzinger
Suspension Letter/LOR

I, Officer Heather Sterzinger, acknowledge receipt of this
Notice of Suspension/LOR.

 _____ Officer Heather Sterzinger	<u>2/24/16</u> _____ Date of Receipt
 _____ Inspector Kjos	<u>2/24/2016</u> _____ Date

CC: Personnel
IAU
Inspector Kjos

EXHIBIT

312

NOTICE OF DISCIPLINE

January 18, 2018

Officer Donovan Ford
Fourth Precinct
Minneapolis Police Department

RE: OPCR Case Number 17-02151
Notice of Written Reprimand [REDACTED]

Officer Ford,

The finding for OPCR Case #17-02151 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-105	(A)(4)	Professional Code of Conduct	A	<u>SUSTAINED</u>
10-402		Responsibility for Inventory of Property	B	<u>SUSTAINED</u>

As discipline for this incident, you will receive this Letter of Reprimand. [REDACTED]

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,




Medaria Arradondo
Chief of Police

By: Michael Kjos, Assistant Chief of Police
Henry Halvorson, Deputy Chief, Professional Standards Bureau

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Donovan Ford, acknowledge that I have received my Notice of Discipline for OPCR Case #17-02151.



Officer Donovan Ford

16 March 2018
Date of receipt



Inspector Aaron Biard

23 JAN 2018
Date

CC: Personnel
Payroll
OPCR

EXHIBIT

313

NOTICE OF DISCIPLINE

January 18, 2018

Officer Daniel Ledman
Fourth Precinct
Minneapolis Police Department

RE: OPCR Case Number 17-02151
Notice of Written Reprimand [REDACTED]

Officer Ledman,

The finding for OPCR Case #17-02151 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-105	(A)(4)	Professional Code of Conduct	A	<u>SUSTAINED</u>
[REDACTED]				
10-402		Responsibility for Inventory of Property	B	<u>SUSTAINED</u>

As discipline for this incident, you will receive this Letter of Reprimand. [REDACTED]
[REDACTED]

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,




Medaria Arradondo
Chief of Police

By: Michael Kjos, Assistant Chief of Police
Henry Halvorson, Deputy Chief, Professional Standards Bureau

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Daniel Ledman, acknowledge that I have received my Notice of Discipline for OPCR Case #17-02151.



Officer Daniel Ledman

3/17/18

Date of receipt



Inspector Aaron Biard

23 JAN 2018

Date

CC: Personnel
Payroll
OPCR

EXHIBIT

314

NOTICE OF DISCIPLINE

January 18, 2018

Officer Jacob Skowronek
Fourth Precinct
Minneapolis Police Department

RE: OPCR Case Number 17-02151
Notice of Written Reprimand [REDACTED]

Officer Skowronek,

The finding for OPCR Case #17-02151 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-105	(A)(4)	Professional Code of Conduct	A	<u>SUSTAINED</u>
10-402		Responsibility for Inventory of Property	B	<u>SUSTAINED</u>

As discipline for this incident, you will receive this Letter of Reprimand. [REDACTED]

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,



Medaria Arradondo
Chief of Police

By: Michael Kjos, Assistant Chief of Police
Henry Halvorson, Deputy Chief, Professional Standards Bureau

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Jacob Skowronek, acknowledge that I have received my Notice of Discipline for OPCR Case #17-02151.



Officer Jacob Skowronek

3/17/2018
Date of receipt



Inspector Aaron Biard

23 JAN 2018
Date

CC: Personnel
Payroll
OPCR

EXHIBIT

315



Police Department – Amelia Huffman, Interim Chief of Police
350 S. Fifth St. - Room 130
Minneapolis, MN 55415
TEL 612.673.3000
www.minneapolismn.gov

NOTICE OF DISCIPLINE

September 17, 2022

Officer Alonzo
Precinct 5 - Dogwatch
Minneapolis Police Department

RE: OPCR Case Number 20-12979
Notice of Written Reprimand

Officer Alonzo,

The finding for OPCR Case 20-12979 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
7-402	(III)(A)	Pursuit Policy – Decision to Pursue	B	Sustained
7-402	(IV)(B)(2)	Pursuit Policy – Role of Officer	B	Sustained

As discipline for this incident, you will receive this Letter of Reprimand, [REDACTED]

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

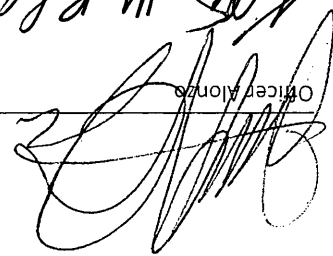
DocuSigned by:
Amelia Huffman
FBFE4338427B46A...
Amelia Huffman
Interim Chief of Police

CC: Personnel Inspector Blackwell

Inspector Blackwell

Tom W. Blackwell

Officer Alonzo



Date

9/23/22

Date of receipt

9/23/22

I, Officer Alonzo, acknowledge that I have received my Notice of Discipline for OPCR Case Number 20-12979.

Acknowledgement of receipt:

NOTICE OF RECEIPT

EXHIBIT

316

NOTICE OF DISCIPLINE

September 17, 2022

Kimberly Bonilla
3rd Precinct - Middlewatch
Minneapolis Police Department

RE: OPCR Case Number 20-12979
Notice of Written Reprimand

Officer Bonilla,

The finding for OPCR Case 20-12979 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
7-402	(III)(A)	Pursuit Policy - Decision to Pursue	B	Sustained
7-402	(IV)(A)(3)(c)	Pursuit Policy – Role of Officers	B	Sustained

As discipline for this incident, you will receive this Letter of Reprimand, [REDACTED].

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

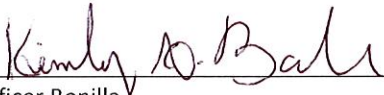
Sincerely,

DocuSigned by:
Amelia Huffman
FBFE4338427B46A...
Amelia Huffman
Interim Chief of Police

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Officer Bonilla, acknowledge that I have received my Notice of Discipline for OPCR Case Number 20-12979.



Officer Bonilla

07-21-22
Date of receipt



Inspector Gomez

7-21-22
Date

CC: Personnel
Inspector Gomez

EXHIBIT

317



Coaching Memorandum

To: Commander Jason Case - MPD Internal Affairs Unit
Director Imani Jaafar – Office of Police Conduct and Review

From: [REDACTED]

Subject: OPCR/IAU Complaint # [REDACTED]

Involved Employee(s): Officer [REDACTED]

Date/Time: [REDACTED]

Location: [REDACTED]

Specific Issue(s) Addressed:

Officer Safety and Civilian Safety with being aware of surroundings and striker fire department authorized weapon. Striker Fire guns have a very light trigger pull and discussed importance of muzzle awareness.

Expectations for future:

Officer [REDACTED] has been back to the Range for remedial training with his handgun and personally took the initiative to seek out other Officers and Range personnel to get advice to make sure he will use the best techniques available to make sure this never happens again. Officer [REDACTED] continuously goes to open shoots and also dry fires his weapon to perfect his skills.

Employee Response:

Officer [REDACTED] was extremely receptive to this coaching and takes full responsibility for his actions. Our conversation was very positive and Officer [REDACTED] is very serious about the importance of training and perfecting skills. We all should take notes on his accountability for the incident he was involved in.

Respectfully Submitted,

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

EXHIBIT

318



Minneapolis
City of Lakes

[REDACTED]

COACHING MEMORANDUM

This memorandum serves as documentation for coaching of Officer [REDACTED]. The coaching occurred at the [REDACTED] Station on [REDACTED]. Present for the coaching: **Inspector [REDACTED], Lieutenant [REDACTED], and Officer [REDACTED]**.

This matter is related to an Internal Affairs Unit investigation (IAU Case # [REDACTED]). Subsequently, it was determined that Officer [REDACTED] failed to report his use of force and failed to notify a supervisor as required by MPD Policy and Procedure related to MPD CCN-[REDACTED]. Officer [REDACTED] was charged with Category B Violations (SUSTAINED) for violating of MPD Policy 5-306 **USE OF FORCE REPORTING** and MPD Policy 5-306 **USE OF FORCE-POST INCIDENT REQUIREMENTS- SUPERVISOR NOTIFICATION**.

During the Coaching Session Inspector [REDACTED] discussed with Officer [REDACTED] the MPD Policy requiring an officer to document their use of force in a CAPRS Narrative and situations that require that a supervisor notification; such as, when a subject of the use of force is injured. In this case there was no issue with the use of force that was used; failure to document and report the force to the supervisor was the problem. Officer [REDACTED] was the “secondary” officer in this use of force encounter. However, Officer [REDACTED] was reminded that it is still his responsibility to make sure the MPD Policy and Procedure is followed regardless of primary or secondary officer during a use of force encounter.

Officer [REDACTED] advised Inspector [REDACTED] that he was coached previously by Sergeants [REDACTED] sometime during the year [REDACTED] for the same incident. Officer [REDACTED] was very receptive of the coaching and takes accountability- he asserted that he considers this coaching a learning experience. Since the time of this incident in [REDACTED], Officer [REDACTED] has routinely documented any use of force incidents and has made proper supervisor notifications when required to do so. Officers [REDACTED] has a solid reputation amongst his supervisors and peers alike as a hard-working officer that routinely makes good decisions.

This Coaching memorandum was prepared and submitted by:

[REDACTED]

EXHIBIT

319

September 8, 2016

[REDACTED]

Minneapolis Police Department

RE: IAU Case Number # [REDACTED]

Officer [REDACTED],

This letter is to advise you that IAU Case Number # [REDACTED] has been completed. The finding is as follows:

MPD P/P 7-405 Initiating and Continuing a Pursuit.....SUSTAINED (Category B)

You have received coaching from your supervisor and the case will remain in the IAU files per the record retention guidelines mandated by State Law.

Sincerely,

Janeé Harteau
Chief of Police



By: Kristine Arneson
Assistant Chief

CC: IAU
Inspector Loining

EXHIBIT

320

September 8, 2016

[REDACTED]
Minneapolis Police Department

RE: IAU Case Number # [REDACTED]

Officer [REDACTED],

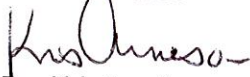
This letter is to advise you that IAU Case Number # [REDACTED] has been completed. The finding is as follows:

MPD P/P 7-405 Initiating and Continuing a Pursuit.....SUSTAINED (Category B)

You have received coaching from your supervisor and the case will remain in the IAU files per the record retention guidelines mandated by State Law.

Sincerely,

Janeé Harteau
Chief of Police


By: Kristine Arneson
Assistant Chief

CC: IAU
Inspector Loining

EXHIBIT

321



COACHING MEMO

Ofc. [REDACTED]	[REDACTED]	[REDACTED]
Name of Employee	Employee Number	Case Number
[REDACTED]	[REDACTED]	[REDACTED]
Date of Coaching	Time of Coaching	Where Coaching Occurred
[REDACTED]		
Supervisor Who Conducted Coaching (N/A)		

COACHING MEMO OUTLINE

What issues were identified and addressed

- Specific behaviors that should avoided

I spoke with Officer [REDACTED] about the incident. She was aware of the IAU investigation. I explained to her the policy violation 7-403 was sustained and signed off by Chief Arradondo. I advised Officer [REDACTED] the violation was a category B violation. I advised Officer [REDACTED] that she must have the squad lights and siren activated at all time when she is responding to code three calls.

Expectations for appropriate behavior that are consistent with MPD Policy and Values

- Alternative ways to address the issue in the future
- Identification of any training needs

Activate all emergency equipment during any code three runs. Test all squad equipment before leaving the PCT parking lot. If the equipment is not working notify a supervisor and find a replacement squad. Note all equipment malfunctions in the squad yellow book or take to the shop for service.

The Employee's Response (This is not a compelled statement)

- If they understood what was wrong and what is needed for improvement
- If they expressed any regret or accept responsibility for their behavior
- Any steps they will take to avoid future inappropriate behavior

Ofc. [REDACTED] was surprised that the complaint was sustained as a B violation. Ofc. [REDACTED] said she never turned off the siren by hand. She did not realize the siren had went off until they had reached the call. Officer. [REDACTED] felt it was a malfunction with the siren and she never attend to violate MPD policy 7-403.

Attachments: (For Supervisor Review ONLY)

- Case Summary
- Completed Discipline Worksheets
- Case Outcome Memo

Pl.'s Ex.
321

EXHIBIT

322



COACHING MEMO

Name of Employee Involved: _____ Employee Number: [REDACTED] Case Number: [REDACTED]
Officer: [REDACTED]

Date of Coaching: [REDACTED] Time of Coaching: [REDACTED] Where Coaching Occurred: [REDACTED]

Supervisor who Conducted Coaching: [REDACTED]

Coaching Memo Outline

What issues were identified and addressed

- Specific behaviors that should be avoided.

Officer [REDACTED] accidentally fired his duty handgun into a wall at the [REDACTED] Precinct in violation of policy 5-401 Handling of Firearms.

Expectations for appropriate behavior that are consistent with MPD Policy and Values

- Alternative ways to address the issue in the future.
- Identification of any training needs.

Utilize appropriate firearms protocol and equipment as it is illustrated in the Minneapolis Police Department Policy and Procedure manual.

The Employee's response (this is not a compelled statement)

- If they understood what was wrong and what is needed for improvement.
- If they expressed any regret or accept responsibility for their behavior.
- Any steps they will take to avoid future inappropriate behavior.

"Very sorry for the mishap." "I'm embarrassed for what happened, I was not being intentionally reckless or negligent."

Attachments: (for supervisor review ONLY)

Case Summary

Completed Discipline Worksheets

Case Outcome Memo

EXHIBIT

323



Minneapolis
City of Lakes

November 8, 2013

Police Department

Janeé L. Harteau
Chief of Police

350 South 5th Street - Room 130
Minneapolis MN 55415-1389

612 673-2735
TTY 612 673-2157

Sgt. Tami Reece
Weapons Investigations
Minneapolis Police Department

RE: IAU Case Number #13-18922
Notice of Suspension (8 hours suspension without pay)

Sgt. Reece,

The finding for IAU Case #13-18922 is as follows:

MPD P/P 5-105.03 Judgment...SUSTAINED (Category C)
MPD P/P 5-105.12 Treat Fellow Employees with Respect...SUSTAINED (Category A)
MPD P/P 5-105.14 Use of Derogatory Language...SUSTAINED (Category A)
MPD P/P 5-105.15 Employees Shall be Decorous...SUSTAINED (Category A)

As discipline for this incident you are suspended for 8 hours without pay. [REDACTED]

[REDACTED]. This case will remain a "C" violation and will remain on file until 07/23/2018, which is from the date of incident. This case will remain in IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge from employment.

Sincerely,

Janeé Harteau
Chief of Police

By: Matthew Clark
Assistant Chief



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Affirmative Action Employer

Pl.'s Ex.

323

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CITY069491

EXHIBIT

324



Minneapolis
City of Lakes

Police Department

Janeé L. Harteau
Chief of Police

350 South 5th Street
Minneapolis MN 55415-1389

612 673-2735
TTY 612 673-2157

December 14, 2015

Officer William Gregory
Fourth Precinct
Minneapolis Police Department

RE: IAU Case Number #14-21688
Notice of Suspension (80 hours suspension without pay)

Officer Gregory,

The finding for IAU Case #14-21688 is as follows:

MPD P/P 5-106 (1) On Duty Code of Conduct.....SUSTAINED..... (Category C)
MPD P/P 4-603 Hand Written Offense/Incident Reports.....SUSTAINED (Category A)

As discipline for this incident you are suspended for 80 hours without pay. [REDACTED]

[REDACTED] This case will remain a "C" violation and will remain on file until 10/04/2019, which is five years from the date of incident.

This case will remain in IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge from employment.

Sincerely,


Janeé Harteau
Chief of Police

By: Kristine Arneson
Assistant Chief




Page 2
Officer Gregory
Suspension Letter

I, Officer William Gregory, acknowledge receipt of this
Notice of Suspension.



Officer William Gregory 12/30/15
Date of Receipt



Inspector Freistleben 12-30-15
Date

CC: Personnel
Inspector Freistleben
IAU

EXHIBIT

325

October 24, 2016

Officer Joshua Stewart
Third Precinct
Minneapolis Police Department

RE: IAU Case Number #14-24712
Notice of Suspension (10 hours suspension without pay)

Officer Stewart,

The finding for IAU Case #14-24712 is as follows:

MPD P/P 7-403 Vehicles – Emergency Response.....**SUSTAINED** (Category B)
MPD P/P 4-401.02 Vehicles-Seat Belts.....**SUSTAINED** (Category A)

As discipline for this incident you are suspended for 10 hours without pay. [REDACTED]

This case will remain in IAU files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge from employment.

Sincerely,

Janeé Harteau
Chief of Police




By: Kristine Arneson
Assistant Chief

Page 2
Officer Joshua Stewart
Suspension Letter

I, Officer Joshua Stewart, acknowledge receipt of this
Notice of Suspension.

 10-27-16

Officer Joshua Stewart Date of Receipt

 10/27/2016

Inspector Catherine Johnson Date

CC: Personnel
Inspector Catherine Johnson
IAU

EXHIBIT

326

From: "Knudsen, Katherine T" <katherine.knudsen@minneapolismn.gov>
To: "Zenzen, Mary L." <Mary.Zenzen@minneapolismn.gov>
Cc: Open City <Open.City@minneapolismn.gov>
Subject: FW: [EXTERNAL] OpenCity data request DR21_016701 - Chauvin "coaching documentation"; may be duplicate 16514 assigned to you
Date: Fri, 26 Mar 2021 16:54:52 +0000

Importance: Normal

Inline-Images: city_logo.png

Hi Mary,

This one is similar to the Cerra one we just closed, 17317, what was the final language for the denial of that request? I can use the same language to close this one I think.

Katherine Knudsen | City of Minneapolis – Police Department | Records Information Unit |
katherine.knudsen@minneapolismn.gov

Submit data requests and learn more about open government [\[here\]](#)

From: Open City <OpenCity@minneapolismn.gov>

Sent: Tuesday, February 23, 2021 9:26 AM

To: Knudsen, Katherine T <katherine.knudsen@minneapolismn.gov>

Subject: [EXTERNAL] OpenCity data request DR21_016701 - Chauvin "coaching documentation"; may be duplicate 16514 assigned to you

Hi, Katherine Knudsen

Hello, We have received a request for police data. For all steps below REPLY ALL (include OPENCITY) and add the requestor's email if you want to send to them. 1) Clarify the request (if necessary) 2) Verify the identity of the requestor and indicate that you have verified the subject's identity (if necessary) 3) Send the public data to the requestor and indicate the request is closed Do not maintain verification documentation, we just need to know you have verified it.

Complete by: 2021-03-14

Thank you,

Reference number: DR21_016701

Data Requested:

What data are you requesting?

1. All data, including but not limited to completed "coaching documentation" forms related to coaching of Derek Chauvin. 2. All data, including but not limited to completed "coaching documentation" forms, related to coaching of any officer as a result of his/her involvement in any one of the 44 incidents referenced in this news report

<https://www.nbcnews.com/news/us-news/minneapolis-police-rendered-44-people-unconscious-neck-restraints-five-years-n1220416> in which an officer used a neck

restraint or other method of restraint resulting in the partial or total obstruction of the breath or airways. 3. All data, included but not limited to completed "coaching

documentation" forms (attached hereto), from January 1, 2020, to present, related to

Pl.'s Ex.

326

CITY071026

coaching of any officer resulting from a sustained complaint where the original complaint alleged a B-, C-, or D-Level Violation where coaching was the only corrective action taken. 4. All data, dating from January 1, 2011 to present, in which coaching is described as a form of discipline or acknowledged by a supervisor or the Chief of Police to constitute a form of discipline.

When was data created?

Start Date: 2011-01-01

End Date: 2021-02-19

Submitted:

2021-02-20 12:04:44

Requestor Information: Paul Ostrow

Requestor Email: paulostrow@hotmail.com

[Unsubscribe](#)



[Unsubscribe](#) | [Notification Preferences](#)

Ref:MSG3379658

[EXTERNAL] This email originated from outside of the City of Minneapolis. Please exercise caution when opening links or attachments.

EXHIBIT

327

From: "Knudsen, Katherine T" <katherine.knudsen@minneapolismn.gov>
To: Open City <Open.City@minneapolismn.gov>
Cc: "Zenzen, Mary L." <Mary.Zenzen@minneapolismn.gov>
Subject: RE: [EXTERNAL] OpenCity data request DR21_016701 - Chauvin "coaching documentation"; may be duplicate 16514 assigned to you
Date: Fri, 26 Mar 2021 16:57:44 +0000

Importance: Normal

Inline-Images: image001.png

Never mind, I just denied it under 13.43 and said coaching has never been discipline.

Katherine Knudsen | City of Minneapolis – Police Department | Records Information Unit |

katherine.knudsen@minneapolismn.gov

Submit data requests and learn more about open government [\[here\]](#)

From: Open City <OpenCity@minneapolismn.gov>

Sent: Tuesday, February 23, 2021 9:26 AM

To: Knudsen, Katherine T <katherine.knudsen@minneapolismn.gov>

Subject: [EXTERNAL] OpenCity data request DR21_016701 - Chauvin "coaching documentation"; may be duplicate 16514 assigned to you

Hi, Katherine Knudsen

Hello, We have received a request for police data. For all steps below REPLY ALL (include OPENCITY) and add the requestor's email if you want to send to them. 1) Clarify the request (If necessary) 2) Verify the identity of the requestor and indicate that you have verified the subject's identity (if necessary) 3) Send the public data to the requestor and indicate the request is closed Do not maintain verification documentation, we just need to know you have verified it.

Complete by: 2021-03-14

Thank you,

Reference number: DR21_016701

Data Requested:

What data are you requesting?

1. All data, including but not limited to completed "coaching documentation" forms related to coaching of Derek Chauvin. 2. All data, including but not limited to completed "coaching documentation" forms, related to coaching of any officer as a result of his/her involvement in any one of the 44 incidents referenced in this news report <https://www.nbcnews.com/news/us-news/minneapolis-police-rendered-44-people-unconscious-neck-restraints-five-years-n1220416> in which an officer used a neck restraint or other method of restraint resulting in the partial or total obstruction of the breath or airways. 3. All data, included but not limited to completed "coaching documentation" forms (attached hereto), from January 1, 2020, to present, related to coaching of any officer resulting from a sustained complaint where the original complaint alleged a B-, C-, or D-Level Violation where coaching was the only correc

PI.'s Ex.

327

CITY071028

action taken. 4. All data, dating from January 1, 2011 to present, in which coaching is described as a form of discipline or acknowledged by a supervisor or the Chief of Police to constitute a form of discipline.

When was data created?

Start Date: 2011-01-01

End Date: 2021-02-19

Submitted:

2021-02-20 12:04:44

Requestor Information: Paul Ostrow

Requestor Email: paulostrow@hotmail.com

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Ref:MSG3379658

[EXTERNAL] This email originated from outside of the City of Minneapolis. Please exercise caution when opening links or attachments.

EXHIBIT

328

NOTICE OF DISCIPLINE (Arbitration Award)

December 9th 2019

Officer Peter Brazeau
Minneapolis Police Department

RE: OPCR #16-22845

Officer Peter Brazeau,

As a result of the Arbitration Award following the Veterans Preference Hearing #19-VP-0740, the final discipline for OPCR Case #16-22845 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-303		Use of Force	D	<u>SUSTAINED</u>

13.43 - Personnel Data As a result of the arbitrator's decision the City shall **13.43 - Personnel Data** impose 80 hours unpaid suspension. Additionally, you are to complete training individually or in the context of departmental training on how to control handcuffed individuals who continue to flail and kick at the arresting officers in the variety of factual circumstances that an officer may face. This training is to occur no later than 90 calendar days from the issuance of the award.

This case will remain in OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in more severe disciplinary action up to and including discharge.

Sincerely,

Thomas Wheeler

Thomas Wheeler
Commander

13.43 - Personnel Data

CC: Personnel file
OPCR
Deputy Chief of Professional Standards
Training Division Commander

P. Brazeau

12/23/2019
Rev.

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328

EXHIBIT

329

View this site using the latest version of Firefox or Chrome browsers. If you are seeing any issues, disable ad-blocking software.



Learn more

Home > Ticket Form - Record Producer

Ticket Number: DR23_053873

Type your message here... Send

Katie Knudsen
🕒 26m ago • Public Comments

Hello,

I have released responsive data through the OpenCity portal. It can take up to 15 minutes for the data to appear. Please log in to your OpenCity account, click on My Requests and then select this reference number to view the available data.

Data was withheld per Minnesota Statutes, Chapter 13: Government Data Practices–Section :13.43

Your request is now closed. If you have any questions, please do not hesitate to let us know.

We invite you to learn more about Data Practices, explore open government, or submit a request in the future: <http://www.minneapolismn.gov/datapractices>

This request will be available on the portal for 60 days after it is closed.

Attachments

DR2353873_IA (1)_Public.xlsx (16.6 KB)



3h ago

DR2353873_IA (2)_Public.xlsx (9.4 KB)



3h ago

DR2353873_OP CR_Public.xlsx (17.5 KB)



3h ago

Most Viewed Articles

Troubleshooting OpenCity - use latest browsers and disable ad-blocking software

👁️ 40 Views

PI.'s Ex.

329

Thank you,


Katie Knudsen | Enterprise Information Management Analyst I

City of Minneapolis – City Clerk's Office |


katherine.knudsen@minneapolismn.gov

*she/her


Tips for getting data faster

 30 Views

Types of data request forms available

 11 Views

Katie Knudsen

 11d ago • Public Comments

Hello,

Each request goes through four stages:

Intake - we receive the request and clarify if needed;

Collection - we locate and gather the requested data;

Review - we remove data not available to the public by law;

Production - we format and deliver the requested data.

Your request status is currently in **review**.

We are reviewing the data we have received. Depending on the amount of data in your request and the number (and size) of other requests being reviewed, this process can take some time.

Any public responsive data will be sent to you upon completion of review.

Thank you,

Katie Knudsen | *Enterprise Information Management Analyst*

City of Minneapolis – City Clerk’s Office |

katherine.knudsen@minneapolismn.gov

Isabella Salomao Nascimento

🕒 12d ago • Public Comments

Good morning, it has now been two months since this request. Please advise on the status of the request. Thank you.

Katie Knudsen

🕒 2mo ago • Public Comments

Hello,

We are in the process of working with departments to see if there is any data available for your request. I don't have an estimate for how long the collection process may take at this point.

Thanks,

Katie Knudsen | *Enterprise Information Management Analyst*

City of Minneapolis – City Clerk’s Office |

katherine.knudsen@minneapolismn.gov

*she/her

Isabella Salomao Nascimento

🕒 2mo ago • Public Comments

Good morning, could you please provide an update on the status of this request?

Katie Knudsen

🕒 2mo ago • Public Comments

Hello,

We have received your email and will reopen your request to determine next steps. Please let me know if you have any questions.

Thank you,

Katie Knudsen | *Enterprise Information Management Analyst*

City of Minneapolis – City Clerk’s Office

| katherine.knudsen@minneapolismn.gov

*she/her

Katie Knudsen

🕒 2mo ago • Public Comments

Hello,

We found that there is no data that can be made public that fulfills your request, per Minnesota Statutes, Chapter 13: Government Data Practices–Section 13.43.

At this time, your request will be closed.

We invite you to learn more about Data Practices, explore open government, or submit a request in the future: <http://www.minneapolismn.gov/datapractices>

Thank you,

Katie Knudsen | Enterprise Information Management Analyst
| City of Minneapolis – City Clerk’s Office
| katherine.knudsen@minneapolismn.gov

*she/her

*she/her

Full Name: Isabella Salomao Nascimento

🕒 2mo ago

DR23_053873 Created

Start

Original Request Form: General Data Request

Step 1 - WHAT data are you requesting? ⓘ

Required

Pursuant to the Government Data Practices Act, Minn. Stat. Chapter 13, the American Civil Liberties Union of Minnesota (ACLU-MN) requests the preparation of the following summary data in accordance with Section 13.05, subd. 7:

- A list of all sustained policy violations (including, but not limited to the manual provision that was violated) for which coaching was imposed against a Minneapolis police officer since 2011; and
- For each sustained violation listed, the level (which, e.g., prior to December 31, 2020 ranged from A to D, and on or after December 31, 2020, could range from A to E) at which the policy violations were sustained and coaching imposed.

For any summary data responsive to the above requests that your office does not

Step 2 - WHEN was data created? ⓘ


Enter a starting (from) and ending (to) date below. We will search for data within that date range. ✕


*** From Date**

2011-01-01

*** To Date**


2023-12-21

Step 3 - WHO may have the data? 

We will determine where to search based on the type of data requested. If you believe specific people, roles, or departments may have the data, identify them here. 

Human Resources, Internal Affairs Unit, Office of Police Conduct Review, MPD, City Clerk's Office

Additional contact details 

We will contact you using your registered email. If you prefer us to contact you by phone, please provide it here. If requesting on behalf of someone else please enter their contact information. 

Please include Ian Bratlie on any communications:

Ian Bratlie, staff attorney (ACLU-MN)
424 N Riverfront Dr #34
Mankato, MN 56001
507 995-6575

The information you provide to the City is subject to the Minnesota Government Data Practices Act and may be public. [Learn more.](#)

City of Minneapolis Office
of City Clerk,
City Hall, 350 S. 5th Street,
Room 304,
Minneapolis, MN 55415
[Site Map](#) [Privacy Policy](#)
ResponsibleAuthority@minneapoli...

Accessibility:
For reasonable accommodations
or alternative formats, contact
311.
People who are deaf or hard of
hearing can use a relay service to
call 311 at 612-673-3000.
TTY users can call 612-673-2157
or 612-673-2626.

Para asistencia 612-673-2700,
Yog xav tau kev pab, hu 612-637-
2800,
Hadii aad Caawimaad u
baahantahay 612-673-3500.
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City of Minneapolis, MN

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EXHIBIT

330

JEFFREY W. JACOBS

ARBITRATOR – MEMBER OF THE NATIONAL ACADEMY OF ARBITRATORS

ONE CORPORATE CENTER III
7300 METRO BOULEVARD
SUITE 300
EDINA, MN 55439

TELEPHONE: 952-897-1707
FAX: 952-897-3534
DIRECT DIAL: 952 767-1043
E-MAIL: jjacobs@wilkersonhegna.com

December 30, 2015

Mr. Joseph A. Kelly
Kelly & Lemmons, P.A.
223 Little Canada Road East
Suite 200
Little Canada, MN 55117

Mr. Mike Bloom
Minneapolis City Attorneys Office
City Hall, Room 210
350 S. 5th St.
Minneapolis, MN 55415

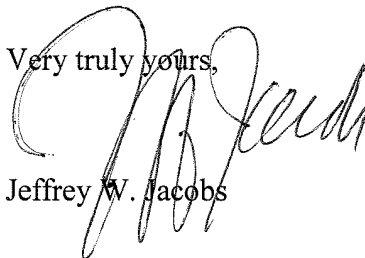
**RE: Minneapolis Police Officers Federation and City of Minneapolis
City Grievance #898; POFM Grievance 15-6**

Dear Mr. Kelly and Mr. Bloom:

I enclose the Decision and Award in the above matter. I also enclose a billing for arbitration services and expenses. Please forward this to the appropriate party for payment. Please let me know if the parties have any objection to the publication of this award.

Let me know if the parties have any additional questions or concerns. Once again, it was pleasure working with you; I look forward to doing so again.

Very truly yours,



Jeffrey W. Jacobs

JWJ:fsj

cc: BMS

POFM and City of Minneapolis – Dean Grievance arbaward ltr.doc

Pl.'s Ex.

330

FED001266

JEFFREY W. JACOBS

ARBITRATOR – MEMBER OF THE NATIONAL ACADEMY OF ARBITRATORS

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E-MAIL: jjacobs@wilkinsonhegna.com

December 30, 2015

Mr. Joseph A. Kelly
Kelly & Lemmons, P.A.
223 Little Canada Road East
Suite 200
Little Canada, MN 55117

Mr. Mike Bloom
Minneapolis City Attorneys Office
City Hall, Room 210
350 S. 5th St.
Minneapolis, MN 55415

**RE: Minneapolis Police Officers Federation and City of Minneapolis
City Grievance #898; POFM Grievance 15-6**

FOR SERVICES RENDERED:

Hearing on November 19, 2015
Review notes, hearing records;
Notes and exhibits
Draft Decision and award \$3,900.00

EXPENSES: \$.00

TOTAL FEES AND EXPENSES: \$3,900.00

ONE HALF TO BE PAID BY EACH PARTY \$1,950.00

**PLEASE FORWARD THIS TO THE APPROPRIATE PARTY FOR PAYMENT
THANK YOU
TAX ID # 62-1647956**

IN RE ARBITRATION BETWEEN:

POLICE OFFICERS FEDERATION OF MINNEAPOLIS

and

CITY OF MINNEAPOLIS

DECISION AND AWARD OF ARBITRATOR

JEFFREY W. JACOBS

ARBITRATOR

December 30, 2015

IN RE ARBITRATION BETWEEN:

Police Officers Federation of Minneapolis

and

DECISION AND AWARD OF ARBITRATOR
Dante Dean Grievance

City of Minneapolis

APPEARANCES:

FOR THE EMPLOYER:

Mike Bloom, Attorney for the Employer
Travis Glampe, Deputy Chief

FOR THE UNION:

Joseph Kelly, Attorney for the Union
Dante Dean, grievant
Lt. Robert Kroll, Federation President

PRELIMINARY STATEMENT

Hearings in the above matter were held on November 19, 2015 at the Minneapolis City Attorney's Office at City Hall in Minneapolis, MN. The parties presented oral and documentary evidence and the record was closed the parties submitted post-hearing briefs on December 14, 2015.

CONTRACTUAL JURISDICTION

The parties' collective bargaining agreement provides for binding arbitration of disputes. The arbitrator was selected from a list maintained by the parties. The parties stipulated that there were no procedural or substantive arbitrability issues and the matter was properly before the arbitrator.

ISSUE PRESENTED

Was there just cause for the 10-hour suspension of the grievant? If not, what shall the remedy be?

RELEVANT CONTRACTUAL AND POLICY PROVISIONS

Section 4.1

Section 4.1 The City, through the Chief of the Minneapolis Police Department or his/her designee, will discipline employees who have completed the required probationary period only for just cause.

4-411 ACCIDENT REVIEW COMMITTEE

...If a second accident occurs within a one-year time period, the employee shall be required to attend a remedial driver's training course at City expense. In the event a third accident occurs within one year

of completion of the remedial drivers training course, the accident will be categorized (B-D) and an IAU investigation will be conducted.

Policy 7-103 PRIORITY CALL CODE NUMBERS AND PROCEDURES

Call code numbers are used by dispatchers and officers to indicate the seriousness of an incident and the procedures for response. The responsibility for determining the appropriate call code number rests with the responding officer based upon information communicated from the MECC or other personnel.

- CODE ONE: Indicates that an officer cannot be located or does not answer the radio.
- CODE TWO: A call to be answered or situation to be handled immediately. The red lights and siren shall not be used and all traffic laws will be obeyed.
- CODE THREE: EMERGENCY SITUATION - To be answered immediately, but in a manner enabling the responding units to reach the scene as quickly and safely as possible. MS 169.03 and 169.17 require the use of red lights and siren for emergency driving.
- CODE FOUR: Situation is under control. Responding squads that have not arrived may clear.

7-403 VEHICLES - EMERGENCY RESPONSE (10/12/01)

Only police vehicles with lights and sirens are authorized for emergency response. All MPD officers shall use red lights and sirens in a continuous manner for any emergency driving. Officers responding to a Code 3 emergency shall exercise caution and due consideration for the safety of the public. Although Minn. Stat. §169.03 and 169.17 exempts officers from traffic statutes, the use of the red lights and siren does not exempt officers from the need for caution nor does it exempt them from criminal or civil liability. Officers driving low profile, unmarked, motorcycles, or other MPD vehicles should be particularly aware of the less visible nature of the emergency equipment in/on the vehicle and should use extra caution.

Officers are advised that circumventing light rail intersection crossing arms is a very dangerous practice. Officers going around the light rail crossing arms when they are down causes the light rail train operator to emergency brake the light rail car. When the light rail car is emergency braked, it causes passengers to be ejected from their seats and thrown to the floor, which could cause serious injury or death. Due to these risks, officers are prohibited from going around the light rail crossing arms when they are down at an intersection.

PARTIES' POSITIONS

DEPARTMENT'S POSITION

The department took the position that there was just cause for the issuance of a suspension for the grievant's actions herein. In support of this position, the employer made the following contentions:

1. The employer noted that the facts are virtually undisputed and established conclusively that the grievant violated clear department policy by failing to use his siren consistently when responding to an emergency call.

2. The department noted that the grievant was called to respond to an emergency call of an assault in progress and was proceeding up Cedar Avenue in south Minneapolis on the date in question, May 4, 2014, but failed to use his siren as the policy, 7-403 clearly requires. The department noted that, as all police departments are, the Minneapolis Police Department is a paramilitary organization where orders are orders and are to be followed without question to the letter. That policy requires that when responding to an emergency, siren and lights are to be used continuously – not intermittently at the discretion of the officer.

3. The department also noted that the policy is consistent with the requirements of state law. Minn. Stat 169.09 subd. 2 allows law enforcement officers to proceed through certain traffic control devices when responding to an emergency but further requires that “a law enforcement vehicle responding to an emergency call shall sound its siren or display at least one lighted red light to the front.” As a law enforcement officer, the grievant was expected to know this rule and follow it as well.

4. The grievant admitted that he used his siren intermittently – a fact that is quite obvious from a review of the dashboard camera showing the events immediately before the collision that occurred here. The department also argued that had the grievant used his siren properly he might well have been able to avoid the collision between another vehicle and his squad vehicle – which of course caused him to miss getting to the scene of what could well have been a very serious felony in progress.

5. The department argued that the grievant knew of the rule yet decided to violate it in order to possibly not scare the assailant away. The department posited that the policy does not allow for the officer to decide whether to follow this clear standing order on that basis. Moreover, hearing the siren could well have caused the assailant to stop the assault.

6. The department also noted that the record shows that the grievant proceeded on Cedar Avenue, a busy thoroughfare in Minneapolis at approximately 48 MPH despite the posted speed limit of 30 MPH.

7. While the speed itself alone was not the issue, the department argued that the excessive speed was all the more reason to sound the siren per policy in order to warn other drivers of his approach and to avoid the very crash that eventually occurred. Sounding the siren as he was required to might well have alerted the young driver who pulled out in front of an intersection and collided with the grievant's vehicle of his approach. Failure to do so can be presumed to have contributed to this crash and the grievant's inability to respond to an assault in progress.

8. The department also noted that the grievant has had at least two other "preventable" accidents in the preceding six months, see Department Exhibits 5 and 11, and that this accident was also determined to have been preventable. The department argued that his driving history shows a lack of attention to policy and that appropriate discipline must be administered to impress upon the grievant the need to follow procedure for the safety of everyone, including the public.

9. The department also noted that the grievant was injured as the result of the crash and that it was simply fortunate that no one else either in the other vehicle or standing on the street was injured due to the grievant's failure to follow procedure in this matter.

10. The department further argued that there is no question at all that there was just cause for discipline. The policy and state law are clear, the grievant, a 20 year veteran of the Minneapolis Police Department, knew of the rule and of the need to follow it and he admitted in the Garret hearing that he failed to use his siren continuously as the policy requires.

11. The department argued too that there was ample cause for the 10-hour suspension. The discipline matrix calls for a 10-hour suspension for this type of violation. Specifically, the Disciplinary Matrix provides that the baseline discipline for a "Lights/Siren use violation," such as was presented on these facts is a 10-hour suspension. See Department Exhibit 30.

12. While that may be adjusted up or down depending on certain aggravating or mitigating factors, the department and its witness went through the policy on administration of discipline, including the aggravating and mitigating factors present here and asserted that they essentially cancelled each other out. In other words, there were as many aggravating factors as mitigating factors so it was appropriate that the 10-hour suspension was left in place.

13. The department acknowledged that the three-person Discipline Panel, consisting of one management person and two bargaining unit members, determined that a written reprimand was sufficient in this instance but noted that ultimately theirs is only a recommendation. The Chief or her designee may alter that recommendation upon his/her review of the facts and circumstances. Deputy Chief Glampe went through the facts and the mitigating and aggravating factors and determined independently that a 10-hour suspension was appropriate given the clear violation, the injury which did occur as well as the possibility that others could have been injured and the grievant's prior preventable accidents. The department noted that both vehicles involved in the crash were not drivable following the collision and that there were pedestrians standing very close to the intersection where the crash occurred who could easily have been hurt or killed if things had gone slightly differently.

14. The department countered the claim by the federation that mitigating factors should have resulted in a reduction from the disciplinary matrix from the 10-hour suspension to a written reprimand. The disciplinary matrix does not require that discipline must start with a written or an oral reprimand. Neither does the contract provide for a reprimand in all cases. A 10-hour suspension, especially in light of such a serious violation that resulted in injurious consequences, can be imposed.

15. The matrix exists to provide clear guidance to all officers and to management alike regarding the disciplinary consequences of certain given violations. This is not only good policy but prevents allegations of favoritism or disparate treatment and assures that all are treated equally and fairly. The department noted that there was no allegation of disparate treatment here and no allegation that the grievant was the victim of discrimination or unfair treatment in this.

16. The department also hotly disputed the claim by the federation that there was an order to give the grievant a 10-hour suspension, irrespective of the facts of the matter, from a higher official even though the disciplinary panel and even Deputy Chief Glampe had recommended something far less. While there is a discrepancy in the dates on the memoranda, it is clear from the context that there was no such collusion and that the decision was made on the facts of the case and after a thorough and objective review of the facts in the matter.

17. The department further countered the claim by the federation that Deputy Chief Glampe thought that only a coaching session was necessary. While there was an e-mail in which he gave that statement it was based on an incomplete record of the case. Once all the facts were known, he legitimately changed his mind, given the prior preventable accidents in which he grievant was involved, and determined that the 10-hour suspension was appropriate.

18. Finally, the department acknowledged that the grievant is a 20 year veteran with no prior disciplinary history and several commendations for exemplary service and bravery but noted that the commendations are now more than 5 years old and that the grievant's conduct cannot be ignored or minimized given the potential for serious injury given his failure to follow clear procedure. The department also countered the claim by the union that the grievant was "just doing good police work" but using his siren intermittently. Good police work means following the policies and procedures in place to ensure effective police work but also to protect the safety of officers and the public. The grievant's violation here, in the department's view constituted a serious breach of that policy and that a 10-hour suspension was merited given the factors here.

The employer seeks an award denying the grievance in its entirety.

FEDERATION'S POSITION

The federation took the position that no discipline should have been issued at all. In support of this position the federation made the following contentions:

1. The federation asserted that the grievant is a 21 year veteran of the Minneapolis Police Force with no disciplinary history and seal commendations for exemplary service and bravery. The grievant is a long time veteran of the department who has demonstrated excellent police work over the course of more than two decades of service to the City and its citizens.

2. The federation acknowledged that the operative facts of the case were not in dispute. The grievant was working a normal shift on May 4, 2014 when he got a call to respond to an emergency of an assault in progress. That required him to drive north on Cedar Avenue in Minneapolis where the posted speed limit is 30 MPH. Due to the emergency nature of the call however he drove somewhat faster; reaching speeds of 48 MPH just prior to the collision here.

3. The federation and the grievant acknowledged that he did not use his siren continuously throughout the run up Cedar Avenue and that he used it when traffic was heavier and at intersections. The grievant asserted both in the investigative interview as well as at the hearing that as he neared the scene of the assault he determined to use his siren sparingly in order not to chase the assailant away. He decided that this might give him a better chance of apprehending the perpetrator and make an arrest. The federation characterized this as simply good police work and an officer using his best discretion out on the street, where policy sometimes does not fit each situation neatly, to deal with the emergency.

4. The federation acknowledged that he was not using his siren immediately before the collision but that he sounded it a few second prior to the crash to warn other drivers of his approach. The federation noted that there was at least one other driver who was behind the driver who eventually collided with the grievant's vehicle who indicated to officers at the scene that he saw the grievant coming and noted that his lights were on. The obvious conclusion here is that a young, 17-year old driver, with several other young people in her car, was distracted and did not look to see the grievant coming and pulled out directly in front of him.

5. The grievant took immediate evasive action, but the crash was unavoidable as the other driver simply failed to look or yield and drove right into the side of the grievant's police vehicle.

6. The federation referred to the video and argued that the driver of the other car who pulled out into oncoming traffic, including the grievant's vehicle, which had its lights on, did not look to her right to see the grievant's vehicle coming. She then collided with the grievant's vehicle on the driver's side, disabling it. The federation asserted that the other driver was clearly at fault for this crash since she was at a stop sign and required to yield to oncoming traffic on Cedar Avenue.

7. The federation acknowledged that there was a technical violation of the siren policy but hotly disputed that a 10-hour suspension was warranted in this situation. The federation noted that the grievant was completely forthright and honest under Garrity during the investigation and gave a complete and accurate version of what happened.

8. The federation noted that Deputy Chief Glampe's initial impression of this after reviewing the video and the investigative reports was for no discipline at all. He indicated in a July 1, 2014 e-mail that he felt that a coaching would have been appropriate.

9. The federation noted that the department's reliance on state statute is misplaced and that the policy is outdated. The policy regarding use of sirens and lights has been in place since 1988 when state law required use of both lights and sirens when responding to an emergency. The operative statute, Minn. Stat. 169.17 was amended in 1997 to require the use of lights *or* a siren. Thus the grievant's actions were not out of compliance with state law as the City suggested.

10. The federation asserted that the grievant followed policy even though he did not use his sirens continuously. The policy requires that officers responding to an emergency use appropriate caution and the federation asserted that the grievant used his siren when approaching intersections or where he felt it was needed to alert the public of his approach. He further certainly exercised due caution for the safety of the public, slowing and taken evasive action when necessary to avoid traffic and pedestrians. Thus there was no true "violation" of the policy.

11. The federation also argued that good police work requires that officers have the discretion to bend policies from time to time and noted that officers frequently drive over the posted speed limits in order to respond to emergencies and that they also do not always use both lights and sirens for various purposes - such as getting there in a somewhat stealthier manner in order to apprehend a suspect before they hear the siren and flee.

12. The federation's main argument though was that the degree of discipline imposed was far too harsh and inconsistent with the disciplinary policy itself, which requires a review of both aggravating and mitigating factors to determine the appropriate level of discipline. Those factors as set forth in the disciplinary policy, Federation Exhibit 30, are as follows: Commendations, Prior Discipline, Seniority, Rank, Circumstances, Culpability, Employee Attitude, Performance Evaluations, Training, and Liability.

13. The federation asserted that there were no aggravating factors and several important mitigating factors that should be considered and that when one looks carefully at these, it is apparent that the 10-hour suspension cannot be sustained.

14. The grievant has several commendations for his past service, as noted above. That should be counted as mitigating factors.

15. There is no prior discipline – the federation argued that this is a mitigating factor. He has 21 years of service with the department – length of service is generally considered in mitigating discipline.

16. Rank – officers of higher rank are held to a higher standard of conduct but the grievant is a patrol officer and should not be held to a higher standard than any other patrol officer.

17. Employee attitude: the grievant was forthright and contrite in all his dealing with the investigation. He never tried to hide his actions or to minimize his role in this. He freely acknowledged that he did not use his siren continuously and explained why.

18. Circumstances and culpability – the federation noted that he was responding to an assault in progress – meaning he had to get there in a hurry in order to render assistance and try to apprehend the suspect. His intermittent use of the siren was an effort to do exactly what the department and the public expect of a police officer in this situation – get there in a hurry and catch the person doing the crime. There was also clear evidence in the federation’s view that the young girl who pulled into him was responsible for the accident. She failed to yield to oncoming traffic after pulling away from a stop sign. Lights and sirens notwithstanding, she violated state statute by failing to yield to oncoming traffic, failed to keep a proper lookout and crashed into the side of a vehicle on the main road without even looking for him.

19. Performance evaluations – the federation noted that they are all good and that the grievant has been a good performer over his entire career. Training – the federation tied this into the discussion above regarding the lack of training on driving techniques but noted that he was not given any remedial training until after this incident. This not only is this not an aggravating factor it is a mitigating one in the federations; view and cannot be used to justify the suspension. The grievant was never disciplined or even coached after these other preventable accidents and they should not be used to suddenly create an aggravating factor here when they were not seen as major incidents at the time.

20. Liability – there was no claim made by any member of the public as the result of this collision and even though the grievant sustained a minor back injury he is back to work and has apparently recovered from the injury sustained in the crash of May 4, 2014.

21. The federation, as referenced above, also noted that the prior preventable accidents cannot be used to justify the suspension. The rules requires that for discipline to be imposed, remedial training must be given before such discipline can be imposed. Here the training was done well after this accident.

22. Further, the three-person disciplinary panel reviewed this entire scenario, including the dash cam video, the grievant's statements and the applicable policy and determined that a written reprimand was sufficient discipline to impose under these circumstances. The federation noted to that one of the members of that committee, a member of management, was at the hearing yet was not called to testify. He signed the recommendation for a written reprimand in this situation along with the other members of that committee.

23. The federation further noted that even the Disciplinary Matrix recognizes that "[t]he department recognizes that every discipline situation is different and that an employee's actions and history may worsen or improve the overall picture of misconduct." The federation asserted that when one considered the full record here, including the grievant's prior record and his actions taken that day in order to respond to an assault in progress as well as the initial recommendation for no discipline and the panel's recommendation for a written reprimand only, it is apparent that the 10-hour suspension is far too harsh and should be overturned.

The union seeks an award overturning the suspension, removing all record of discipline as the result of this incident and making the grievant whole.

MEMORANDUM AND DISCUSSION

FACTUAL BACKGROUND

There were few if any disputes over the material facts of this case. The grievant was doing routine patrol on May 4, 2014 when he received a call to respond immediately to an assault in progress. This could well have been a felony assault as far as the grievant knew at the time so he began making his way north on Cedar Avenue in Minneapolis, MN. Cedar Avenue is a busy thoroughfare even on a weekends and the video showed that traffic was heavy at times along his route.

He activated the emergency lights on his vehicle and these were shown to be on from the time he began responding to the call until the accident which occurred a few minutes later. The evidence showed, as the grievant freely acknowledged, that he did not use his siren continuously throughout the trip. A review of the video showed that he would use it intermittently when he got to intersections or when other drivers were on the road to alert them to his presence and of the need to move over to allow him to pass. He was also shown to slow down when approaching intersections in order to avoid traffic coming from the right or left who may not have been able to see his lights and to use caution for any pedestrians or others who may be on or near the streets.

The crash occurred at the intersection of 33rd Street and Cedar Avenue. The video showed quite clearly that he did not have his siren on until he got very close to that intersection and then not until the driver of a vehicle pulled out from the grievant's left into traffic. The video showed that vehicles were parked on the southbound parking lane and that it would have been difficult for a driver to see around them. The reasonable inference is that the young driver may have looked and did not see the grievant coming due to the parked vehicles in her sight lines.

She did not look to her right as she pulled into the lane of travel and it was then that the grievant activated the siren but by then it was too late. The young driver was going too fast and neither vehicle was able to stop or swerve away fast enough or far enough to avoid the crash. The other driver hit the driver's side of the grievant's vehicle disabling them both. The grievant immediately called the crash in and had to stop the response to the assault even though he was about a half mile away from it.

No one in the other driver's vehicle was hurt but the grievant complained of some back pain shortly after the accident. He sought treatment but the record here showed that he was able to return to work shortly afterward. There was damage to the police vehicle that had to be repaired but no other liability claims were shown here.

The grievant has two prior preventable accidents on his record both from approximately 6 months before this incident and both apparently related to sliding on black ice. There was no evidence that he was given remedial driving training after these and no evidence of any disciplinary consequences or even coaching following those two incidents. As discussed below, it was apparent from the record that these prior accidents factored into the decision to reject the recommendation of the disciplinary panel and impose the greater discipline in this case.

The incident was investigated and the grievant was interviewed under Garrity. The evidence showed that he was forthright with the investigators and told them what had happened. He was also truthful when asked about the use of his siren and acknowledged that he had used it intermittently, just as the video showed. He asserted that he used the siren sparingly so as not to alert the assailant of his impending approach.

The parties spent considerable time arguing over whether this was a sound decision in that the siren could certainly have caused the assailant to flee which would have perhaps made it more difficult to find and apprehend that person but could also certainly have stopped the assault. It would be pure speculation at this point to try to determine which was the more rational approach. What was clear was that the policy requires use of sirens and lights when responding to an emergency and that the grievant did not follow that procedure.

The evidence showed Deputy Chief Glampe was advised of this and sent an e-mail in which he opined initially that the matter sounded like a coaching session was warranted. The federation asserted that this was conclusive evidence that the department subverted the process but the message also showed that Deputy Chief Glampe may not have been fully aware of all of the circumstances at the time he sent that e-mail. On this record that e-mail message alone was not conclusive.

The matter was reviewed by a three-person disciplinary committee, comprised of Inspector Sullivan, Lt. Fossum, and Lieutenant May. Two of these individuals were bargaining unit members but all were experienced and responsible members of the Minneapolis Police Department and they unanimously agreed that the discipline should be a written reprimand for the failure to follow the lights and siren policy set forth above. This recommendation was forwarded to Deputy Chief Glampe on January 30, 2015 – some 6½ months after the e-mail of July 1, 2014.

There was some troubling evidence regarding what happened next. The evidence showed that Assistant Chief Clark who did not testify at this hearing, stated that he agreed with a sustained “B” violation and a 10 hour suspension based on the number of preventable accidents in 2013 and “points outlined in DC Glampe’s memo.” Clark signed and dated the document on March 4, 2015. The somewhat confusing evidence showed that Deputy Chief’s memo recommending the 10-hour suspension was dated March 16, 2015, almost two weeks after Assistant Chief Clark’s message that he agreed with the 10-hour suspension. It was not clear how these dates could be accurate or whether there was a foregone conclusion regarding the suspension. The department claimed that there must simply be a typo on the dates and that could certainly have been the case. There was also evidence that the grievant's work record may not have been thoroughly reviewed when deciding to impose the suspension. On this record it was not clear what exactly happened or what the exact time line was. What was clear was that the disciplinary panel’s recommendation for a written reprimand was rejected in favor of the suspension.

It was also clear that the prior preventable accidents were considered in determining the discipline even though no prior discipline, coaching or remedial training had been given to the grievant prior to the May 4, 2014 incident.

Based on this the department determined to impose the 10-hour suspension and the federation grieved this. The matter proceeded through the appropriate grievance steps to hearing. It is against that factual backdrop that the analysis of the matter proceeds.

WAS THERE A VIOLATION OF THE POLICY?

As noted above, the policy 7-403 provides as follows: “All MPD officers shall use red lights and sirens in a continuous manner for any emergency driving. Officers responding to a Code 3 emergency shall exercise caution and due consideration for the safety of the public.”

The federation raised a somewhat clever but ultimately unpersuasive argument that the grievant did not actually violate the policy. The argument was that nothing in the policy explicitly requires that the siren be used continuously but rather only when necessary to protect the public and to safely cross intersections or areas where the officer feels it is necessary. The crux of this argument appears to be that if the officer responding to an emergency is exercising caution and due consideration for the safety of the public, as required by the second cited sentence above, that officer is somehow absolved of the responsibility for compliance with the first sentence cited above.

That is not what the language says nor is what it clearly means.

The federation’s argument in this regard was inconsistent with the clear terms of the policy and must be rejected as inconsistent with the clear terms of the policy. Simply stated, the policy does require that the siren be used “continuously” when responding to an emergency. To read it the way the federation suggests would be an amendment to a public employer’s policy that an arbitrator has no power to do. On this record, it was clear that the grievant, while well-meaning, violated the policy.

CONSISTENCY WITH STATE STATUTES

The federation noted that the policy in place regarding use of sirens is outdated and old. Since it has been in place since 1988. Federation noted that the policy was consistent with state law in 1988 but that law changed in 1997 to allow for use of lights or sirens in responding to an emergency situation. See, Minn. Stat. 169.17, which provides as follows: “law enforcement vehicles shall sound an audible signal by siren *or* display at least one lighted red light to the front.” (Emphasis added.)

While the facts here show that the grievant was in compliance with state law, he was not however in compliance with the City of Minneapolis Police Department policy. State law may well set a minimum standard for safety but a City is free to dictate a more stringent policy to ensure the safety of the public or its employees. Here while the policy is different from the state law, it is not inconsistent with or in violation of it. Thus the policy is still quite valid. Further, it is not for an arbitrator to dictate to a public employer what its policies should be unless there are clearly in violation of or in violation of applicable law. Here no such evidence was presented.

On this record, the change in statute did not control the result. What does is the policy. As noted above, it was clear that the grievant violated the policy. The remaining question is whether the degree of discipline imposed was appropriate under these circumstances.

WAS THE DEGREE OF DISCIPLINE IMPOSED APPROPRIATE UNDER THESE FACTS?

One of the time honored tests of just cause is the determination of the appropriate penalty, given all of the facts and circumstances of a particular case. While arbitrators should be cautious in changing the penalty imposed by management once there has been a finding that there was a violation of a legitimate and appropriate rule so as not to substitute one's own judgment for that of management, arbitrators can and frequently do review the penalty, even in cases of short suspensions in order to determine just cause for that penalty. Here that power is supported by the terms of the disciplinary policy itself. The policy calls for this to be a class B offense and carries with it a presumptive 10-hour suspension. That however is not absolute. It is subject to the just cause analysis and, more to the point, can be adjusted up or down depending on the factors listed above in the federations contentions.

The parties discussed the various factors and whether they were aggravating or mitigating. This case warrants some discussion of each of them as well but on balance it was clear on this unique record that far more of them mitigated in favor of the grievant than were found to be aggravating.

The factors again are as follows: Commendations, Prior Discipline, Seniority, Rank, Circumstances, Culpability, Employee Attitude, Performance Evaluations, Training, and Liability. See Federation Exhibit 31.

The grievant has several commendations for his exemplary service. These are several years old but the policy itself does not delineate how old they must be before they are not to be given any weight or not considered at all. Their age was certainly considered but since there was no discipline, discussed below, or other problems with the grievant's employment history in the interim, this was a factor that weighed in his favor.

Prior discipline: There was none shown and this was clearly a factor in the grievant's favor.

Seniority: This too was a factor in the grievant's favor. The department argued that his long tenure showed that he was also aware of the rule and that he should therefore have known not to respond without his siren. This was admittedly a close call but 21 years of good service is a factor that weighed in the grievant's favor.

Rank: The grievant is a patrol officer and therefore held to the same standard of conduct as other patrol officers. This frankly was a neutral factor. All patrol officers should know and follow department rules. The fact that he is not held to some higher standard was a non-factor here.

Circumstances: This too weighed slightly in the grievant's favor. He was responding to what could well have been a felony assault in progress – that latter piece was important. On the other hand traveling at 48 MPH on Cedar Avenue in somewhat heavy traffic was a factor that weighed against the grievant. He frankly should have been much more attentive to having the siren on in that kind of traffic at that time of day. This was a factor that weighed slightly against the grievant in this case.

Culpability: This was a factor that clearly weighed in favor of the grievant. The video shows the other car pulling out from a side street with a stop sign and failing to yield to incoming traffic. While the grievant should have had his siren on too, he did have his lights on and the other driver failed to even look for those. This was a clear factor in the grievant's favor here.

Employee Attitude: This was also a clear factor in the grievant's favor. He was completely forthright and truthful, honest and contrite throughout this proceeding. He was very truthful in the hearing and by all accounts throughout the investigation as well.

Performance Evaluations: these were shown to be quite good. This was a factor that either weighed in the grievant's favor or were at least neutral. These were certainly not aggravating factors.

Training: the federation made much of the fact that the grievant was not given remedial driving training until after this incident. This was frankly something of a non-factor here – at least a neutral one. He was not given remedial driving training but one might well ask, do you really need remedial driving training to follow the policy on using the siren in this type of situation? The grievant knew that policy yet decided not to follow it for the reasons set forth above. The best that can be said here is that it is highly unlikely that the grievant will repeat this behavior should a similar situation arise in the future. On this record, this factor was thus considered somewhat neutral.

Liability: None was shown here other than the damage to the police vehicle and some medical bills for the grievant's back injury sustained in the accident. There was no other showing of liability here and no evidence of a claim filed by the other driver or anyone else involved in the crash. This too was something of a neutral factor and did not weigh heavily one way or the other.

On balance, there were more factors that mitigated the discipline imposed than aggravating ones. The policy does not appear to be one that measures each of those factors scientifically or is a mathematical calculation where each factor is given equal weight and if there are more in favor of mitigation than aggravation the result must be a reduction of the discipline. The plain reading of the policy does not appear to work that way. Some discretion is and must be given to the department to determine if any deviation up or down from the presumed penalty. That discretion though is passed on to the arbitrator as part of the just cause analysis and the factors should therefore be considered as part of that analysis. Here those factors showed that the penalty should be adjusted down.

The most important factor on this unique record was the recommendation of the discipline panel. It was clear that they reviewed the entire case and while their recommendation is not binding, it did carry some weight here.

One final matter was that it was clear that the decision to impose the 10-hour suspension appeared to be based to some degree on the prior preventable accidents. While those might be considered as part of the "circumstances" factor it was not clear what was involved in those mishaps. On this unique record, those were not given great weight.

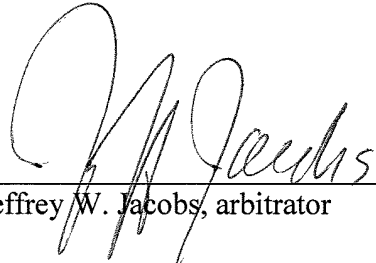
Based on the totality of the evidence it is determined that the grievant violated the lights and siren policy but that the factors listed in the discipline policy and the overall record supported the federation's claim for a reduction in the penalty. The federation claimed that there should be no penalty at all but that was not appropriate given the facts here. The 10-hour suspension is hereby overturned and replaced with a written reprimand, per the recommendation of the disciplinary panel discussed above. . The grievant's disciplinary record is to be amended to reflect this award and the City is ordered to make the grievant otherwise whole for lost back pay and contractual benefits pursuant to this award.

AWARD

The grievance is SUSTAINED IN PART AND DENIED IN PART. The 10-hour suspension is overturned and replaced with a written reprimand. The grievant is entitled to reimbursement for all lost pay and contractual benefits as a result of the action herein and his official record of discipline is to be amended to reflect this award.

Dated: December 30, 2015

POFM and City of Minneapolis Dante grievance AWARD.doc



Jeffrey W. Jacobs, arbitrator

EXHIBIT

332

October 24, 2016

Officer Andrew Reed
First Precinct
Minneapolis Police Department

Officer Reed,

RE: OPCR Case Number #16-09388
LETTER OF REPRIMAND

The finding for OPCR Case #16-09388 is as follows:

MPD P/P 5-401 Handling of Firearms.....SUSTAINED (Category B)

You will receive this Letter of Reprimand. This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

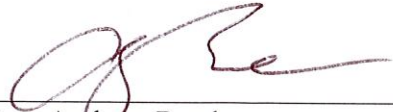
Janeé Harteau
Chief of Police



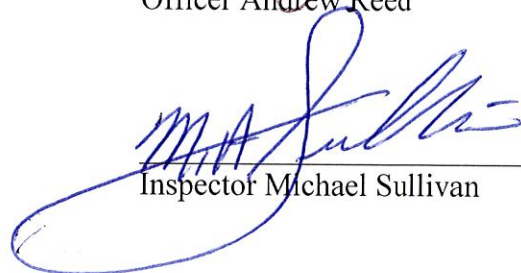
BY:

Assistant Chief
Kristine Arneson

I, Officer Andrew Reed, acknowledge receipt of
this Letter of Reprimand.



Officer Andrew Reed 11/2/16
Date of Receipt



Inspector Michael Sullivan 11-4-16
Date

CC: Inspector Michael Sullivan
Personnel
OPCR

EXHIBIT

334

From: Enslin, Mark <mark.enslin@minneapolis.gov>
Sent: Monday, January 29, 2024 4:32 PM
To: Parsons, Emmy; Riskin, Sarah (she/her/hers)
Cc: Walker, Leita; Salomao Nascimento, Isabella
Subject: RE: [EXTERNAL] Status of various discovery matters

⚠ EXTERNAL

Hello Emmy,

I hope you had a good weekend also.

Please see the answers below highlighted in yellow.

Thanks,

Mark

From: Parsons, Emmy <parsonse@ballardspahr.com>
Sent: Monday, January 29, 2024 2:10 PM
To: Enslin, Mark <mark.enslin@minneapolis.gov>; Riskin, Sarah (she/her/hers) <sarah.riskin@minneapolis.gov>
Cc: Walker, Leita <WalkerL@ballardspahr.com>; Salomao Nascimento, Isabella <salomaonascimento@ballardspahr.com>
Subject: [EXTERNAL] Status of various discovery matters

Mark and Sarah,

My apologies to everyone getting this a second time – this time with Sarah’s correct email address.

I hope you had a nice weekend. I wanted to touch base as there are several things Defendants have said they would provide us, including a few by last Friday the 26th, that we have not yet received.

Can you please tell us when to expect the following:

1. An updated privilege log;

We will produce an updated log tomorrow.

2. Confirmation regarding the 30.02(f) topics for which the City will designate Chief Huffman’s testimony as being on behalf of the City;

The City designates the following testimony:

Huffman Deposition:	25:23-26:9; 44:18-45:6; 60:1-18; 60:23-61:4; 61:23-64:21; 65:24-66:7; 66:15-24; 67:13-23; 69:14-70:20; 75:16-22 (ending after the word “that”); 76:5-15; 80:11-13; 81:20-22; 82:6-85:12; 87:17-88:12; 89:16 (starting with the word “And”)-89:13; 89:19-92:4; 94:12-95:7; 105:20-24; 106:8-
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108:20; 110:5-111:6; 113:5-19; 114:15-22; 117:12-118:1; 123:18-124:13; 125:16-25; 126:21-127:1; 136:13-137:1; 139:19-140:17; 143:17-144:19; 145:7-146:22; 149:21-150:2; 163:5-166:21; 167:7-171:7; 171:5-17; 177:1-13; 178:8-14; 199:2-12; 200:12-21; 202:9-11; 239:24-240:8; 263:13-24

3. Confirmation of the City’s designated 30.02(f) witness(es);

After reviewing the above designations, please let us know which topics you still believe you need testimony on. In addition, if there is other testimony from Chief Huffman or other witnesses the designation of which would resolve outstanding topics, please let us know. We are willing to consider additional designations, to the extent doing so will narrow or resolve 30.02(f) topics. The City continues to maintain its objections, as first disclosed in October.

4. Confirmation that Ms. Chernos no longer wishes to move her deposition date, or other dates before the close of discovery when she would prefer to be deposed. Absent an agreement between the parties, we will expect her to appear on February 13, but we are willing to see if there is another date the parties can agree to. Once we have confirmed the date, we will re-notice her deposition as a fact witness.

Ms. Chernos has informed us that she is available February 29 for her deposition. Alternatively, she could also be available February 15. She still requires a subpoena, which you may send to me. I am authorized to accept service on her behalf.

Please also confirm that you will compensate Ms. Chernos for preparation and deposition time pursuant to Rule 45.03(d). You do not seem to dispute that she fits under that rule – she is not a party, she is not a 30.02(f) witness, and you are seeking testimony from her relating to her profession as an attorney, and/or relating to knowledge, information, or facts she obtained as a result of activities while she was an attorney.

Under Rule 45.03(d), Ms. Chernos is entitled to “reasonable” compensation. \$200 per hour is a “reasonable” sum for an attorney with her level of experience and expertise. In fact, given the rates that Ballard charges (and will likely seek in any fee petition in this case), we find it difficult to believe that you will dispute that \$200 is a reasonable amount.

Please confirm your agreement to compensate Ms. Chernos.

5. A response to our January 17 email regarding the proposed stipulation.

We will provide a response this week.

Thank you,
Emmy

Emmy Parsons
She/Her/Hers
2023 Pro Bono Honor Roll – Gold

Ballard Spahr
LLP

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VCARD

www.ballardspahr.com

[EXTERNAL] This email originated from outside of the City of Minneapolis. Please exercise caution when opening links or attachments.

EXHIBIT

335



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Direct 612.673.2897
Mark.enstin@minneapolismn.gov

August 7, 2023

The Honorable Karen A. Janisch
Hennepin County Government Center
300 South Sixth Street, MC 332
Minneapolis, MN 55487

RE: *MNCOGI v. City of Minneapolis, et al.*, 27-cv-21-7237

Dear Judge Janisch:

Please accept this letter on behalf of Defendants in anticipation of the informal discovery conference scheduled for August 8, and in response to Plaintiff's letter dated August 4. The first three paragraphs of Plaintiff's letter contain argument regarding the merits of this dispute, not the discovery dispute. Suffice it say, neither MPD nor the Federation treat coaching as discipline. The fact that a few documents may use the word "discipline" in the context of coaching does not transform a process that the relevant parties uniformly treat as non-disciplinary into something else.

The primary impediment in discovery currently is that Plaintiff refuses to accept the Court's definition of "disciplinary action," as set forth in its February 6, 2023 Order and, therefore, refuses to apply that definition in fashioning relevant and proportional discovery requests. In fact, in its original "deficiency" letter dated May 19, 2023, Plaintiff suggested that the definition in no way limits the discovery, because the Court "is free to revisit and change that decision at some later date." Defendants have repeatedly asked Plaintiff to confirm that it would limit discovery to what is relevant under the definition of "disciplinary action" provided by the Court, but to date, Plaintiff has refused and has continued to seek discovery well-beyond the Court's definition. Plaintiff has served a total of 48 requests for production (not including subparts), 28 interrogatories (not including subparts), and 86 requests for admission, covering an overwhelmingly broad range of topics and subject areas far beyond the essential question of whether coaching for B, C, and D-level violations in the MPD constitutes "disciplinary action" under the MGDPA, which is what Plaintiff would need to show to prevail in this action.

Despite Plaintiff's overreaching, at this point, the only actual impasse in discovery concerns Defendants' redaction of limited private data in certain records. As Defendants have explained to Plaintiff, the redacted private data is facially irrelevant and, therefore, not discoverable. Defendants have produced substantial private data pursuant to the protective order in this matter—where such data is relevant. But the protective order does not require the production of private data that is otherwise not discoverable. Under Minn. Stat. § 13.03, subd. 6, Defendants are entitled to resist discovery of this private data unless and until the Court determines otherwise, which includes a determination both as to the discovery of the data in the first place and, if discoverable, as to "whether the benefit to the party seeking access to the data outweighs any harm to [confidentiality or privacy interests]." Plaintiff has no need to receive irrelevant private data through discovery in this action.

Judge Janisch
August 7, 2023

Page 2

The parties' negotiation of custodians and search terms is ongoing. Defendants have always believed and asserted that the discovery requests themselves are overbroad and not proportional to the case, but they have negotiated both search terms and custodians in a good faith effort to move the case forward, with agreement that the parties would continue discussing terms if the searches appeared to return a high rate of "false" hits. For reference, the discovery stay was listed on April 27, 2023, and Plaintiff did not deliver a proposed list of search terms until the afternoon of July 3. At a subsequent "meet-and-confer," Plaintiff asked Defendants to propose a list of custodians. Defendants responded to Plaintiff's proposed search terms and provided a custodian list on July 21. Since that time, the parties have continued to negotiate terms and custodians, with Plaintiffs continually asking for additional terms and more custodians. Most recently, Plaintiff has demanded the City search 53 independent custodians, for 48 separate search terms (plus derivatives), over the course of 11 years, applying every search term to every custodian. As Defendants informed Plaintiff, these searches resulted in an estimated 500,000 "hits." Because Defendants believe the number of hits is overwhelmingly from irrelevant documents, those terms, custodians, and time limitations are unreasonable, unnecessary and overly burdensome, Defendants are in the process of analyzing the search results to propose narrowed terms/custodians, which they have told Plaintiff they will do. In sum, Defendants have negotiated search terms in both a timely and good faith manner; the fact that the parties have not agreed upon custodians and terms is due in large measure to Plaintiff's unwillingness to agree to a search protocol that is calculated to lead to relevant and proportional discovery.

Although Plaintiff takes issue with Defendants' production schedule, Plaintiff ignores its own role in any perceived delays. In addition to the example above regarding search terms, one of the principal categories of documents that Defendants have not yet produced are A-level coaching documentation forms that include the terms "warning" or "discipline." Defendants consistently objected to producing these documents and explained during the "meet and confer" process that A-level coaching documentation forms are irrelevant because this case (and the underlying data request) have always involved only the question of whether B, C, and D level coaching constitutes discipline, and Defendants already produced all B, C and D level coaching documentation forms (even though these constitute private data). Defendants further explained that responding to Plaintiff's requests regarding A-level coaching documentation forms would be overly burdensome, because there were hundreds of forms over the past 11 years that would need to be individually manually retrieved and reviewed. After the initial "meet and confer" process, Plaintiff walked away from these requests. Nevertheless, in July, Plaintiff backtracked and again demanded that Defendants produce A-level coaching documentation forms. Although Defendants maintained their objections, Defendants agreed to manually retrieve and review all A-level coaching documentation forms and produce those forms that use the word "warning" or "discipline" (or a derivative thereof) to avoid a discovery dispute. Defendants are in the process of pulling and reviewing those forms, but as Defendants have told Plaintiff going back as far as May, that is a burdensome and time-consuming process. There is no rational way that Plaintiff can blame Defendants for not having produced these documents earlier.

In sum, Defendants request that the Court instruct Plaintiff to limit its discovery requests to information and documents that are relevant to the narrow issue before the Court, which is whether coaching in the MPD for B, C, and D-level violations constitutes "disciplinary action" under the definition provided by the Court. Plaintiff's discovery to date is facially overbroad for the narrow issues before the Court. Defendants agree that additional time is likely necessary, and they are prepared to negotiate a proposed amended schedule following the Court's guidance on the scope of discovery.

Judge Janisch
August 7, 2023

Page 3

Sincerely,

/s/ Mark Enslin

Assistant City Attorney

EXHIBIT

336

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

MINNESOTA COALITION ON
GOVERNMENT INFORMATION,

Case Type: Other Civil

Plaintiff,

Court File No.: 27-CV-21-7237

Judge: Karen A. Janisch

v.

CITY OF MINNEAPOLIS; CASEY J. CARL, in
his official capacity as City Clerk for the City of
Minneapolis; PATIENCE FERGUSON, in her
official capacity as Chief Officer of the Human
Resources Department for the City of
Minneapolis; and MEDARIA ARRADONDO, in
his official capacity as Chief of Police for the
Minneapolis Police Department,

**DEFENDANTS' RESPONSES TO
PLAINTIFF'S FIRST SET OF
REQUESTS FOR ADMISSION**

Defendants.

Defendants provide the following objections and responses to Plaintiff's First Set of Requests for Admissions.

GENERAL OBJECTIONS

1. Defendants respond to Plaintiff's requests as specifically provided in Minnesota Rules of Civil Procedure 26.01 and 36.01 et seq. and the Local Rules.
2. Defendants object to Plaintiff's requests to the extent they seek information or documents protected from discovery by the work product doctrine, the attorney client privilege or any other privilege or protection.
3. Defendants object to Plaintiff's requests to the extent that they assume, imply or require legal conclusions.

CONFIDENTIAL

respond: ADMIT that a Warning may be disciplinary under the Minneapolis Civil Service Rules. Defendants DENY that a Warning is always disciplinary.

REQUEST FOR ADMISSION 52: Admit that the Chief of Police has discretion to issue a Warning to an officer for a violation of the Policy Manual.

RESPONSE: Defendants object to this request as irrelevant. Defendants object to this request as vague and ambiguous, because the definition of “Warning” in the request is ambiguous and incomplete. Subject to and without waiving these objections, Defendants respond: ADMIT.

REQUEST FOR ADMISSION 53: Admit that the City’s Labor Agreement with the Federation explicitly contemplates that an officer may be disciplined for certain violations of the Policy Manual by receiving a Warning.

RESPONSE: Defendants object to this request as irrelevant. Defendants object to this request as vague and ambiguous, particularly as to the terms “explicitly contemplates.” Defendants object to this request as vague and ambiguous, because the definition of “Warning” in the request is ambiguous and incomplete. Subject to and without waiving these objections, Defendants respond: DENY.

REQUEST FOR ADMISSION 54: Admit that the City’s Labor Agreement with the Federation does not contemplate appeal of a Warning through the grievance process set forth in the Agreement.

RESPONSE: Defendants object to this request as irrelevant. Defendants object to this request as vague and ambiguous, particularly as to the terms “does not contemplate.” Defendants object to this request as vague and ambiguous, because the definition of

Stat. § 13.43, and the Court has determined the definition of the phrase “disciplinary action.” Defendants also object to this request as an improper request for admission.

Dated: May 8, 2023

KRISTYN ANDERSON
City Attorney
By

/s/ Mark Enslin
TRACEY N. FUSSY (#0311807)
MARK ENSLIN (#0338813)
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EXHIBIT

337

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT

Case Type: Other Civil

MINNESOTA COALITION ON
GOVERNMENT INFORMATION,

Court File No.: 27-CV-21-7237
Judge: The Hon. Karen A. Janisch

Plaintiff,

v.

CITY OF MINNEAPOLIS; CASEY J. CARL, in
his official capacity as City Clerk for the City of
Minneapolis; PATIENCE FERGUSON, in her
official capacity as Chief Officer of the Human
Resources Department for the City of
Minneapolis; and MEDARIA ARRADONDO, in
his official capacity as Chief of Police for the
Minneapolis Police Department,

**DEFENDANTS' SUPPLEMENTAL
ANSWERS TO PLAINTIFF'S
INTERROGATORIES**

Defendants.

Defendants City of Minneapolis and Casey J. Carl hereby provide the following
supplemental responses to Plaintiff's Interrogatories:

GENERAL OBJECTIONS

1. Defendants will respond to these Interrogatories as specifically required by Rule 33
of the Minnesota Rules of Civil Procedure. Defendants object to the extent that Plaintiff's
Interrogatories, including Plaintiff's Definitions and Instructions, seek to impose any burden
greater than that imposed by the Rules.

2. Defendants object to the Interrogatories to the extent they seek information
protected from discovery by the work product doctrine, the attorney client privilege, or any other
privilege, immunity, or protection.

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Subject to and without waiving these objections, Defendants state that, pursuant to Rule 33.03 of the Minnesota Rules of Civil Procedure, responsive information regarding subpart A is located in documents produced or to be produced in this litigation. To the extent Plaintiff is unable to locate such documents, and upon request, Defendants will provide the bates-range for the responsive documents. Defendants further state that, there have been situations where an individual resigned or otherwise separated from employment prior to a discipline decision being made or reaching final disposition. Those situations aside, Defendants state that the answers to subparts B-D are: ZERO.

2. Explain in detail your denial of Paragraph 33 of the Complaint. Without limiting the foregoing in anyway, explain how coaching does not constitute a verbal discussion between the employee and supervisor covering the details of the problem and plans for correcting the problem and explain how the Coaching Documentation Form is not a written memo that documents the event.

ANSWER: Defendants object to this Interrogatory because it is premature, in light of Defendants' noticed Motion for Judgment on the Pleadings. Defendants further object to this Interrogatory as vague and unduly burdensome, including with respect to the instruction to explain "in detail." Defendants further object to the extent this Interrogatory seeks one or more legal conclusions.

Subject to and without waiving these objections, Defendants state that, although coaching involves a conversation between the employee and supervisor and written documentation of the conversation, coaching and the coaching process are not "identical to a warning," as alleged in Paragraph 33. Among other differences, coaching is not discipline and cannot be appealed through the grievance process under the City's Labor Agreement with the Police Officers' Federation of

Minneapolis or under the Civil Service Rules. Pursuant to Minn. R. Civ. P. 33.03, Defendants further direct Plaintiff to the May 11, 2021 Coaching and Performance Management Presentation during the Police Conduct Oversight Commission meeting, *available at* https://www.youtube.com/watch?v=OxvCq_aGles&t=803s, a true and correct transcription of which is being simultaneously produced.

SUPPLEMENTAL RESPONSE: Defendants withdraw their objection related to prematurity. Defendants reassert the other objections and response above.

3. To the extent you dispute the figures and statistics in Paragraph 42 of the complaint, provide what you believe are accurate ones.

ANSWER: Defendants object to this Interrogatory because it is premature, in light of Defendants' noticed Motion for Judgment on the Pleadings. Defendants also object to this Interrogatory because it is neither relevant to any party's claim or defense nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and the likelihood that the burden or expense of the proposed discovery outweighs its benefit. Although the number of complaints resulting in discipline may be relevant to "public confidence in law enforcement," Compl. ¶ 54, it is not relevant to the question of whether Plaintiff has been denied public data. Defendants also object to this Interrogatory because Paragraph 42 contains false allegations of fact and incorrect assumptions, including that Paragraph 42 misstates multiple aspects of the OPCR complaint handling and review process. Defendants are unable to provide data where there is a fundamental flaw in the description of the data being sought.

ANSWER: Defendants object to this Interrogatory because it is premature, in light of Defendants' noticed Motion for Judgment on the Pleadings. Defendants further object to this Interrogatory as vague and unduly burdensome, including with respect to the instruction to explain "in detail." Defendants object that this Interrogatory is neither relevant to any party's claim or defense nor proportional to the needs of the case. This Interrogatory is entirely speculative, assumes facts that do not exist, and seeks a legal conclusion that has no bearing on the question of whether Plaintiff has been denied access to public data.

SUPPLEMENTAL RESPONSE: Defendants object to this Interrogatory on the grounds that it is compound, confusing, speculative, makes false assumptions of fact and law, and calls for several legal conclusions. This Interrogatory seeks information that is neither relevant to any party's claim or defense nor proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' resources, the importance of the discovery in resolving the issues, and the likelihood that the burden or expense of the proposed discovery outweighs its benefit. Subject to and without waiving these objections, Defendants respond: NO.

AS TO OBJECTIONS:

Dated: May 8, 2023

KRISTYN ANDERSON
City Attorney
By

/s/ Mark Enslin
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