

## **Additional Findings**

Minneapolis Police Department Policy and Procedure 4-411 Accident Review

Committee states in part:

**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.**

## **Investigative Facts**

- Officer Dante Dean had a preventable squad accident on 12/05/2013; IAU Case Number 14-07111.
- Officer Dante Dean had a preventable squad accident on 12/28/2013; IAU Case Number 14-07009.
- Per Minneapolis Police Department Policy and Procedure 4-411 as shown above, "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."
- Correspondence via email with Lt. Christopher Hudok of the MPD Traffic Investigations Unit and Sgt. Mark Klukow of the MPD 3<sup>rd</sup> Precinct dated 07/22/2014 revealed that Officer Dante Dean had not yet been sent to the remedial drivers training; therefore, this section of P&P 4-411 does not apply to this case.

## **SUMMARY OF ALLEGATIONS**

**Allegation # 1:** Officer Dante Dean did not use his squad siren in a continuous manner during an emergency response to an Assault In Progress call on 05/04/2014 at approximately 1147 hours.

### **Minneapolis Police Department Policy and Procedure Manual**

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

(B-D)

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. (12/14/07)

### **Minnesota State Statute**

#### **169.03 EMERGENCY VEHICLES.**

##### **Subdivision 1.Scope.**

The provisions of this chapter applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state, or any county, city, town, district, or any other political subdivision of the state, subject to such specific exemptions as are set forth in this chapter with reference to authorized emergency vehicles.

##### **Subd. 2.Stops.**

The driver of any authorized emergency vehicle, when responding to an emergency call, upon approaching a red or stop signal or any stop sign shall slow down as necessary for safety, but may proceed cautiously past such red or stop sign or signal after sounding siren and displaying red lights, except 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.

**Subd. 3. One-way roadway.**

The driver of any authorized emergency vehicle, when responding to any emergency call, may enter against the run of traffic on any one-way street, or highway where there is authorized division of traffic, to facilitate traveling to the area in which an emergency has been reported; and the provisions of this section shall not affect any cause of action arising prior to its passage.

**Subd. 4. Parking at emergency scene.**

An authorized emergency vehicle, when at the scene of a reported emergency, may park or stand, notwithstanding any law or ordinance to the contrary.

**Subd. 5. Course of duty.**

No driver of any authorized emergency vehicle shall assume any special privilege under this chapter except when such vehicle is operated in response to any emergency call or in the immediate pursuit of an actual or suspected violator of the law.

**169.17 EMERGENCY VEHICLE.**

The speed limitations set forth in sections 169.14 to 169.17 do not apply to an authorized emergency vehicle responding to an emergency call. Drivers of all emergency vehicles shall sound an audible signal by siren and display at least one lighted red light to the front, except that law enforcement vehicles shall sound an audible signal by siren or display at least one lighted red light to the front. This provision does not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of persons using the street, nor does it protect the driver of an authorized emergency vehicle from the consequence of a reckless disregard of the safety of others.

**Investigative Facts**

- On 05/04/2014, Officer Dante Dean was working Squad 330A during

**13.43**

- Officer Dante Dean was actually driving Squad 331, P#76668, which is a fully marked Minneapolis Police Department squad SUV, specifically a black and white Ford Explorer with emergency lights and siren.
- MVR video from Squad 330 captured Officer Dante Deans response to an Assault In Progress call.
- The MVR video clearly shows that Officer Dean used his emergency lights in a continuous manner while travelling northbound on Cedar Ave S; however, Officer Dean used his siren intermittently and in short bursts.
- A Honda Accord was eastbound on 33<sup>rd</sup> St E and had a stop sign.
- As Officer Dean drove northbound through this intersection, the Honda Accord entered the intersection of 33<sup>rd</sup> St E and Cedar Ave S and struck Squad 330 at a right angle.
- Officer Dante Dean had the right of way.
- MVR video shows that no siren had been sounded from Squad 330 for approximately 20 seconds prior to this accident; however, the siren did sound within the last second before impact.
- The MVR video contains GPS data that indicated Squad 330's speed at 48 MPH just before the Honda Accord enters the intersection.
- Squad 330 can be seen on the MVR video veering to the right and slowing slightly before impact.
- Officer Dante Dean reported back pain after the accident, and he was taken to HCMC for medical attention. The five occupants of the striking Honda Accord did not report any injuries.

- Officer Dean stated in his formal interview that he had been responding to the Assault In Progress call with his red lights on and intermittent siren. He stated that he responded in this manner because he didn't want the suspect to run off.

I confirm that the information I provided in this case is true to the best of my knowledge.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "J. Walters", with a long horizontal flourish extending to the right.

Sgt. Jason Walters

Internal Affairs Unit

**IN RE ARBITRATION BETWEEN:**

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**POLICE OFFICERS FEDERATION OF MINNEAPOLIS**

**and**

**CITY OF MINNEAPOLIS**

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**DECISION AND AWARD OF ARBITRATOR**

**JEFFREY W. JACOBS**

**ARBITRATOR**

**December 30, 2015**

IN RE ARBITRATION BETWEEN:

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Police Officers Federation of Minneapolis

and

DECISION AND AWARD OF ARBITRATOR  
Dante Dean Grievance

City of Minneapolis

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**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 13.43 - Personnel Data 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)**

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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 **13.43** 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.