

**MINNEAPOLIS POLICE DEPARTMENT
INTERNAL AFFAIRS DIVISION**

COMPLAINT INFORMATION					
Case Number	Precinct	MECC - CCN	Date of Incident	Time	Date of Complaint
16-06804	N/A	N/A	11/06/2015	1246 hours	2/22/2016
Location of Incident			City/State/Zip		
43052 254 th Place			McGregor, MN		
Complainant Name (Last, First, Middle Initial)				Sex	DOB
13.43 - Personnel Data					
Complainant Signature					
Home Address			City/State/Zip	Primary Telephone	
[REDACTED]			[REDACTED]	[REDACTED]	
BADGE/NAME			ALLEGED POLICY VIOLATIONS		
#2400 David Gray			MPD P&P § 5-102 Code of Ethics [REDACTED]		
ALLEGATION SUMMARY					
It is alleged that Sgt. David Gray operated a motor vehicle under the influence while off duty [REDACTED] [REDACTED]					
SUPERVISOR ASSESSMENT			PRELIMINARY RECOMMENDATION		
INVESTIGATIONS <input type="checkbox"/> Preliminary Investigation <input type="checkbox"/> Admin Investigation			<input type="checkbox"/> Reckoning Period Expired <input type="checkbox"/> No Basis for Complaint <input type="checkbox"/> Closed Pending Further Information <input type="checkbox"/> Failure to Cooperate <input type="checkbox"/> Refer to Precinct <input type="checkbox"/> Cleared by Exception <input type="checkbox"/> Policy Failure <input type="checkbox"/> Other		
FINAL APPROVED INVESTIGATIVE REPORT <input checked="" type="checkbox"/> Refer to Deputy Chief of Professional Standards					
IAU C [REDACTED]				Date 2/14/16	

Investigative Summary

Complaint Number: 16-03498
Investigator: Sergeant Brian Sand
Officer: Sergeant David Gray #2400
Case Type: Administrative
Date of Incident: November 6, 2015
Complaint Filed: February 22, 2016

CASE OVERVIEW

On November 6th, 2015, MPD employee Sergeant David Gray (Gray), while off-duty on personal time, was involved in a crash while operating an All-Terrain Vehicle (ATV) in the City of McGregor-Aitkin County. As a result of the crash, Aitkin County Sheriff's Deputy Travis Winter (Deputy Winter) responded to the scene, however Gray had already been transported by ambulance to Riverwood Hospital in the City of Aitkin.

Deputy Winter responded to Riverwood Hospital to interview Gray regarding the crash. Deputy Winter obtained a search warrant for the blood of Gray after a preliminary breath test offered by Gray indicated that his blood alcohol content (BAC) was .34. Deputy Winter left a copy of the search warrant with Gray who remained in the hospital.

An Analysis of the blood sample taken from Gray later showed that his BAC was .336. As a result, on February 17, 2016, Gray was charged with 2 counts of 3rd Degree DWI. On February 22, 2016 Gray notified the Internal Affairs Unit and Precinct Inspector after he had received a summons notifying him of the criminal complaint.

POLICY

1. 5-102 CODE OF ETHICS

13.43 - Personnel Data

ALLEGATIONS

Allegation 1: Sgt. David Gray operated a motor vehicle under the influence of alcohol while off duty

13.43 - Personnel Data

Key Issues:

Issue 1: Whether Sgt. Gray, off duty, operated a motor vehicle while under the influence of alcohol violating policy 5-102, the code of ethics

CASE INVESTIGATION

I was assigned this case on February 22nd, 2016 and I first called Aitkin County to obtain a copy of the police report. I reviewed the police report #15-004326 and read that Sergeant David Gray (Gray) struck a tree while driving an ATV in the City of McGregor on November 6th 2015. Gray was taken to Riverside Hospital in the City of Aitkin where he sustained a broken leg. Deputy Travis Winter of the Aitkin County Sheriff's Office was dispatched to the call and eventually talks to Gray at the hospital. Deputy Winter observes that Gray is displaying signs of being under the influence of alcohol and Gray is administered a breath test which shows a .34 blood alcohol level (BAC).

Deputy Gray obtained a search warrant for Gray's blood where the results show a .336 BAC. Gray was not arrested at the time of the incident but was later sent a summons in the mail on February 22nd, 2016 that he was being charged with 2 counts of 3rd degree gross misdemeanor DWI. Gray informs Inspector Waite and Lt. Halvorson of internal affairs of this criminal complaint at the time he received it. Gray was interviewed by me in the internal affairs unit on March 2nd, 2016. In reviewing Gray's work history I learn that he has 26 years of police experience with the Minneapolis Police Department

DISCUSSION

The Minneapolis Police Department's Policy and Procedure Manual states in part:

5-102 CODE OF ETHICS

All sworn and civilian members of the department shall conduct themselves in a professional and ethical manner at all times and not engage in any on or off-duty conduct that would tarnish or offend the ethical standards of the department. Employees shall abide by the City's Ethics in Government Policy, Chapter 15.

In the interview, Gray states to having two rum and cokes earlier in the day before crashing his ATV at 1230 hours that Friday afternoon and to drinking the night before the crash. Sgt. Gray was charged with two counts of gross misdemeanor DWI and had a blood alcohol level of .34 at the time of the crash. The code of ethics state that sworn members conduct themselves in a professional manner and not engage in any off-duty conduct that would tarnish or offend the ethical standards of the police department. A .34 blood alcohol is four times over the legal limit per Minnesota statute. Gray doesn't dispute any facts of the Aitkin County Police Report.

The Minneapolis Police Department's Policy and Procedure Manual states in part:

13.43 - Personnel Data

Gray stated to me he remembers driving his ATV that day and hitting a stump that was covered in grass which caused his crash.¹ This is contrary to what he told Winter in the Aitkin police report, Gray told Deputy Winter that he was traveling too fast causing the back end of the ATV to swerve causing him to veer off the road. Gray remembers calling 911 after the crash because he somehow knew his leg was broken.² Gray goes onto remembering riding in the ambulance and being at the hospital but vaguely remembers talking to the deputy. He doesn't remember taking a PBT that showed a .34 alcohol level.

¹ Gray interview page 3 line 12

When I asked Gray about the copy of the search warrant that was left with him at the hospital, he stated that he thought it was "just standard".³ Gray goes on to say that he knew on the search warrant that there were allegations that they thought I was drinking.⁴ Gray does remember calling his wife later that night but remembers nothing else while at the hospital.⁵ Deputy Winter reported that Gray reviewed the search warrant prior to obtaining his blood at the hospital.⁶

Gray stated to me that he has never done a search warrant in his 26 year career and if he did someone would have helped him.⁷ The Aitkin County search warrant states that the reason for the blood draw constitutes evidence that a crime has been committed, or tends to show that a particular person has committed a crime.⁸ Policy states that you shall notify your chain of command if you are being investigated for a criminal offense. Gray was not arrested at the hospital the day of the incident but informed his inspector 3 ½ months later when the court summons arrived in the mail.

CLOSING

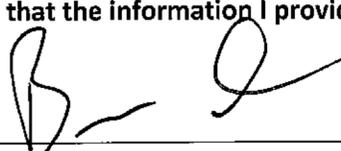
There are two key issues presented when considering this case:

Issue 1: Whether Sgt. Gray, off duty, operated a motor vehicle while under the influence of alcohol violating policy 5-102, the code of ethics.

- a. Gray was charged with 2 counts of 3rd Degree DWI in the County of Aitkin after an analysis of his blood showed a BAC of .34.

13.43 - Personnel Data

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


Investigator:

4-12-14
Date

³ Gray interview page 5 line 32

⁴ Gray interview page 5 line 38

⁵ Gray interview page 7 line 1

⁶ Deputy Winter narrative paragraph 5

⁷ Gray interview page 6 line 28

⁸ Search warrant from State of Minnesota, County of Aitkin

EVIDENCE

1. Statements

- a) Statement from Sgt. David Gray

2. Records

- a) Aitkin Police Report #15-004326
- b) Aitkin Charging Document
- c) Search Warrant for Gray's Blood

June 20, 2016

Sergeant David Gray
Second Precinct
Minneapolis Police Department

RE: IAU Case Number #16-06804
Notice of Suspension (40 hours suspension without pay)

Sergeant Gray,

The finding for IAU Case #16-06804 is as follows:

MPD P/P 5-102 Code of Ethics (Criminal Activity: Gross Misd.).....SUSTAINED (Category C)

13.43 - Personnel Data

As discipline for this incident you are suspended for 40 hours without pay.

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.

Sincerely,

Janeé Harteau
Chief of Police



By: Kristine Arneson
Assistant Chief

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Sergeant Gray
Suspension Letter

I, Sergeant David Gray, acknowledge receipt of this
Notice of Suspension.

Sgt. D Gray 7-12-16
Sergeant David Gray Date of Receipt

Inspector Waite 07-12-16
Inspector Waite Date

CC: Personnel
Inspector Waite
IAU