

**MINNEAPOLIS POLICE DEPARTMENT  
INTERNAL AFFAIRS COMPLAINT FORM #3401**

**COMPLAINT INFORMATION**

INTERNAL AFFAIRS CASE NUMBER: <b>15-19282</b>	CCN: <b>13-143876</b>	DATE OF INCIDENT: <b>08/20/2015</b>	TIME OF INCIDENT: <b>Unknown</b>
LOCATION OF INCIDENT: <b>Unknown</b>	DATE OF COMPLAINT <b>09/11/2015</b>	REFERRAL METHOD: <b>Internal</b>	
COMPLAINANTS NAME (LAST, FIRST MIDDLE) <i>Internal</i>	SEX M <input type="checkbox"/> F <input type="checkbox"/>	RACE:	DATE OF BIRTH:
HOME ADDRESS:	CITY / STATE / ZIP:	TELEPHONE:	

**POLICY INFORMATION**

**POLICIES ALLEGED TO BE VIOLATED:**  
**5-103 USE OF DISCRETION (A-D)**  
 The police profession is one that requires officers to use considerable judgment and discretion in the performance of their daily duties. Officers have a large body of knowledge from Department policies and procedures, training, their own professional police experience and the experiences of their fellow officers to guide them in exercising proper judgment and discretion in situations not specifically addressed by Department rules and regulations. In addition, officers must always adhere to the following principles in the course of their employment with the Minneapolis Police Department:

- **POLICE ACTION - LEGALLY JUSTIFIED:** Officers must act within the limits of their authority as defined by law and judicial interpretation, thereby ensuring that the constitutional rights of individuals and the public are protected. All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause. (11/17/15)
- **EQUALITY OF ENFORCEMENT:** Officers shall provide fair and impartial law enforcement to all citizens.
- **LOYALTY:** Officers shall be faithful to their oath of office, strive to uphold the principles of professional police service, and advance the mission of the Department.

**ACCUSED EMPLOYEE(S)**

NAME/BADGE:  
**Lt. Richard Zimmerman, Badge #7961**

**COMPLAINT ALLEGATIONS**

**It is alleged that Lt. Zimmerman released a motorcycle 18 USC 2721 & 2725 from the Minneapolis Impound Lot on 08/20/2015. This motorcycle was being held in relation to a critical incident and pending civil litigation.**

**RECOMMENDATION**

(Preliminary Cases Only)

- Reckoning Period Expired Before Complaint was Filed
- No Basis for Complaint
- Closed Pending Further Information
- Refer to Precinct with Coaching Documentation
- Exceptionally Cleared
- Policy Failure
- Other

COMPLAINANT SIGNATURE:	DATE
COMMANDER REVIEW: <i>[Signature]</i>	DATE <b>3/25/16</b>



**Investigative Summary**

**Complaint Number:** 15-19282  
**Investigator:** Sergeant Jason Walters  
**Officer (s):** Lieutenant Richard Zimmerman, Badge #7961  
**Case Type:** Administrative  
**Date of Incident:** August 20, 2015  
**Complaint Filed:** September 11, 2015

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**CASE OVERVIEW**

On 05/10/2013, a Minneapolis Police Department squad was involved in a critical incident with a motorcycle at the intersection of 26<sup>th</sup> Street W. and Blaisdell Ave. S. The driver of the motorcycle did not survive, and the female passenger of the motorcycle was injured. The motorcycle was towed to and held at the Minneapolis Impound Lot Forensics Garage. The Minneapolis Police Department Homicide Unit was assigned to investigate this critical incident.

The Minneapolis Police Department and the Minneapolis City Attorney's Office were made aware of pending civil litigation, and all evidence and artifacts related to this critical incident were requested to be preserved by the plaintiff's legal counsel.

During the summer of 2015, the Minneapolis Impound Lot requested that the Minneapolis Police Department reevaluate the vehicles currently on hold at their facility and release any unnecessarily held vehicles. Lt. Zimmerman of the Homicide Unit released a list of vehicles, including the motorcycle involved in the pending civil litigation.

**POLICY**

1. 5-103 Use of Discretion

**ALLEGATIONS**

**Allegation 1:** It is alleged that Lt. Zimmerman did not exercise proper judgment and discretion when he authorized the release of the motorcycle from the Minneapolis Impound Lot that was being held in relation to a critical incident and pending civil litigation.

**Key Issues:**

*Issue 1: Did Lt. Zimmerman exercise proper judgment and discretion when releasing the motorcycle from its hold at the Minneapolis Impound Lot?*

**CASE INVESTIGATION**

**Memorandum**

Commander Catherine Johnson wrote a memorandum dated September 11<sup>th</sup>, 2015, referring this matter to the Internal Affairs Unit. This memorandum outlined the chain of events and conversations as recalled by Commander Johnson regarding this matter.

**Statement of Commander C. Johnson**

Commander Johnson was directed by the Minneapolis Impound Lot to address vehicles being held at the impound lot and reevaluate current holds by units under her command. She notified her lieutenants and directed them to address the list of vehicle holds. She later learned that Lt. Zimmerman had released the motorcycle in question.

**Statement of Lieutenant R. Zimmerman**

Lt. Zimmerman was directed to address the vehicles being held by the Homicide Unit. He reached out to his investigators regarding these holds. After not receiving responses from investigators, Lt. Zimmerman authorized the release of all vehicles on holds by the Homicide Unit prior to January of 2014, except for a Pontiac Trans Am.

**CAPRS Report 13-143876**

Supplement #58 was written by Lt. Zimmerman on September 8<sup>th</sup>, 2015. He documented that he authorized the release of the motorcycle in question on August 20<sup>th</sup>, 2015.

**Impound Lot Records**

Impound Lot records show that Lt. Zimmerman wrote an authorization for the release of all vehicles held by the Homicide Unit prior to January of 2014, except for a Pontiac Trans Am. The motorcycle in question was released on September 3<sup>rd</sup>, 2015.

## Litigation Hold

Attorney Chris Messerly authored a litigation hold letter addressed to Chief Janeé Harteau and the Minneapolis City Attorney's Office on November 15<sup>th</sup>, 2013, requesting that all evidence and artifacts that were obtained in the investigation of above mentioned critical incident be preserved until the civil litigation has been completed.

## DISCUSSION

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

### **5-103 USE OF DISCRETION**

(A-D)

The police profession is one that requires officers to use considerable judgment and discretion in the performance of their daily duties. Officers have a large body of knowledge from Department policies and procedures, training, their own professional police experience and the experiences of their fellow officers to guide them in exercising proper judgment and discretion in situations not specifically addressed by Department rules and regulations. In addition, officers must always adhere to the following principles in the course of their employment with the Minneapolis Police Department:

- **POLICE ACTION - LEGALLY JUSTIFIED:** Officers must act within the limits of their authority as defined by law and judicial interpretation, thereby ensuring that the constitutional rights of individuals and the public are protected. All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause. (11/17/15)
- **EQUALITY OF ENFORCEMENT:** Officers shall provide fair and impartial law enforcement to all citizens.
- **LOYALTY:** Officers shall be faithful to their oath of office, strive to uphold the principles of professional police service, and advance the mission of the Department.

Lt. Zimmerman has been with the Minneapolis Police Department since 1985. He has been assigned to the Homicide Unit almost exclusively since March of 1993, and he has been the Lieutenant of that unit since late 2008.<sup>1</sup> The Minneapolis Police Department Homicide Unit typically investigates critical incidents, and it was assigned to investigate the critical incident that occurred on 05/10/2013.<sup>2</sup>

Cmdr. Johnson was directed to address vehicle holds at the impound lot and release vehicles no longer needed by her investigative units; she delegated this task to her lieutenants.<sup>3</sup> Lt. Zimmerman was directed by Cmdr. Johnson to address a list of approximately 130 vehicles on Homicide Unit holds.<sup>4</sup>

<sup>1</sup> Workforce Director Records.

<sup>2</sup> Lt. Zimmerman's Garrity statement, page 6, lines 16 – 18.

<sup>3</sup> Cmdr. Johnson's Garrity statement, page 2, lines 21 – 29.

<sup>4</sup> Lt. Zimmerman's Garrity statement, page 2 line 34 through page 3 line 8.

Cmdr. Johnson specifically mentioned the motorcycle in question when directing Lt. Zimmerman to address the Homicide holds.<sup>5</sup> Lt. Zimmerman did not recall that conversation, stating that if he had been told not to release that vehicle, he would have held onto it.<sup>6</sup>

Lt. Zimmerman admitted that he did release approximately 80 vehicles from the impound lot<sup>7</sup> after reaching out to his investigators regarding the holds but getting no responses.<sup>8</sup> One of these vehicles was the motorcycle from the critical incident at 26<sup>th</sup> and Blaisdell Ave on 05/10/2013.<sup>9</sup> He stated that he just overlooked this vehicle when doing what he thought was best for the department in clearing out the impound lot.<sup>10</sup>

Lt. Zimmerman had not checked with the Minneapolis City Attorney's Office to see if any of the vehicles required further holds. He stated that they are usually notified by the City Attorney when certain evidence or vehicles are to remain held; however, he did not remember receiving a notification about this motorcycle, and he did not recall ever seeing the litigation hold letter by Chris Messerly.<sup>11</sup>

Cmdr. Johnson expected that the lieutenant in charge of Homicide, because Homicide is so frequently exposed to criminal and civil litigation surrounding their investigations, would check to make sure that evidence is no longer needed for criminal and civil cases before releasing it. When Cmdr. Johnson asked Lt. Zimmerman if he had verified that the motorcycle was no longer needed for any civil cases before he released it, Lt. Zimmerman stated, "I hadn't thought of that."<sup>12</sup> Cmdr. Johnson had not seen the litigation hold letter by Chris Messerly prior to Lt. Zimmerman's release of the motorcycle, nor did she have any reason to believe that Lt. Zimmerman would have seen this letter. However, Cmdr. Johnson had a vague recollection of a conversation well prior to the release of the motorcycle regarding potential civil litigation from the female passenger of the motorcycle.<sup>13</sup>

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<sup>5</sup> Cmdr. Johnson's Garrity statement, page 3 line 31 through page 4 line 10.

<sup>6</sup> Lt. Zimmerman's Garrity statement, page 7 line 22 through page 8 line 7.

<sup>7</sup> Lt. Zimmerman's Garrity statement, page 5 line 41 through page 6 line 1.

<sup>8</sup> Lt. Zimmerman's Garrity statement, page 3, lines 10 – 30.

<sup>9</sup> Lt. Zimmerman's Garrity statement, page 6, lines 6 – 40.

<sup>10</sup> Lt. Zimmerman's Garrity statement, page 9, lines 13 – 19.

<sup>11</sup> Lt. Zimmerman's Garrity statement, page 8 line 23 through page 9 line 11.

<sup>12</sup> Cmdr. Johnson's Garrity statement, page 5, lines 5 – 34.

<sup>13</sup> Cmdr. Johnson's Garrity statement, page 6 line 5 through page 7 line 13.

**CLOSING**

In closing, did Lt. Zimmerman exercise proper judgment and discretion when releasing the motorcycle from its hold at the Minneapolis Impound Lot?

- a) Lt. Zimmerman has vast experience and knowledge regarding critical incidents and cases investigated by the Homicide Unit.
- b) The motorcycle in question was a key piece of evidence in a major critical incident involving the Minneapolis Police Department, and Lt. Zimmerman's Homicide Unit investigated this case.
- c) Lt. Zimmerman admitted to releasing the motorcycle in question from the impound lot without checking with the City Attorney's Office to see if this vehicle was needed for further litigation.

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

  
Investigator: \_\_\_\_\_

03/24/16  
Date

## **EVIDENCE**

### **1. Statements**

- a) Lieutenant Richard Zimmerman
- b) Commander Catherine Johnson

### **2. Records**

- a) Memorandum from Commander C. Johnson
- b) CAPRS Report 13-143876
- c) Minneapolis Impound Lot Records
- d) Civil Litigation Information
- e) Correspondence
- f) Workforce Director Records

**Case Finding Memorandum**  
**IAU Case #15-19282**

To: Assistant Chief Arneson  
From: Commander DeChristopher Granger  
Subject: Discipline Panel Recommendation for Internal Affairs Case # 15-19282  
Date: 4-29-2016

On April 12<sup>th</sup>, 2016, a Discipline Panel consisting of Commander Gerald Moore, Deputy Chief Bruce Folkens and I (panel chair) reviewed Internal Affairs case # 15-19282. A Loudermill Hearing was conducted on April 22<sup>nd</sup>, 2016 and Lt. Richard Zimmerman was present without representation. Based on facts contained in the case file and information received during the hearing, the panel unanimously recommends resolving this matter as follows:

**Charge against Lt. Richard Zimmerman:**

**MPD 5-103 Use of Discretion B-Level Sustained**

This complaint stems from an incident that took place on August 20<sup>th</sup>, 2015 when Lt. Zimmerman was alleged to have not exercised proper judgement and discretion when he authorized the release of the motorcycle from the Minneapolis Impound Lot that was being held in relation to a critical incident that occurred on May 10<sup>th</sup>, 2013 and pending civil litigation.

This decision was based on the totality of the evidence in the case but the following were some of the key factors for this decision:

1. From her memo to Internal Affairs dated September 11, 2015, Commander Johnson, in an attempt to address any unnecessary vehicle holds at the impound lot, instructed Lt. Zimmerman to review the list of vehicles on hold for homicide, provided him a list of those vehicles and instructed him to consult with assigned investigators before releasing any vehicles. Commander Johnson also emphasized that she understood some vehicles would need to be held due to circumstances such as the vehicle having been involved in a critical incident, using the motorcycle on hold from the May 10th, 2013 squad accident as an example that would likely need to remain on hold.
2. When Lt. Zimmerman was asked if he had consulted with the lead homicide investigators specifically regarding the motorcycle, he replied that he had not. He also said that Sgt. Karakostas came in with the list of vehicles pointing out vehicles that could be released on cases Sgt. Karakostas had worked but that he didn't remember if Sgt. Karakostas indicated whether the motorcycle could be released or not.
3. Lt. Zimmerman documented a phone call he received in September 2013 from an investigator of the Law Firm he noted as Robbins and Kaplan in a CAPRS supplement, number 49. His supplement stated the investigator wanted information on the case and that Lt. Zimmerman was notified by this investigator that the attorney would not be letting (Homicide) talk to the motorcycle passenger, their client.
4. The law firm that sent the Notice of Claim to the City Attorney's Office was Robbins, Kaplan, Miller & Ciresi.

5. Lt. Zimmerman provided his Homicide Investigators with a list of the vehicles on hold and asked them to view the list and determine if there were any vehicles that they wanted held or that needed to be held. He also brought it up at a roll call and then spoke with each investigator asking them to complete the list for him. After receiving no responses from his investigators, with the exception of the interaction he had with Sgt. Karakostas, Lt. Zimmerman stated that he released approx. 80 of the approx. 130 vehicles on the list.
6. During the Loudermill Hearing, Lt. Zimmerman said that this vehicle (the motorcycle) was released by his mistake and that he didn't mean to release it.

The panel recommends that Lt. Richard Zimmerman receive a **Letter of Reprimand** for his conduct in this incident.

Respectfully submitted,



Commander DeChristopher Granger  
Violent Crimes Investigations Division

May 20, 2016

Lieutenant Richard Zimmerman  
Homicide Unit  
Minneapolis Police Department

Lieutenant Zimmerman,

RE: IAU Case Number #15-19282  
**LETTER OF REPRIMAND**

The finding for IAU Case #15-19282 is as follows:

**MPD P/P 5-103 Use of Discretion.....SUSTAINED (Category B)**

You will receive this Letter of Reprimand. 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,

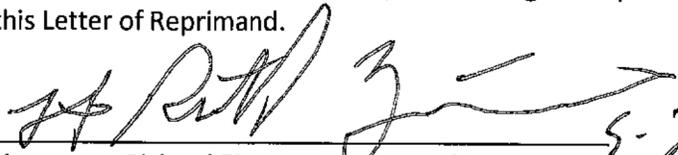
Janeé Harteau  
Chief of Police

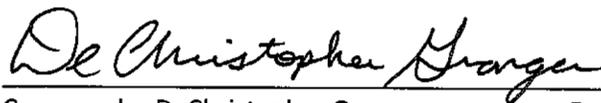


BY:

Assistant Chief  
Kristine Arneson

I, Lieutenant Richard Zimmerman, acknowledge receipt of  
this Letter of Reprimand.

  
Lieutenant Richard Zimmerman Date of Receipt 5-27-16

  
Commander DeChristopher Granger Date 5-25-16

CC: Commander Granger  
Personnel  
IAU