

Minneapolis
City of Lakes

Police Department

Timothy J. Dolan
Chief of Police

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

Office 612 673-2853
TTY 612 673-2157

June 9, 2011

Civilian Review Authority
Samuel L. Reid
350 South 5th Street, CH Room 239, City Hall
Minneapolis, MN 55415-1424

RE: CRA Case #10-2823

Dear Mr. Reid:

An Administrative Review has been conducted into CRA Case #10-2823, which was a sustained case by CRA against Officer John Bennett for violating MPD P/P 5-301.01 Use of Force.

Chief Dolan reviewed the case and Officer John Bennett has signed a "Last Chance Agreement." The sustained allegation will be at a "D" level, he will receive an 80 hour suspension, and he has been removed from the Canine Unit. Also, this final outcome is not subject to grievance or arbitration.

If you have any questions please feel free to contact me.

Sincerely,

Timothy Dolan
Chief of Police

By: Scott Gerlicher
Deputy Chief of Professional Standards



Honorable Mayor R. T. Rybak
Minneapolis Police Federation
Lt. Rugel

Officer John Bennett

IN THE MATTER OF

CITY OF MINNEAPOLIS
Minneapolis Police Department

LAST CHANCE AGREEMENT

And

**POLICE OFFICERS' FEDERATION OF
MINNEAPOLIS**
John Bennett

This LAST CHANCE AGREEMENT ("Agreement") is made and entered into by and between the City of Minneapolis ("City"), the Police Officers' Federation of Minneapolis ("Federation") and John Bennett ("Officer Bennett") and collectively ("The parties").

WHEREAS, at all times material, the City and the Federation are parties to a Labor Agreement ("Labor Agreement") that governs the relationship between them, effective January 1, 2008 through December 31, 2011; and,

WHEREAS, the Federation is the sole and exclusive certified collective bargaining representative of the employees in the classification and who comprise the bargaining unit ("Employees"); and,

WHEREAS, at all times material, Officer Bennett is a City employee working as a Patrol Officer in the Minneapolis Police Department ("Department") and is a member of the Federation; and,

WHEREAS, the Civilian Review Authority ("CRA") sustained a MPD Use of Force Policy violation (MPD policy 5.301.01) against Officer Bennett (CRA Case # 10-2823); and,

WHEREAS, Article 5, Section 5.4 of the parties' Labor Agreement grants the Chief of Police the full authority of the City Council to resolve disciplinary disputes; and,

NOW THEREFORE, the City, the Federation and Officer Bennett desire to enter into this LAST CHANCE AGREEMENT, which represents a negotiated settlement related to Officer Bennett's employment status with the City, on the following terms and conditions:

1. As a result of the sustained CRA finding in CRA Case # 10-2823, Officer Bennett agrees to accept a D-level violation for this offense and agrees to serve an 80-hour suspension without pay.
2. Officer Bennett also agrees and acknowledges that any similar sustained use of force violations will be deemed an egregious act resulting in discharge.

3.

5. Officer Bennett agrees that he will be removed from the position he held in the MPD canine unit.

6. Officer Bennett agrees any sustained policy violation at a "C" level (during its reckoning period) or a "D" level (or its equivalent if the discipline matrix changes) for violations of MPD Use of Force (MPD policy 5.301.01) or MPD Use of Discretion (MPD Policy 5-103) policies will result in immediate termination of employment, which Officer Bennett (or the Federation on his behalf) agrees not appeal the termination to the Civil Service Commission or file a grievance under the labor agreement.

7. Officer Bennett understands and agrees that this is a LAST CHANCE AGREEMENT and upon a showing that Bennett failed to meet any one of the above conditions, the City will terminate his employment.

8. Should Officer Bennett or the Federation, on his behalf, timely grieve or appeal any discharge under this LAST CHANCE AGREEMENT, the Parties agree that the only issue which may be presented to and adjudicated by the hearing officer is whether Officer Bennett violated one of the conditions of the LAST CHANCE AGREEMENT as charged. All other defenses are to be deemed immaterial and are waived. Upon a finding that Officer Bennett violated one or more of the conditions of this LAST CHANCE AGREEMENT, the Parties agree there is just cause for termination and the Parties agree that the hearing officer will not be asked to consider mitigating factors. The Parties agree that the hearing officer may not modify the penalty of discharge if a violation of the LAST CHANCE AGREEMENT is found.

9. The Federation, as an entity and on behalf of its members agrees that this LAST CHANCE AGREEMENT shall not be used in any arbitration, Civil Service Commission hearing or other proceeding, except to enforce the terms of this Settlement Agreement.

10. This Agreement and its terms shall not establish any precedent within the City and are without precedent or prejudice to future cases. The terms of this Agreement, the circumstances of this case and the discussions leading to this Agreement shall not be referred to, directly or indirectly, by any of the parties to this agreement, in any future case involving any City employee. The terms of this Agreement shall be of no value as evidence and shall not be submitted as evidence, by any of the parties to this agreement, in any arbitration, hearing, appeal or other proceeding involving any City employee.

If this provision is violated in any arbitration, hearing, appeal or other proceeding, a mistrial may be declared. If any of the parties to this agreement, or its representative violates this provision and causes the mistrial, the offending party shall be responsible for the Arbitrator's or Hearing Officer's fee and Court Reporter's fees, if any, and other expenses associated with the mistrial.

11. Officer Bennett and The Federation agree not to file any grievances, Civil Service Commission appeals, lawsuits, appeals, charges, or claims, or engage in any proceeding of any

nature against the City or its representatives which in any way relate to the imposition of this LAST CHANCE AGREEMENT and will withdraw or cause to be withdrawn any such grievances, lawsuits, appeals, charges, or claims which may have been filed or are currently pending.

12. Officer Bennett acknowledges that he has read and voluntarily accepted the terms and conditions of this LAST CHANCE AGREEMENT, that he has had ample opportunity to consult with the legal counsel of his choice or the Federation and fully understands the ramifications of any violation of the LAST CHANCE AGREEMENT.

ACCEPTED AND AGREED TO:

DATE: 6/4/2011



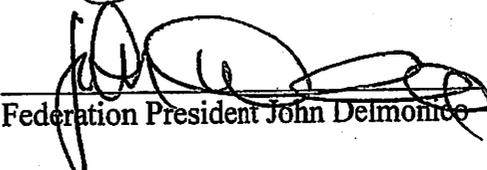
John Bennett, Badge No.0406

DATE: 6/1/2011



Chief of Police, Tim Dolan

DATE: 6/4/11



Federation President John DeMonico

TO: Chief Dolan
FROM: Captain Sally Weddel
DATE: April 19, 2011
RE: CRA Case #10-2823

On April 7, 2011 hours a Loudermill Hearing was held on CRA Case 10-2823. The panel consisted of Deputy Chief Gerlicher, Deputy Chief Allen and I. During the Loudermill hearing Officer Bennett was given the chance to give the panel any mitigating circumstances to the case.

Officer Bennett stated the reason for the initial stop was because the suspects were felons who had just committed an armed robbery involving kidnapping. Bennett stated he was doing the job that night the same as the past twenty years which was proactive police work. Bennett told panel members that he's had a clean record over the years, positive attitude, self motivator, many awards and even shot at twice.

Bennett also had his Federation Representative, Lt. Kroll, and Federation Attorney, Ann Walthers present. Both of these individuals reiterated that Officer Bennett was doing his job on the date in question and it should be taken into consideration the slippery conditions, LED light bars and sirens of four squad cars blaring in the background.

Officer Bennett stated he did not see the arms of the suspect out the window because of the above conditions. He stated he did see someone sitting in the passenger side of the car but that was all he saw. Officer Bennett stated the reason he went around the back of the suspect vehicle and released his K-9 Benny is because of exigent circumstances. He believed the individual to be an armed robbery suspect where no gun had been recovered.

It should be noted that Bennett, Kroll and Walthers all stated Bennett has no history of this type of behavior so this should be taken under consideration. However, since the investigation of this case it was learned there is another case being investigated in the Internal Affairs Unit. This case involves a suspect who allegedly surrendered with Officer Bennett releasing the dog inappropriately.

Due to the statements during the Loudermill hearing it was decided by the panel to do a reenactment of the incident.

On 4/11/2011 beginning at 2000 hours, the discipline panel went to the incident location, 2926 Knox Avenue North to conduct the reenactment. This was coordinated by Sgt. [REDACTED] and Sgt. [REDACTED] from the Internal Affairs Unit. Crime lab personnel, Forensic Scientists 1, [REDACTED] and [REDACTED] were

also present to videotape the reenactment and to take still photographs. The purpose of this reenactment was to determine whether the flashing lights and spotlights from the police vehicles used in this case could have temporarily obstructed the complainant as he had his hands out of the window in an apparent attempt to surrender. During the Louder mill hearing, Officer Bennett maintained that although he appeared to look directly at the complainant as he passed by the suspect vehicle, he did not see the suspect or his hands up and out of the window.

In order to conduct the reenactment we utilized the same make and model squad cars as well as the same make and model light bars used by the primary and secondary vehicles in this incident. The primary vehicle used for the reenactment was squad 922 which was equipped with a Federal Radiant LED light bar. The secondary vehicle which would have been Officer Bennett's squad was in this case squad 925 which was equipped with a Federal Radiant Halogen light bar. We also utilized an unmarked passenger vehicle from the MPD fleet to take the place of the suspect vehicle. Sgt. [REDACTED] played the role of the complainant in this case and was seated in the front passenger seat of the vehicle with the window open.

It should be noted that prior to starting the reenactment, the discipline panel of myself, DC Gerlicher, and DC Allen met at the SOC along with Sgt. [REDACTED] and Sgt. [REDACTED] as well as crime lab personnel. There we repeatedly viewed the incident videotape. We then proceeded to the incident location where we positioned the unmarked subject vehicle along with two marked squads. The squads were positioned in similar position to where they had been positioned in this incident and similar distance to the subject vehicle. This was just south of 2926 Knox Ave North. At the scene, we compared the view from the squad camera to that of the videotape of the squad camera in this incident in order to determine the location.

All three discipline panel members walked the same path that Officer Bennett had taken in this incident which included walking rapidly up the steps leading to 2926 Knox Ave North, turning, glancing at the subject vehicle, and then rapidly moving down the steps and approaching the subject vehicle in similar fashion to that of Officer Bennett. Although we could not replicate the snow, all other conditions were replicated as close to the actual incident (absent the sirens) as possible. In viewing the videotape of the incident, it was clear to the panel that the snow bank adjacent to the subject vehicle was not high enough to offer any visual obstruction to Officer Bennett as he passed by, and in fact, could have offered some additional light reflectivity into the subject vehicle and on to the subject.

In reenacting the incident, the panel made the following observations:

1. At the top of the stairs leading to 2926 Knox Ave North, when you first glance down towards the subject vehicle, the flashing squad lights and

spotlights are very bright; however, the spot lights are below your line of sight. It is possible to see movement of a subject seated in the passenger seat as well as movement outside of the vehicle when hands are outside. It is not fully clear, however, what the movement is or what the subject may have been doing.

2. As you move down the stairs and start to approach the subject vehicle, it becomes increasingly difficult for a time, to see inside the vehicle or to see the subject's hands due to the flashing lights and spotlights.
3. As you approach the vehicle more closely, and especially as you glance into the vehicle while you are next to it, just as Officer Bennett had done in this case, it is very easy to spot the subject in the vehicle as well as his hands protruding from the vehicle in a sign of surrender. In fact, the light from the spotlights illuminates the subject and makes it very easy to see him and all of his movements. At this point, Officer Bennett would not have been looking into the flashing lights or spotlights.
4. As you move behind the vehicle, it is again very easy to observe all of the actions of the subject inside the vehicle.
5. Once we walked around to the driver's open door, you could still see the passenger with his hands out the window. This view not obstructed.

Conclusion of reenactment:

Officer Bennett's claimed in his statement to CRA and during the Loudermill Hearing that he at no point saw the subject put his hands up inside or outside the vehicle and that his vision was obscured by the blinding flashing lights. The reenactment provides conclusive evidence that although this may have initially been the case, that when he approached the subject vehicle more closely, he would have easily been able to observe all of the actions of the subject. The incident video shows Officer Bennett looking directly at the subject no more than four feet from the vehicle. It is not plausible that he did not observe the subject with his hands up and thus, his statements is not credible in the opinion of the discipline panel.

The squad dash cam along with the crime lab video tape of the reenactment is enclosed along with this case for review.

Complainant injuries:

The complainant was injured when Officer Bennett released his canine into the subject vehicle. He was treated for dog bites. Although the injuries were not severe, this is likely only due to the fact that the complainant was wearing a heavy winter parka. Had he not been protected by this thick layer of clothing, his injuries could have been much more severe.

Panel members came to the conclusion that Officer Bennett did not state the facts correctly in his statement to the Civilian Review Authority. After doing the reenactment it was clear to the panel that Officer Bennett did see the hands of the suspect and used excessive force in releasing his dog.

Therefore it is the determination of the panel that Officer Bennett be terminated from employment from the Minneapolis Police Department for using excessive force in CRA Case #10-2823.

Respectfully submitted,

Capt Sally Weddel

Captain Sally Weddel
Special Operations Division
612-673-3551



NOTICE OF DISCIPLINE PANEL MEETING

Police Department

Timothy J. Dolan
Chief of Police

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

Office 612 673-2735
TTY 612 673-2157

March 28, 2011

Officer John Bennett
Minneapolis Police Department
Special Operations Division - Canine Unit
350 South 5th Street
Minneapolis, Minnesota 55415

Officer Bennett:

Re: CRA Case Number 10-2823

This letter is to inform you the Discipline Panel has reviewed CRA Case #10-2823 and recommends the finding(s) as follows:

MPD 5-301.01 Use of Force, Category (D).....Sustained.

The Discipline Panel will meet on Thursday, April 7, 2011, at 1000 hours in the Chief's conference room 130 City Hall, 350 South 5th Street. At this time, you will be given an opportunity to address the Discipline Panel. If you choose not to attend the Discipline Panel meeting, you are ordered to notify the panel chair in writing by April 5, 2011.

You may have a union/federation representative or an attorney present during the meeting. You are also entitled to review this case file prior to your Discipline Panel Meeting. Contact Internal Affairs for further information at 612-673-3074.

Sincerely,

Captain Sally Weddel, Panel Chair
Minneapolis Police Department



cc: Deputy Chief Allen
Deputy Chief Gerlicher
Police Federation
Internal Affairs Unit



Police Department

Timothy J. Dolan
Chief of Police

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

Office 612 673-2735
TTY 612 673-2157

March 22, 2011

Officer John Bennett
Minneapolis Police Department
Special Operations Division - Canine Unit
350 South 5th Street
Minneapolis, Minnesota 55415

Officer John Bennett:

Pursuant to pending CRA case (10-2823), effective immediately and until further notice, you are hereby placed on non-enforcement duty. Non-enforcement duty means that you are not to take any enforcement action on or off duty as a Minneapolis Police Officer. This includes not working off duty or buyback. You may however, continue to attend the canine handler training you are enrolled in at the MPD Kennel.

Sincerely,

Deputy Chief Scott Gerlicher
Office of Professional Standards
Minneapolis Police Department

cc: Assistant Chief Harteau
Internal Affairs Unit





**Civilian
Police Review Authority**

350 South 5th Street - Room 239
Minneapolis MN 55415-1369
Office 612 673-5500
Fax 612 673-5510
TTY 612 673-2157

March 9, 2011

MAR 14 2011

CHIEF TIMOTHY DOLAN
MINNEAPOLIS POLICE DEPARTMENT
130 CITY HALL
350 S 5TH ST
MINNEAPOLIS MN 55415

RE: Complaint No. 10-2823

Dear Chief Dolan:

I am submitting to you the Civilian Review Authority Board's Findings of Fact and Determination in this complaint.

In accordance with Title 9, Chapter 172 of the Minneapolis Code of Ordinance of the Minneapolis Civilian Police Review Authority, in particular, Section 172.130, you are required to make a disciplinary decision based upon this information and to provide the Civilian Review Authority and the Mayor with a written explanation of the reason for your disciplinary decision.

If you have any questions or concerns, please contact me.

Yours truly,

Samuel L. Reid II
Assistant Director
Minneapolis Department of Civil Rights

SLR:sp



**CITY OF MINNEAPOLIS
CIVILIAN POLICE REVIEW AUTHORITY**

In re Police Misconduct Investigation of :

Officer John Bennett #0406

**FINDINGS OF FACT AND
DETERMINATION**
CRA File No: 10-2823

Jurisdictional Statement:

This Complaint of police misconduct was filed with the Minneapolis Civilian Police Review Authority on June 10, 2010. Complainant alleges that on January 4, 2010, the Subject Officer engaged in excessive force during an encounter with the Complainant. This administrative agency has jurisdiction over the matter because the Complaint was timely filed, and the Complaint alleged incidents of police misconduct against a Minneapolis police officer.

Pursuant to Minneapolis Code of Ordinance Title 9, Chapter 172 § 172.100 (a), a properly convened Hearing Panel consisting of [REDACTED], [REDACTED] and [REDACTED] reviewed the investigative findings and recommendation on January 26, 2011. The Complainant did appear for the hearing but the Subject Officer did not appear. Neither the Complainant nor the Subject Officer provided additional information to the Panel during the hearing.

Pursuant to Minneapolis Code of Ordinance Title 9, Chapter 172 § 172.100 (d), the Hearing Panel issues the Findings of Fact and Determination.

Findings of Fact:

1. The Complainant was a passenger inside a vehicle which was wanted in conjunction with an alleged robbery.¹
2. The driver of this vehicle fled when Officer Bennett attempted to stop the vehicle.²
3. During the ensuing pursuit, the driver exited the vehicle and fled on foot.³
4. When the driver fled on foot, the Complainant remained inside the vehicle with his hands raised, awaiting for commands from arriving officers to take him into custody.⁴
5. Officer Bennett, with his police canine, started to follow the path of the fleeing driver, but changed course and returned to the vehicle to discover the Complainant in the passenger seat.⁵

¹ Minneapolis Police Department CAPRS Report CCN # [REDACTED] MECC Detail Incident Report # [REDACTED]
Officer Bennett's statement, P.2; Complainant's statement, P. 1

² Minneapolis Police Department CAPRS Report CCN # [REDACTED]; Officer Bennett's statement, P.2; Complainant's statement, P. 1

³ Ibid

⁴ Ibid

⁵ Ibid; Squad Video from Squad 424

6. The Complainant remained in the passenger seat of the suspect vehicle. As Officer Bennett was returning to the suspect vehicle, the Complainant raised his hands and his head out the window in an effort to get the attention of Officer Bennett.⁶
7. Officer Bennett walked his police canine around to the driver's side of the suspect vehicle.⁷
8. Officer Bennett did not give the Complainant any verbal commands or warnings to surrender.⁸
9. Officer Bennett released his police canine into the vehicle in which the Complainant was seated.⁹
10. As soon as Officer Bennett's dog approached the Complainant, the dog began to bite the Complainant, in spite of the fact that the Complainant was not aggressive toward the dog and still had his hands in the air.¹⁰
11. As soon as the police canine began to bite the Complainant, the Complainant slid over to the open driver's door and exited the vehicle. The dog followed and continued to bite the Complainant.¹¹
12. Once out of the car, the Complainant went to the ground and the canine continued to bite the Complainant.¹²
13. Officer Gregory arrived and handcuffed the Complainant before Officer Bennett took the dog off the bite.¹³
14. The Complainant received several wounds as a result of the dog being released into the vehicle. He was bitten on the left forearm, the right thigh, and left calf.¹⁴
15. The Complainant was not offering any resistance or refusing any verbal commands, and had not been given any commands prior to Officer Bennett releasing the dog.¹⁵

Issues:

1. Was the Complainant a passenger inside a vehicle which was wanted in conjunction with an alleged robbery?
2. Did the driver of this vehicle flee when police officers from Minneapolis Police Department attempted to stop the vehicle?
3. During the ensuing pursuit, did the driver exit the vehicle and flee on foot?
4. When the driver fled on foot, did the Complainant remain inside the vehicle with his hands raised, awaiting for commands from arriving officers to take him into custody?
5. Did any officer arriving on the scene of the termination of the vehicle pursuit give the Complainant any verbal commands to surrender and/or exit the vehicle?
6. Was Officer Bennett involved in the pursuit and apprehension of the Complainant?

⁶ Squad Video from Squad 424

⁷ Minneapolis Police Department CAPRS Report CCN [REDACTED] Officer Bennett's statement, P.2; Complainant's statement, P. 2

⁸ Ibid

⁹ Ibid

¹⁰ Complainant's statement; Squad Video from Squad 424

¹¹ Ibid

¹² Complainant's statement, P. 3; Officer Bennett's statement, P. 5; Officer Gregory's statement, P. 2

¹³ Ibid

¹⁴ Complainant's medical records from North Memorial Robbinsdale

¹⁵ Complainant's statement, P. 2; Minneapolis Police Department CAPRS Report CCN [REDACTED] Officer Bennett's statement, P. 3

7. Was Officer Bennett assigned as a police canine handler?
8. Did Officer Bennett release his police dog into the vehicle in which the Complainant was seated?

Standard of Proof:

The Hearing Panel makes a determination as to whether to Sustain or Not Sustain the allegations of police misconduct. Sustain complaints are determined by a preponderance of the evidence presented.

Summary:

Excessive Force

The Complainant stated that, although the driver of the suspect vehicle fled from the vehicle on foot, he chose to remain inside the vehicle and await commands from the arriving officers whom he expected would tell him when and how to exit the vehicle. The Complainant further stated that he sat in the vehicle with his hands raised to show he was going to "comply with any direction they're trying to give me." ¹⁶ He said he did this to prevent officers from using any force against him as he was not going to resist any effort on their part to take him into custody. The Complainant alleges that Officer Bennett never gave him any direction or commands while he was seated in the pursued vehicle. Instead, Officer Bennett simply released his police canine into the vehicle to attack the Complainant.

The squad video recorded in Squad 424 corroborates the statements of the Complainant. It is clear that the Complainant remained in the vehicle and made no attempt to flee. He sat in the passenger seat with his hands raised and clearly visible, watching the police officers on scene run around and past him. When Officer Bennett returned to the pursued vehicle, the Complainant stuck his head out of the car along with his hands to show to the officer. Although Officer Bennett made direct eye contact with the Complainant, the officer ignored the fact that the Complainant's hands were raised. Instead, Officer Bennett went around the car to the open driver's door and immediately released the dog upon the Complainant. Officer Bennett did not give the Complainant any opportunity to surrender to him peacefully.

The question that arises is this: is this a reasonable and lawful use of force? The United States 8th Circuit Court of Appeals addressed that question in *Kuha v. City of Minnetonka*:

*"Turning to Kuha's specific claims, we conclude that a jury could properly find it objectively unreasonable to use a police dog trained in the bite and hold method without first giving the suspect a warning and opportunity for peaceful surrender. In Vathekan v. Prince George's County, 154 F.3d 173 (4th Cir.1998), the Fourth Circuit reversed a summary judgment ruling in favor of a police officer who deployed a police dog without a verbal warning. Id. at 178-79; see also Kopf v. Wing, 942 F.2d 265, 268-69 (4th Cir.1991) 599*599 (reversing summary judgment in favor of officer defendants where there existed a factual dispute regarding whether a verbal warning was given, and recognizing validity of plaintiff's argument that "a forewarning that the dog is going to attack, which provides the suspects a fair chance to surrender, is more*

¹⁶ Complainant's statement, P. 1

reasonable than a surprise assault"). While other circuits have not addressed this precise issue, the presence or absence of a warning is a critical fact in virtually every excessive force case involving a police dog. See, e.g., Ruvalcaba v. City of Los Angeles, 167 F.3d 514, 517 (9th Cir.1999) (noting that officers gave three warnings in both Spanish and English before releasing police dog into a closed theater pursuant to burglary reports); Vera Cruz, 139 F.3d at 660-61 (9th Cir.1997) (officer gave two verbal warnings before sending police dog after fleeing suspect, who was drunk and had been harassing restaurant employees); Matthews v. Jones, 35 F.3d 1046, 1051 (6th Cir.1994) (finding no excessive force as a matter of law where the record was clear that the officer warned plaintiff, a fleeing misdemeanant, several times before releasing the police dog to apprehend him); Robinette, 854 F.2d at 911 (holding fatal attack on suspect by police dog objectively reasonable where undisputed testimony showed that police shouted three warnings before releasing dog); see also IACP National Law Enforcement Policy Center: "Law Enforcement Canines," (May 1992), Appellant's app. at A.227 ("It is essential that a verbal warning be issued prior to releasing the canine.... The warning should be given from behind cover and in such a manner, if possible, that would allow anyone ... to hear it.... [T]he warning should be repeated ... and a reasonable time given for the suspect to surrender before the canine is released.")¹⁷

This part of the above decision was re-affirmed by the 8th Circuit Court of Appeals in Szabla v. City of Brooklyn Park, Minnesota:

"A constitutional problem may arise based on the manner in which the canines are used. We held in 2004 that "a jury could properly find it objectively unreasonable to use a police dog trained in the bite and hold method without first giving the suspect a warning and opportunity for peaceful surrender." Kuha, 365 F.3d at 598. Our grant of rehearing in this case *392 was limited to the issues of municipal liability raised in Brooklyn Park's petition for rehearing, see Order (Feb. 23, 2006), so we accept Kuha's Fourth Amendment holding for purposes of analysis, and assume there is a submissible case that Officer Baker was required to give a warning before using his police dog to bite and hold...

The need for a warning is not a detail. Under our precedent, it is a generally required safeguard, which may be dispensed with only if there are exigent circumstances. In Kuha v. City of Minnetonka, 365 F.3d 590 (8th Cir.2004) (the part of it that is not overruled by the court's decision today), we held that "a jury could properly find it objectively unreasonable to use a police dog trained in the bite and hold method without first giving the suspect a warning and opportunity for peaceful surrender." Id. at 598. We held that "there may be exceptional cases where a warning is not feasible." Id. at 599. I understand Kuha to hold generally that it is unreasonable, hence unconstitutional, to command a dog to bite and hold without warning the person about to be bitten. The Fourth Circuit has so held. See Vathekan v. Prince George's County, 154 F.3d 173, 179 (4th Cir.1998) ("[F]ailure to give a warning before releasing a police dog is objectively unreasonable in an excessive force context."). In Kuha we phrased the issue in part as a question for the jury because there was a dispute about whether there were exceptional circumstances making the warning unfeasible, but the constitutional question of whether

¹⁷ Kuha v. City of Minnetonka, 365 F. 3d 590 - Court of Appeals, 8th Circuit 2003

*force was excessive under the Fourth Amendment on undisputed facts is a question of law.*¹⁸

As stated above, the Complainant clearly demonstrated that he was attempting to surrender to police officers who were on the scene. Although the Complainant was in a vehicle that was the subject of an armed robbery investigation, the Complainant, himself, was not attempting to flee. He was not concealing his hands or acting in any manner that could be construed as an immediate threat to any officer present. He was, simply sitting in the car with his hands raised. There were no "*exceptional circumstances making the warning unfeasible*". Based upon the above stated 8th Circuit Court decisions and the specific circumstances in this matter, the act of sending the police canine into the car to bite the Complainant without prior warning was improper and unconstitutional, constituting an act of excessive force. **The Hearing Panel determination is that the allegation of excessive force be sustained.**

The Hearing Panel accepts and incorporates relevant portions of the investigative summary.

Pursuant to Minneapolis Code of Ordinance Title 9, Chapter 172 § 172.130, the Hearing Panel forwards this Determination to the Chief of the Minneapolis Police Department who shall make a disciplinary decision based on the investigative file, Hearing Panel's findings of fact and determination.

¹⁸ Szabla v. City of Brooklyn Park, Minnesota, 486 F.3d 385 - Court of Appeals, 8th Circuit 2007

NOTICE OF COMPLAINT
Civilian Police Review Authority
301 Fourth Avenue South, Suite 670
Minneapolis, Minnesota 55415-1019
612-673-5500

File: 10-2823
Date: June 10, 2010

Officer John Bennett (Badge #0406):

Notice is hereby given that our office has received a signed complaint alleging the following acts, which may constitute misconduct under Minneapolis Code of Ordinances Title 9, Chapter 172.20:

EXCESSIVE FORCE

The Complainant alleges that Officer John Bennett used excessive force against him by sending his canine partner Benny at the Complainant while the Complainant was inside a vehicle and the Complainant was not offering any resistance.

The Complainant further alleges that Officer Bennett failed to give the Complainant any commands to which he could comply before sending the dog in for him. This use of force resulted in multiple dog bites to the Complainant.

This incident occurred on January 4, 2010 at approximately 18:30 at the location of 2900 block Knox Avenue North.

Copies of this Notice will be forwarded to the Deputy Chief of Police for your assignment area and the Internal Affairs Unit.

Respectfully,



Samuel L. Reid II
Manager

cc: Deputy Chief
I.A.D.
Complainant

noc 10-2823

COMPLAINT

REC'D JUN 10 2010

CITY OF MINNEAPOLIS
CIVILIAN POLICE REVIEW AUTHORITY
301 4TH AVENUE SOUTH, ROOM 670
MINNEAPOLIS, MN 55415-1019
(612)673-5500

CASE NUMBER 10-2823
DATE REPORTED 01/15/10
TIME REPORTED 10:15

Type of Incident Code Primary
Excessive Force 1 1

Location Where Occurred Pct. Ward Date Occurred Day of Week Time Occurred
2900 block Knox Avenue North 4 5 1/4/10 MON 18:30

Code Name Age DOB Gender Race
CV [REDACTED] 22 8/4/87 M B

Address City/State/Zip Home Phone Business Phone
[REDACTED] [REDACTED] [REDACTED] [REDACTED]

Charged Officer 1 - Name and Badge No. Race Gender Rank/Assignment Off-Duty
John Bennett 0406 W M Officer/Canine

Allegations

The Complainant alleges that Officer John Bennett used excessive force against him by sending his canine partner Benny at the Complainant while the Complainant was inside a vehicle and the Complainant was not offering any resistance.

The Complainant further alleges that Officer Bennett failed to give the Complainant any commands to which he could comply before sending the dog in for him. This use of force resulted in multiple dog bites to the Complainant.

I hereby certify that to the best of my knowledge, and under penalty of perjury, the statements made herein are true.

[REDACTED SIGNATURE]
Complainant's Signature

6-8-10
Date

[REDACTED SIGNATURE]
Investigator's Signature

6-4-10
Date

**CITY OF MINNEAPOLIS
CIVILIAN POLICE REVIEW AUTHORITY**

Note: This document is included in the investigative file for the sole benefit of the hearing panel.

In re Police Misconduct Investigation of:

Officer John Bennett #0406

**WRITTEN SUMMARY OF
INVESTIGATIVE
FINDINGS OF FACT AND
RECOMMENDATION
CRA File No: 10-2823**

Pursuant to Minneapolis Code of Ordinance Title 9, Chapter 172 § 172.10, the Minneapolis Civilian Police Review Authority (CRA) has the authority to adjudicate citizen complaints alleging misconduct against members of the Minneapolis Police Department (MPD) as provided by that chapter. This complaint was timely filed in the proper form as required by §§ 172.70 and 172.160, and the complaint has been referred to a panel of the board for hearing as provided by § 172.100.

I. SUMMARY OF COMPLAINT ALLEGATIONS

In a complaint filed with the Minneapolis Civilian Police Review Authority, Complainant alleged the following:

Excessive Force

1. The Complainant alleges that Officer Bennett used excessive force against him by sending his canine partner Benny at the Complainant while the Complainant was inside a vehicle and the Complainant was not offering any resistance.
2. The Complainant further alleges that Officer Bennett failed to give the Complainant any commands to which he could comply before sending the dog in for him. This use of force resulted in multiple dog bites to the Complainant.

ISSUE(S)

1. Was the Complainant a passenger inside a vehicle which was wanted in conjunction with an alleged robbery?
2. Did the driver of this vehicle flee when police officers from Minneapolis Police Department attempted to stop the vehicle?
3. During the ensuing pursuit, did the driver exit the vehicle and flee on foot?
4. When the driver fled on foot, did the Complainant remain inside the vehicle with his hands raised, awaiting for commands from arriving officers to take him into custody?
5. Did any officer arriving on the scene of the termination of the vehicle pursuit give the Complainant any verbal commands to surrender and/or exit the vehicle?
6. Was Officer Bennett involved in the pursuit and apprehension of the Complainant?
7. Was Officer Bennett assigned as a police canine handler?
8. Did Officer Bennett release his police dog into the vehicle in which the Complainant was seated?

9. Did Officer Bennett give the Complainant any verbal commands or warnings to surrender prior to sending the dog into the car to apprehend the Complainant?
10. Did Officer Bennett's dog bite the Complainant?
11. Did the Complainant receive any wounds as a result of the dog being released into the vehicle?
12. Was the Complainant offering any resistance or refusing any commands at the time the dog was released?
13. Was deploying the police canine in that manner a reasonable and justified use of force?

II. SUMMARY OF EVIDENCE

A. Statements

1. Complainant, [REDACTED]
2. Officer John Bennett
3. Officer [REDACTED]

- B. [REDACTED]**
1. [REDACTED]
 2. [REDACTED]
 3. [REDACTED] e

1. [REDACTED]
2. [REDACTED]

III. INVESTIGATIVE RECOMMENDED FINDINGS OF FACT

Based on a review of the evidence gathered by the CRA investigation, the complaint investigator finds the material facts regarding this complaint to be:

1. The Complainant was a passenger inside a vehicle which was wanted in conjunction with an alleged robbery.¹
2. The driver of this vehicle fled when Officer Bennett attempted to stop the vehicle.²
3. During the ensuing pursuit, the driver exited the vehicle and fled on foot.³
4. When the driver fled on foot, the Complainant remained inside the vehicle with his hands raised, awaiting for commands from arriving officers to take him into custody.⁴
5. Officer Bennett, with his police canine, started to follow the path of the fleeing driver, but changed course and returned to the vehicle to discover the Complainant in the passenger seat.⁵
6. The Complainant remained in the passenger seat of the suspect vehicle. As Officer Bennett was returning to the suspect vehicle, the Complainant raised his hands and his head out the window in an effort to get the attention of Officer Bennett.⁶

¹ Minneapolis Police Department CAPRS Report CCN # [REDACTED] CC Detail Incident Report # [REDACTED]

Officer Bennett's statement, P.2; Complainant's statement, P. 1

² Minneapolis Police Department CAPRS Report CCN # [REDACTED] Officer Bennett's statement, P.2; Complainant's statement, P. 1

³ Ibid

⁴ Ibid

⁵ Ibid; Squad Video from Squad 424

⁶ Squad Video from Squad 424

7. Officer Bennett walked his police canine around to the driver's side of the suspect vehicle.⁷
8. Officer Bennett did not give the Complainant any verbal commands or warnings to surrender.⁸
9. Officer Bennett released his police canine into the vehicle in which the Complainant was seated.⁹
10. As soon as Officer Bennett's dog approached the Complainant, the dog began to bite the Complainant, in spite of the fact that the Complainant was not aggressive toward the dog and still had his hands in the air.¹⁰
11. As soon as the police canine began to bite the Complainant, the Complainant slid over to the open driver's door and exited the vehicle. The dog followed and continued to bite the Complainant.¹¹
12. Once out of the car, the Complainant went to the ground and the canine continued to bite the Complainant.¹²
13. Officer [REDACTED] arrived and handcuffed the Complainant before Officer Bennett took the dog off the bite.¹³
14. The Complainant received several wounds as a result of the dog being released into the vehicle. He was bitten on the left forearm, the right thigh, and left calf.¹⁴
15. The Complainant was not offering any resistance or refusing any verbal commands, and had not been given any commands prior to Officer Bennett releasing the dog.¹⁵

IV. INVESTIGATIVE ASSESSMENT OF CREDIBILITY

The Complainant contacted the Civilian Police Review Authority on January 15, 2010, when he called from Hennepin County Jail. He said he was the passenger in a vehicle and he had been arrested at the conclusion of a high speed chase after the driver finally pulled over. The Complainant said that the driver fled on foot, but he remained in the car, waiting for the police to give him commands to exit. Instead, an officer released a police canine into the car and he was bitten several times. After he managed to get out of the car and onto the ground, the dog continued to bite him and he was struck by the officers before he was handcuffed.

I took the Complainant's recorded statement on June 11, 2010. He repeated his original statement made five months previous. The information provided remained as stated in his original contact with this office. His statements were corroborated by the video recorded in Squad 424.

The Complainant tried to show the officers at the scene that he was not going to flee and that he would cooperate with their commands. He said he did so in order to avoid a situation in which an officer would choose to use force against him during the physical arrest.

The Complainant also said that Officer Bennett did not immediately pull the dog off the bite when he came out of the car. He said that the officer, instead, stomped on his head and back until another

⁷ Minneapolis Police Department CAPRS Report CCN [REDACTED] Officer Bennett's statement, P.2; Complainant's statement, P. 2

⁸ Ibid

⁹ Ibid

¹⁰ Complainant's statement; Squad Video from Squad 424

¹¹ Ibid

¹² Complainant's statement, P. 3; Officer Bennett's statement, P. 5; Officer Gregory's statement, P. 2

¹³ Ibid

¹⁴ Complainant's medical records from North Memorial Robbinsdale

¹⁵ Complainant's statement, P. 2; Minneapolis Police Department CAPRS Report CCN [REDACTED] Officer Bennett's statement, P. 3

officer showed up, allowing the canine to continue biting him. The Complainant made this statement about Officer Bennett:

"[H]e kept saying, 'Why did you run?' I'm like, 'I didn't run. That's why I'm right here.' He kept saying, 'Why did you run? Why did you run?' I'm like, 'I did not run.' So at the time he kept egging his canine, like, 'Get him, boy, yeah, get him.' I'd say for about a good one minute he was stomping me, he kept on egging the dog to pursue biting me. So during that time another officer came. I can actually say that officer pretty much saved my life even though that officer also put his hand on me by punching me, but I can say he's the one who made them stop."¹⁶

Squad 424 was positioned between the camera in Squad 959 and the street area where the Complainant was taken into custody after exiting the pursued vehicle. The act of stomping alleged by the Complainant can not be corroborated by squad video. It does appear in the video, however, that the dog was continuing to be aggressive toward the Complainant during the arrest process as the dog can be seen just to the side of Squad 424 acting aggressively, even after Officer Gregory arrived to assist in the arrest.¹⁷

I received the Complainant's medical records from North Memorial Robbinsdale on June 16, 2010. The records corroborate the Complainant's statements as to the locations where he was bitten. The record states:

'EXTREMITIES: He has an abrasion with superficial wounds in the right thigh and perceptible abrasion to the left forearm and then deeper abrasion and some scratches and a puncture wound in the left calf anteriorly. Skin and neurovascular status intact. Not a lot of swelling.'¹⁸

I interviewed Officer Bennett on November 10, 2010. Officer Bennett gave answers to my questions, exception in one area of questioning. He described the attempt to stop the vehicle in which the Complainant was a passenger, as well as the ensuing pursuit, continually emphasizing that the occupants were wanted in conjunction with an armed robbery and kidnapping. He agreed that the Complainant made no attempt to flee the pursued vehicle when the driver stopped the car and fled on foot himself. At first, he said he didn't recall if he gave the Complainant any verbal commands prior to sending the dog in to "apprehend" him; however he did not directly deny that he failed to give a warning to the Complainant. I posed the question, "I'm just trying to see if this is something that you normally do: release the dog in without giving the guy commands to come out?" He replied, "No." I then asked what was different about this particular incident and Officer Bennett replied, "It was an armed robbery, there's lights flashing. There's spotlights in my face, sirens blaring. That's why."¹⁹

I asked Officer Bennett what a person should do in the Complainant's situation in order to avoid being the target of an officer's use of force. Officer Bennett's representative, Sgt. Wallace Krueger, intervened and did not let Officer Bennett answer the question. He said that Officer Bennett could not know the Complainant's intent. In light of the facts, however, I believed this to be a valid question. I then asked Officer Bennett if he saw the Complainant's hands raised while the Complainant was still seated in the pursued vehicle. Officer Bennett replied, "No, I didn't."²⁰

In reviewing the squad video from Squad 424, it is clear that as Officer Bennett was returning to the pursued vehicle where the Complainant was seated, the Complainant had the passenger door

¹⁶ Complainant's statement, P. 2

¹⁷ [REDACTED] 959

¹⁸ Complainant's medical records from North Memorial Robbinsdale, P. 2

¹⁹ Officer Bennett's statement, P. 5

²⁰ Ibid, P. 4

window down, his head and right arm/hand were outside the window, hand raised, and his left arm/hand were raised just inside the window. As Officer Bennett was directly alongside the pursued vehicle and the Complainant, he looked directly at the Complainant and made eye contact with him. It is clear that Officer Bennett saw the Complainant with his hands raised.²¹

I interviewed Officer [REDACTED] on October 29, 2010. He was forthright with his answers to my questions. He said he arrived at the termination point of the pursuit and assisted Officer Bennett take the Complainant into custody. He stated that when he arrived, the Complainant was outside the vehicle, on the ground, and the canine was biting him. He said he didn't recall anything that Officer Bennett or the Complainant may have said. Officer [REDACTED] did say that he heard the Complainant screaming as the dog was biting him. Officer [REDACTED] said he went to the Complainant and placed him in handcuffs and didn't recall at what point Officer Bennett released the dog from the bite. He also said that the Complainant sustained injuries from the dog bites, but was not sure to what extent he was injured.²²

V. STANDARD OF PROOF

The standard of proof necessary to sustain a complaint under Chapter 172 is preponderance of the evidence. Preponderance of the evidence means that the greater weight of the evidence supports the decision. (§ 172.110.)

VI. INVESTIGATIVE ANALYSIS AND RECOMMENDATION

Excessive Force

The Complainant stated that, although the driver of the suspect vehicle fled from the vehicle on foot, he chose to remain inside the vehicle and await commands from the arriving officers whom he expected would tell him when and how to exit the vehicle. The Complainant further stated that he sat in the vehicle with his hands raised to show he was going to "comply with any direction they're trying to give me."²³ He said he did this to prevent officers from using any force against him as he was not going to resist any effort on their part to take him into custody. The Complainant alleges that Officer Bennett never gave him any direction or commands while he was seated in the pursued vehicle. Instead, Officer Bennett simply released his police canine into the vehicle to attack the Complainant.

The squad video recorded in Squad 424 corroborates the statements of the Complainant. It is clear that the Complainant remained in the vehicle and made no attempt to flee. He sat in the passenger seat with his hands raised and clearly visible, watching the police officers on scene run around and past him. When Officer Bennett returned to the pursued vehicle, the Complainant stuck his head out of the car along with his hands to show to the officer. Although Officer Bennett made direct eye contact with the Complainant, the officer ignored the fact that the Complainant's hands were raised. Instead, Officer Bennett went around the car to the open driver's door and immediately released the dog upon the Complainant. Officer Bennett did not give the Complainant any opportunity to surrender to him peacefully.

The question that arises is this: is this a reasonable and lawful use of force? The United States 8th Circuit Court of Appeals addressed that question in *Kuba v. City of Minnetonka*:

²¹ [REDACTED]

²² Officer Gregory's statement

²³ Complainant's statement, P. 1

*"Turning to Kuha's specific claims, we conclude that a jury could properly find it objectively unreasonable to use a police dog trained in the bite and hold method without first giving the suspect a warning and opportunity for peaceful surrender. In Vathekan v. Prince George's County, 154 F.3d 173 (4th Cir.1998), the Fourth Circuit reversed a summary judgment ruling in favor of a police officer who deployed a police dog without a verbal warning. *Id.* at 178-79; see also Kopf v. Wing, 942 F.2d 265, 268-69 (4th Cir.1991) 599*599 (reversing summary judgment in favor of officer defendants where there existed a factual dispute regarding whether a verbal warning was given, and recognizing validity of plaintiff's argument that "a forewarning that the dog is going to attack, which provides the suspects a fair chance to surrender, is more reasonable than a surprise assault"). While other circuits have not addressed this precise issue, the presence or absence of a warning is a critical fact in virtually every excessive force case involving a police dog. See, e.g., Ruvalcaba v. City of Los Angeles, 167 F.3d 514, 517 (9th Cir.1999) (noting that officers gave three warnings in both Spanish and English before releasing police dog into a closed theater pursuant to burglary reports); Vera Cruz, 139 F.3d at 660-61 (9th Cir.1997) (officer gave two verbal warnings before sending police dog after fleeing suspect, who was drunk and had been harassing restaurant employees); Matthews v. Jones, 35 F.3d 1046, 1051 (6th Cir.1994) (finding no excessive force as a matter of law where the record was clear that the officer warned plaintiff, a fleeing misdemeanor, several times before releasing the police dog to apprehend him); Robinette, 854 F.2d at 911 (holding fatal attack on suspect by police dog objectively reasonable where undisputed testimony showed that police shouted three warnings before releasing dog); see also LACP National Law Enforcement Policy Center: "Law Enforcement Canines," (May 1992), Appellant's app. at A.227 ("It is essential that a verbal warning be issued prior to releasing the canine.... The warning should be given from behind cover and in such a manner, if possible, that would allow anyone ... to hear it... [T]he warning should be repeated ... and a reasonable time given for the suspect to surrender before the canine is released.")"*²⁴

This part of the above decision was re-affirmed by the 8th Circuit Court of Appeals in Szabla v. City of Brooklyn Park, Minnesota:

*"A constitutional problem may arise based on the manner in which the canines are used. We held in 2004 that "a jury could properly find it objectively unreasonable to use a police dog trained in the bite and hold method without first giving the suspect a warning and opportunity for peaceful surrender." Kuha, 365 F.3d at 598. Our grant of rehearing in this case *392 was limited to the issues of municipal liability raised in Brooklyn Park's petition for rehearing, see Order (Feb. 23, 2006), so we accept Kuha's Fourth Amendment holding for purposes of analysis, and assume there is a submissible case that Officer Baker was required to give a warning before using his police dog to bite and hold...*

*The need for a warning is not a detail. Under our precedent, it is a generally required safeguard, which may be dispensed with only if there are exigent circumstances. In Kuha v. City of Minnetonka, 365 F.3d 590 (8th Cir.2004) (the part of it that is not overruled by the court's decision today), we held that "a jury could properly find it objectively unreasonable to use a police dog trained in the bite and hold method without first giving the suspect a warning and opportunity for peaceful surrender." *Id.* at 598. We held that "there may be exceptional cases where a warning is not feasible." *Id.* at 599. I understand Kuha to hold generally that it is unreasonable, hence unconstitutional, to command a dog to bite and hold without warning the person about to be bitten. The Fourth Circuit has so held. See Vathekan v. Prince George's County, 154 F.3d 173, 179 (4th Cir.1998) ("[F]ailure to give a warning before releasing a police dog is objectively unreasonable in an excessive force*

²⁴ Kuha v. City of Minnetonka, 365 F. 3d 590 - Court of Appeals, 8th Circuit 2003

context.”). In *Kuhl* we phrased the issue in part as a question for the jury because there was a dispute about whether there were exceptional circumstances making the warning unfeasible, but the constitutional question of whether force was excessive under the Fourth Amendment on undisputed facts is a question of law.²⁵

As stated above, the Complainant clearly demonstrated that he was attempting to surrender to police officers who were on the scene. Although the Complainant was in a vehicle that was the subject of an armed robbery investigation, the Complainant, himself, was not attempting to flee. He was not concealing his hands or acting in any manner that could be construed as an immediate threat to any officer present. He was, simply sitting in the car with his hands raised. There were no “exceptional circumstances making the warning unfeasible”. Based upon the above stated 8th Circuit Court decisions and the specific circumstances in this matter, the act of sending the police canine into the car to bite the Complainant without prior warning was improper and unconstitutional, constituting an act of excessive force. I recommend sustaining the allegations against Officer Bennett.

Pursuant to the Civilian Police Review Authority Ordinance, the investigator presents the Investigative Findings of Fact and Recommendation to a hearing panel.

Date: 01/05/2011


Investigator

Concurred by

Date: _____

CRA Manager

²⁵ Szabla v. City of Brooklyn Park, Minnesota, 486 F.3d 385 - Court of Appeals, 8th Circuit 2007

1 STATEMENT OF [REDACTED]
2 PLACE: Minneapolis Civilian Police Review Authority Offices
3 DATE: June 11, 2010
4 TIME: 10:30 a.m.
5 CASE NO: 10-2823
6 INVESTIGATOR: [REDACTED]

REC'D JUL 21 2010

7
8 QUES: State your full name, spelling your last name for me please.

9 ANS: [REDACTED]

10
11 QUES: And what is your age and date of birth?

12 ANS: [REDACTED]

13
14 QUES: And what is your normal residence address?

15 ANS: [REDACTED]

16
17 QUES: And just for the record, this interview is being taken at Hennepin County Jail, at the detention center. And I'd like to direct your attention to January 4th, 2010 at approximately 7 p.m. At that time, did you have occasion to come in contact with officers from the Minneapolis police department?

18
19 ANS: During this time, during a pursuit? Yes, yes I do.

20
21
22
23 QUES: Okay. So you were a passenger in an automobile that was being pursued by Minneapolis police?

24
25 ANS: Yes.

26
27 QUES: Okay, and where did that pursuit end?

28 ANS: It ended between [INAUDIBLE] and the block of Knox I believe, yeah.

29
30 QUES: Okay. First of all, did the driver of the vehicle come to a stop or crash or how did the pursuit end?

31
32 ANS: The pursuit ended when the driver of the vehicle came to a stop but being it was icy outside the car kind of slid into a snow bank so, uh, that's how it ended, and the driver fled the vehicle.

33
34
35
36 QUES: Okay. Was the snow bank on your side of the car?

37 ANS: Yes, it was.

38
39 QUES: If you had wanted to open the door would you have been able to?

40 ANS: Yes, I would have.

41
42 QUES: So it wasn't like you were pinned in the vehicle?

43 ANS: No.

44
45 QUES: So did you choose to remain in the vehicle?

46 ANS: Yes, I did.

47
48 QUES: And what did you do, personally, as that vehicle came to a stop?

49 ANS: Well when the vehicle came to a stop - well, from the beginning of the pursuit when we was pulled over and it seemed like it was a felony stop, so my hands was up. I put my hands up signaling I'm trying to comply with any direction they're trying to give me.

50
51
52
53 QUES: And did you receive any direction at that time?

54 ANS: No. At that time, that's when the pursuit started so during the whole pursuit, my hands was up during the whole time stating that I don't want to have no involvement, you know, in the situation that was going on so the pursuit ended and my hands were still up. But at this time is when Officer Bennett and another officer was [INAUDIBLE] the vehicle.

55
56
57
58

1 QUES: Okay.
2 ANS: So when Officer Bennett came back, he seen me and my hands was still up so I'm waiting
3 for him to give me directions to come out of the vehicle, but he didn't give me directions
4 whatsoever. Instead, he sent the canine to come after me. When the canine came in the
5 vehicle, he attacked me so when the canine attacked me, the driver's door was open. So, I
6 came out the driver's door and [INAUDIBLE] and that's when the canine started biting me on
7 the back of my leg, my arm, and then so I fell to the ground trying to, you know, lay on the
8 ground so Officer Bennett could get the dog. So during this time Officer Bennett came and
9 instead of getting the dog and putting me in handcuffs, he did not do that. Instead, he
10 started using his feet to stomp me while his dog was biting my leg. So at the time -
11
12 QUES: Where was he stomping?
13 ANS: He was stomping in my head area and my back, kicking me.
14
15 QUES: Where was the dog biting you?
16 ANS: My leg, at the time. He was just really on my leg and at the time he was stomping me, he
17 kept saying, "Why did you run?" I'm like, "I didn't run. That's why I'm right here." He kept
18 saying, "Why did you run? Why did you run?" I'm like, "I did not run." So at the time he kept
19 egging his canine, like, "Get him, boy, yeah, get him." I'd say for about a good one minute
20 he was stomping me, he kept on egging the dog to pursue, biting me. So during that time
21 another officer came. I can actually say that officer pretty much saved my life even though
22 that officer also put his hand on me by punching me, but I can say, he's the one who made
23 them stop. If he wasn't going to come up, Officer Bennett and his canine would have
24 continued to do what they was doing, so, yeah, that was what happened.
25
26 QUES: Did you receive any medical attention from this?
27 ANS: Yes, I did.
28
29 QUES: And I don't recall, did we send release forms?
30 ANS: Yeah, I already sent them. You should have received them today or yesterday.
31
32 QUES: Okay so that's coming, okay. That's good, then I won't have to repeat that. Now going back
33 to when you were seated in the passenger's seat, and you said the driver's door was open,
34 and you said the officer was outside with his dog?
35 ANS: At the time he was outside 'cause when he was on the sidewalk, he was by my door.
36
37 QUES: Oh, okay.
38 ANS: So he was by my door. That's when he told the dog to get me. ~~He then went outside~~
39 ~~and he was outside.~~ He [INAUDIBLE] so the canine went around my door and came
40 inside the vehicle from the driver's door.
41
42 QUES: So the dog completely circled the car and came in and so the dog was loose?
43 ANS: Yeah, yeah.
44
45 QUES: He was not restrained by a lead or anything at that point?
46 ANS: No, I think he ~~was~~ have a leash on him. I think he ~~was~~ have a lease on him at the time 'cause
47 when he said, "Get him, boy!" that's when the canine came directly around the vehicle and
48 entered the vehicle through the driver's door.
49
50 QUES: And did the officer follow him, then?
51 ANS: Yeah, the officer followed him then 'cause I was, when the dog was biting, that's when I
52 crawled out the driver's door and that's when he smashed me to the ground and started
53 stomping me.
54

1 QUES: Okay so did the officer give you any kind of commands to exit the car?
ANS: No, none at all. None at all. None at all.

3

4 QUES: And did he try to have you come out the passenger's side?
5 ANS: [INAUDIBLE].

6

7 QUES: And he sent the dog in through the driver's door?
8 ANS: Yes, he did.

9

10 QUES: No commands to you prior to that?
11 ANS: None at all. None at all.

12

13 QUES: Now when the dog came in, did you still have your hands up?
14 ANS: Yeah, I still had my hands up, it's on the video tape. if you watch the video tape I had my
15 hands up in the air but, you know, the dog bit me right here. This was the first bite right
16 here.

17

18 QUES: Okay so --
19 ANS: [INAUDIBLE] because I had a [INAUDIBLE] on then.

20

21 QUES: [VOICES OVERLAPPING] Just above the elbow on the left arm by the bicep and triceps.
22 ANS: Yup, right there, 'cause I had a puffy jacket on and [INAUDIBLE] and after that when he
23 started biting me, that's when I crawled out. And my second bite is right here in my lower
24 buttock.

25

26 QUES: Okay so the dog grabbed you by the arm?
27 ANS: Mmhhh.

28

29 QUES: Did he try pulling you, did the dog try pulling you out or did the dog release you so you could
30 get out?
31 ANS: Mm-mm, the dog released. He was shaking his head wildly.

32

33 QUES: He had a hold of your [INAUDIBLE] while you were trying to get --?
34 ANS: [VOICES OVERLAPPING] Yeah when I was trying to get out of the car, when I was halfway
35 out that's when he went to my buttock area.

36

37 QUES: So he released your arm and went to your buttock?
38 ANS: Yeah.

39

40 QUES: Okay and you went straight down?
41 ANS: Straight down to the ground.

42

43 QUES: Were you fighting with the dog?
44 ANS: Not at all. I'm trying to comply so he can get his dog away from me as fast as possible but
45 instead when I went down to the ground, that's when Officer Bennett started stomping on me
46 with his feet.

47

48 QUES: And where were your hands at this time?
49 ANS: I'm on the ground like this. I'm flat on the ground, like this.

50

51 QUES: And you said that's corroborated by the squad video?
52 ANS: Yeah, it should be on the squad video.

53

1 QUES: While you were on the ground you had your arms out to the side and the dog, at that point in
2 time, had latched onto your buttocks?
3 ANS: No when I was coming out the car he latched onto my buttocks and then when I got out of
4 the car completely that's when he went for my leg.
5
6 QUES: So he moved down to the leg?
7 ANS: Yeah. All this right here.
8
9 QUES: Moved down to above your ankle on your left leg?
10 ANS: My leg was like this swoll from that situation.
11
12 QUES: Now, you said that the officer was stomping you on your upper back?
13 ANS: My upper back and my head, and he kept saying why did I run? And I kept telling him how
14 did I run?
15
16 QUES: You said he kept saying why did you run, but did he give you any commands to put your
17 hands behind your back, and make an attempt to take you into custody?
18 ANS: No, at that time, no. The only time he told me to put my hands behind my back was when
19 the other officer came, which I put my hand on my back. I was waiting for instructions,
20 anything, to get that dog away from me at the time, but he was just out of his mind. He was
21 just, [INAUDIBLE]. [INAUDIBLE] pain I was [INAUDIBLE] 'cause of that dog, 'cause it kept
22 digging and digging in my flesh and I just wanted that dog away from me. That's why I was
23 trying to comply.
24
25 QUES: Were you kicking at the dog?
26 ANS: No, not at all.
27
28 QUES: You were trying to be as compliant as possible but the dog did not release and he did not
29 give the dog any instructions to release?
30 ANS: No. Not at all. He kept telling the dog, "Get him boy, get him boy." That's all he kept saying.
31
32 QUES: Now, you went to North Memorial?
33 ANS: Two hours later. The medic came, actual medical attention, I told them my leg was being
34 numb, like, I'm starting to not have feeling in my leg so he told – the medics came and they
35 took a look at my leg and they was like, "Yeah, we can take you," and he asked the medic,
36 "Is it life-threatening?" And they said, "No, it ain't life-threatening but you need to get to the
37 hospital and get a bandaged up," so he was like, "Nah, we need him, we need him at the
38 site," so they needed me for something, identification or something like that. So they kept
39 me, you know, on the scene for about an hour to an hour and a half before they even took
40 me to North Memorial hospital.
41
42 QUES: Okay. Do you know if they took photographs of your injuries?
43 ANS: Yes, they did. Yes, they did.
44
45 QUES: So it looks like they took photos at the scene and also at the hospital after the wounds were
46 cleaned up?
47 ANS: Yeah.
48
49 QUES: So during the time after the pursuit terminated, you were waiting for the officers to give you
50 commands?
51 ANS: Yeah.
52
53 QUES: And you were being as compliant as you could be in the circumstances of being attacked by
54 the dog?

1 ANS: Yes, sir.

3 QUES: And you weren't punching at or kicking at the dog in any way?

4 ANS: No, that would have made it worse. You know, if the dog is biting me and I'm trying to do
5 anything to him he's going to get more aggressive, so I wasn't going to do nothing. You
6 know?

7

8 QUES: Okay. And was it your understanding at the scene that you would be given direction by the
9 officers so that you would know what to do to comply with them to prevent them from taking
10 action against you?

11 ANS: Exactly. That's why I kept my hand up from the beginning of the chase, you can see on the
12 squad tape, my hands is up. At the end of the tape my hands is up. And I'm complying,
13 trying to get any direction whatsoever to get out of the vehicle, put in handcuffs, do anything,
14 and get put in the squad car. But instead it did not go that way.

15

16 QUES: When the pursuit first terminated, did the driver of the vehicle get out and run immediately?

17 ANS: Uh, yeah, when the car stopped, he got out and ran, yeah.

18

19 QUES: So he ran out immediately, the officers that were coming on scene really didn't have an
20 opportunity to give immediate commands?

21 ANS: What do you mean, immediate commands? To who?

22

23 QUES: Well....

24 ANS: 'Cause the driver got out of his vehicle, it was only like that.

25

26 QUES: Okay.

27 ANS: It wasn't no one minute later or nothing, it was like that. So.

28

29 QUES: How many officers started chasing the driver?

30 ANS: Um... I want to say about four, maybe five?

31

32 QUES: Okay.

33 ANS: Yeah.

34

35 QUES: And initially was it just the canine officer that came back to the car you were in?

36 ANS: Yeah, yeah.

37

38 QUES: Okay. And the other officers were off chasing the runner?

39 ANS: Yeah.

40

41 QUES: So initially this officer was by himself with you?

42 ANS: Yeah, I believe so. No other officers came until about a minute, a minute and a half later.
43 [INAUDIBLE] other officer, after he came from my backside, that was when he punched me
44 and then that's when the officer [INAUDIBLE] saved me [INAUDIBLE].

45

46 QUES: When that other officer showed up at that time, was the dog still attached to your leg?

47 ANS: Mhmm, mmhmm.

48

49 QUES: And was the canine officer still kicking you?

50 ANS: Yeah, he was still kicking me. Yeah, he was still kicking me.

51

52 QUES: Now the other officer that came up, you said he punched you?

53 ANS: Yeah, he punched me, I believe, a couple times.

54

1 QUES: Where did he hit you?
2 ANS: In my backside like somewhere up here, almost towards my neck area.
3
4 QUES: Okay, did he give you any commands?
5 ANS: Well, I think he grabbed my hands, and put them there. He was the one that handcuffed
6 me. I want to say he was the one that handcuffed me.
7
8 QUES: And at that time did, was it Officer Bennett?
9 ANS: Mmhmm.
10
11 QUES: Did he take his dog off you at that point?
12 ANS: I believe so, the dog got off me then.
13
14 QUES: Now, do you know why the other officer decided to punch you when he got to you?
15 ANS: I don't know. Probably 'cause he seen his fellow officer stomping me out so run up and
16 [INAUDIBLE], you know, I believe.
17
18 QUES: Now, did you have any weapons on you at all?
19 ANS: No, I did not. No, I did not.
20
21 QUES: Did you make any motions or anything with your hands to go to your waistband at all?
22 ANS: None at all. None at all. That would be suicide. Man, I [INAUDIBLE]. It'd be okay,
23 justifiable to shoot me then.
24
25 QUES: Okay. Did you say anything to the officer while this was going on?
26 ANS: All I was saying when he was stepping on me, he kept saying, "Why did you run?" and I'm
27 like, "I didn't run, my hands was up the whole time!" That's what I kept saying to him. And
28 that's the only words I ever said to him.
29
30 QUES: Okay.
31 ANS: I don't even know why he said, "Why did you run?" How could I run at the time, you just got
32 me out of the vehicle. That's the part I didn't understand.
33
34 QUES: Is there anything else that you can think of, something that I maybe missed asking about?
35 ANS: Uh, yeah, you know, there was a female there. I think she might have seen it, she might
36 have seen what was going on. She had to have seen what was going on.
37
38 QUES: Okay. Was this... you did mention to me, when I first talked to you, about a possible witness
39 at 2726 Knox. Now is that the residence in front of where the pursuit terminated at?
40 ANS: Yeah.
41
42 QUES: And this person, where was she, to your recollection when this was going on?
43 ANS: She was standing on the hill, 'cause 29 and [INAUDIBLE] all the houses are on a hill so she
44 was standing up on the hill and you could see her standing there so I know for a fact she
45 seen what happened.
46
47 QUES: Did she make any comments or anything to your knowledge to the officers? Or was she just
48 standing there watching?
49 ANS: She was just standing there. No, she didn't say nothin' to the officers.
50
51 QUES: And can you describe this woman?
52 ANS: Uh, she was black, kind of slim. Her name is in my paperwork somewhere....
53
54 QUES: Has your attorney contacted her?

1 ANS: I don't believe so. [INAUDIBLE] [REDACTED] or something like that.
3 QUES: Okay. Now when did you first notice she was there? After it was all over with?
4 ANS: No, this is from the beginning, you know, 'cause it was in front of her residence,
5 [INAUDIBLE] driver so she was standing in front of the house so yeah, the house is
6 [INAUDIBLE] Knox, between the driver [INAUDIBLE]. That's where she was standing,
7 outside.
8
9 QUES: Now just one other question: do you know if the driver of the vehicle, when he ran, did he
10 have any weapons on him when he ran?
11 ANS: No, none at all. None at all. Once you see the squad video, you know, that should put
12 everything together. [INAUDIBLE].
13
14 QUES: Okay. Well I have, since I spoke to you last, I've made a request to get, there are two tapes
15 that were inventoried in this report so I made a request to get both of those, and we'll see
16 what they say. So is there anything else that you'd like to add to your statement at this
17 point?
18 ANS: I don't think so.
19
20 QUES: Alright.
21 ANS: You know.
22
23 QUES: Has anyone from this office made any threats or promises to you to give this statement?
24 ANS: No, not at all.
25
26 QUES: Once your statement has been transcribed, would you be willing to sign this statement?
27 ANS: Yes, I will.
28
29 QUES: Alright, this interview is approximately 24, 25 minutes long – again, I'm not quite sure of the
30 exact time – but we'll terminate the interview at this point.

31
32
33 Signature: [REDACTED]

Date: 7-15-10

34
35
36 cms
37

Officer John Bennett
CRA Complaint #10-2823

1 QUES: And did this vehicle stop initially?
2 ANS: Initially, yes.
3
4 QUES: But I have information that a pursuit occurred?
5 ANS: Yes.
6
7 QUES: Okay so how far—er, where did, how did the pursuit end? That's the question.
8 ANS: It crashed—the suspect vehicle crashed into a snow bank.
9
10 QUES: Okay And what occurred upon the crash, the termination?
11 ANS: One of the occupants fled from the vehicle on foot while the vehicle was still moving.
12
13 QUES: Okay. And what did you do initially?
14 ANS: I let my dog out and he began going after that party.
15
16 QUES: Okay. At some point did you come back to the vehicle?
17 ANS: Yes, I did.

19 QUES: And when you first went by the vehicle, did you see a passenger inside the car?
20 ANS: At some point, yes. When I first went by it?
21
22 QUES: Yeah.
23 ANS: When I ran by it?
24
25 QUES: Yeah.
26 ANS: No.
27
28 QUES: Okay. When did you realize there was somebody else inside?
29 ANS: At some point when I came back towards my, towards the squad, I realized there was a
30 passenger in the vehicle.
31
32 QUES: Okay. And, uh... what was this individual doing?
33 ANS: I just saw a person, a person in the vehicle.
34
35 QUES: Okay. Did you see his hands anywhere at all?
36 ANS: No, I didn't.
37
38 QUES: Okay. So when you got back to that particular vehicle where did you go?
39 ANS: Uh, in between the suspect vehicle and squad 424.
40
41 QUES: Okay. And could you still see the passenger?
42 ANS: Not when I was on the driver's side of squad 424.
43
44 QUES: At some point did you... what did you notice about the passenger in the car? Anything?
45 ANS: No.
46
47 QUES: Okay so what did you do?
48 ANS: Uh, seeing that the passenger was an armed robbery suspect I released my dog to
49 apprehend him.
50
51 QUES: Okay. Were there any other officers present at that time?
52 ANS: No.

1
2
3 QUES: What happened after you released the dog?
4 ANS: He apprehended the robbery suspect, the armed robbery suspect.
5
6 QUES: Okay. So did you see any specific action or demonstration of resistance or threat to you to
7 cause you to release the dog?
8 ANS: Can you repeat that?
9
10 QUES: Did you see any specific action or any kind of demonstrated resistance or threat that caused
11 you to release the dog?
12 ANS: Other than the fact that he was an armed robbery suspect, no.
13
14 QUES: Okay. Did you give him any commands?
15 ANS: I don't recall if I did or not.
16
17 QUES: Okay so you don't recall whether or not you gave him commands to come out of the car or
18 show his hands or anything of that sort?
19 ANS: Correct.
20
21 QUES: Okay. So it's part of your training, I mean, just to release the dog into a car without knowing
22 what the passenger is doing?
23 ANS: No.
24
25 QUES: Can you just give me a little understanding of your reasoning for sending the dog in?
26 ANS: He was an armed robbery suspect. He was involved in a kidnapping and armed robbery.
27
28 QUES: Okay but you didn't see any weapons or anything of the sort?
29 ANS: No, I was told it was an armed robbery.
30
31 QUES: Okay. Um, in any of your training, did you receive any training in high risk traffic stops and
32 high risk vehicle stops?
33 ANS: [INAUDIBLE]. You mean a felony stop?
34
35 QUES: Yes.
36 ANS: Yes.
37
38 QUES: Can you explain normally what transpires, what kind of actions you should take as an officer
39 at that particular point in time if you are—?
40 REP: Are you asking a specific question about this particular stop?
41
42 QUES: I'm talking about a generic training question, at this moment, about what officers are trained
43 to do in high risk felony car stops.
44 ANS: I guess I don't understand your question.
45
46 QUES: Well are you trained to at the termination of a pursuit or a felony stop to approach the
47 vehicle?
48 ANS: In a felony stop usually you call the people out of the car and they come back and you take
49 them into custody.
50
51 QUES: Okay. Would this situation have been considered a felony car stop?
52 ANS: No, they fled. The driver fled.

Officer John Bennett
CRA Complaint #10-2823

1 QUES: Okay but there was still one occupant inside the car, correct?
2 ANS: Well, eventually I realized there was still one in there, yes.

3
4 QUES: Okay so let me just ask this question: what should a passenger in a vehicle who is pursued,
5 what should a passenger inside of an automobile who has not fled, what should they do to
6 show that they're not offering any kind of resistance or going to flee or be a threat? What
7 kind of things should they do? How do they convey that to an officer?
8 ANS: I'm confused by—I don't understand what you're saying.

9
10 QUES: I'm just trying to ask the question, you put yourself in the position of you being in the car.
11 The driver has been in a pursuit. He has fled but you're still sitting in the car waiting for
12 some sort of commands from the police. You're not going to run, you don't want to have
13 force used upon you; you just want to sit there and wait for directions. What should the
14 person do to convey to an officer that they're not going to be a threat?
15 REP: Are you asking specifically for Officer Bennett to ask what the feelings and thoughts were of
16 the passenger in this situation?
17

18 QUES: No. I'm just wondering if there are certain things that people inside, to avoid being a target
19 of force, what can they do to show that they're not a threat and they're not going to flee?
20 REP: It's specifically related to this case; there's no way Officer Bennett knew what this guy was
21 thinking or what his plans were to do just that, if that were his intent. You're asking him to try
22 and find the passenger's intent inside of the car which is going to be impossible for him to
23 do. He only has his perspective.

24
25 QUES: Okay. Did you see the man's hands raised in the air?
26 ANS: No. I didn't.

27
28 QUES: When you came back walking by his car, did you see him with his head and hands out in
29 this manner as you were walking directly by him?
30 ANS: No, I didn't.

31
32 QUES: Okay. So what happened after the dog entered the car?
33 ANS: He apprehended the armed robbery suspect.

34
35 QUES: And how did he do that?
36 ANS: Uh....

37
38 QUES: Did the guy come out of the car?
39 ANS: Yes, he did.

40
41 QUES: What happened when he came out of the car?
42 ANS: I immediately released the dog and he was taken into custody by another cop.

43
44 QUES: He didn't continue to bite the guy?
45 ANS: No.

46
47 QUES: Okay. Where was he bitten?
48 ANS: I believe in the lower leg. [VOICES OVERLAPPING]—to his lower left leg.

49
50 QUES: Did you see where the dog first got him?
51 ANS: Uh... I don't recall where he first got him.
52



Officer John Bennett
CRA Complaint #10-2823

1 QUES: Okay so when he came out what did the passenger do? Did he go to the ground or what did
he do?
3 ANS: He went to the ground.
4
5 QUES: Did he offer any kind of resistance at that point? *
6 ANS: I don't believe so.
7
8 QUES: Okay. Who placed him in handcuffs?
9 ANS: I believe it was Officer [REDACTED] but I'm not sure.
10
11 QUES: Okay. And you called the dog off him right away?
12 ANS: Yes, sir.
13
14 QUES: Did he receive any medical attention?
15 ANS: I believe I called in for an ambulance. I called for an ambulance right away.
16
17 QUES: And did you complete a canine use report?
ANS: A what?
19
20 QUES: Canine use report. Don't you have to fill out some sort of report for your squad?
21 ANS: Canine....
22
23 QUES: Yeah don't you fill out a specific report for the canine unit?
24 ANS: The apprehension report?
25
26 QUES: Yeah. I don't know what you call it but....
27 ANS: Yes.
28
29 QUES: Okay. So this individual never attempted to get out of the vehicle to flee, is that correct?
30 From what you saw?
31 ANS: Not from what I saw, no.
32
33 QUES: Were there any weapons found in the car?
34 ANS: There was a weapon recovered. I'm not sure where it was recovered and I did not recover
it.
35
36
37 QUES: Now in this particular situation you say you did not see what the passenger was doing inside
38 the car? Is that correct?
39 ANS: Yes.
40
41 QUES: Was it your squad or was it another squad that was the first squad in the pursuit?
42 ANS: Another squad.
43
44 QUES: And you were behind that?
45 ANS: Yes.
46
47 QUES: I'm just trying to see if this is something that you normally do: release the dog in without
48 giving the guy commands to come out? *
49 ANS: No.
50
51 QUES: What made this one different than other situations, then?
52 ANS: It was an armed robbery, there's lights flashing. There's spotlights in my face, sirens blaring.

1 That's why.

3 QUES: Is there anything else you'd like to add to your statement at this time?

4 ANS: No.

5

6 QUES: Has anyone from this office made any threats or promises to you for giving this statement?

7 ANS: No.

8

9 QUES: And once your statement has been transcribed, would you be willing to sign your
10 statement?

11 ANS: Yes.

12

13 QUES: The time is approximately 11:24 and this will conclude our interview.

14

15

16 Signature: _____ Date: _____

17

19 cms

10/29

REC'D JAN 24 2011

1 STATEMENT OF Officer [REDACTED]
 2 PLACE: Minneapolis Civilian Police Review Authority Offices
 3 DATE: October 29, 2010
 4 TIME: 1:03 p.m.
 5 CASE NO: 10-2823
 6 INVESTIGATOR: [REDACTED]
 7 ALSO PRESENT: Lyall Delaney, Minneapolis Police Federation

8
 9 QUES: Officer, if you would state your full name, spelling your last name for me please.
 10 ANS: [REDACTED]

11
 12 QUES: What is your rank and present duty assignment?
 13 ANS: Patrol officer at the 4th Precinct.

14
 15 QUES: How long have you been a police officer for the City of Minneapolis?
 16 ANS: Four years now.

17
 18 QUES: And have you been ordered to appear here to provide a statement as provided by the
 19 Garrity decision?
 20 ANS: Yes I have.

21
 22 QUES: And you are willing to give me a statement at this time?
 23 ANS: Yes, sir.

24
 25 QUES: Great. I'd like to direct your attention to January 4, 2010. Were you on duty on that date?
 26 ANS: I was.

27
 QUES: And what was your assignment?
 ANS: Uh, regular patrol squad. I'm not sure which one.

30
 31 QUES: Okay. Did you have a partner or were you by yourself that day?
 32 ANS: I believe I was by myself.

33
 34 QUES: Okay. And on that date, did you take a report involving a robbery and a kidnapping?
 35 ANS: Yes, I did.

36
 37 QUES: And in the course of your investigation did you learn information about the suspects in a
 38 vehicle that were used?
 39 ANS: Yes, I did.

40
 41 QUES: And did you or someone else cause this information to be put out, broadcast out to the
 42 officers?
 43 ANS: I did, yes.

44
 45 QUES: Did you do it personally?
 46 ANS: Yes, I did.

47
 48 QUES: Okay. And later, was that vehicle located by another officer?
 49 ANS: Yes, sir.

50
 51 QUES: And did you give this information over the radio that it was discovered?
 ANS: Yes.

52
 53
 54 QUES: What information did you give over the radio?
 55 ANS: Uh, that the officer was following the vehicle on Golden Valley Road, and slowing to initiate
 56 a felony stop.

WAC

3 QUES: And was that stop successful at that time or did something else occur?
ANS: The vehicle ended up taking off ensuing in a chase.

4

5 QUES: And where did that pursuit terminate?
6 ANS: Off the top of my head I don't recall.

7

8 QUES: Were you somewhere in the area of Knox and 29th or something?
9 ANS: Sounds about right.

10

11 QUES: Okay. And what did you do when you first got there?
12 ANS: The pursuit had already terminated, the vehicle had crashed and officers were chasing a
13 couple of the occupants from the vehicle so I exited my squad to see how I could assist.

14

15 QUES: Okay. Now did you have information that both, did you understand information that both
16 suspects in the vehicle had split from the car?
17 ANS: I heard one officer say "something-bailing." I knew—somebody had bailed.

18

19 QUES: When you first arrived there and you say you saw that it had crashed, what else did you
20 see when you first got there?
21 ANS: I saw canine Officer Bennett, with his dog. He was apprehending a male on the ground.

22

23 QUES: Okay. The male was already outside of the car?
24 ANS: Yes.

25

26 QUES: Can you describe what and how the dog and Officer Bennett and the suspect were
27 interacting?
28 ANS: The dog was biting the suspect on the driver's side of the vehicle, on the ground.

29

30 QUES: Okay so he was out on the ground on the driver's side of the car?
31 ANS: Correct.

32

33 QUES: And what was Officer Bennett doing?
34 ANS: Giving the dog commands, or giving the suspect commands, or a combination of the two.

35

36 QUES: Okay. Was he pretty much standing up or was he engaged with the suspect as well?
37 ANS: Ah, it happened real quick. I was just running up there to handcuff the guy. I don't know
38 what John was doing.

39

40 QUES: Okay. And, uh, can you describe the actions of the suspect that was on the ground?
41 ANS: He was on the driver's side, he was on the ground. Don't remember if he was partially
42 under the vehicle or what, but he was just next to the vehicle as far as I can remember.

43

44 QUES: Did it look like he was fighting, did it look like he was passive?
45 ANS: As far as I remember—I don't remember specifics. It happened so quick, it was a long
46 time ago. I just know the dog was biting him.

47

48 QUES: Okay. Do you remember if he was saying anything? The suspect?
ANS: I remember him screaming. I don't know any specific words though.

49

50

51 QUES: An appropriate response I guess. And, uh, so did you go, did the officer order the dog off
52 the suspect before he was handcuffed?

VB

1 ANS: I don't know. Don't know at which point. I just knew I was going to handcuff him and that's
3 what I did. I handcuffed him; that was it.
4 QUES: Alright. And did the individual receive any injuries from the dog bite?
5 ANS: Yes, he did.
6
7 QUES: Can you explain what injuries you saw?
8 ANS: I specifically didn't see them. Well, after I handcuffed him I removed myself from the
9 situation and assisted with something else. I just know he went into an ambulance.
10
11 QUES: Okay. And did you, uh, after you handcuffed him, did you take control of the individual?
12 Physical control—did you put him into a squad?
13 ANS: I don't recall. Just talking about it, there was a lot of chaos going on.
14
15 QUES: Sure, okay. So you got there, he was already out, so you have no first-hand knowledge of
16 what went on before that as far as the suspect being inside the car and how he came out?
17 ANS: No.
18
19 QUES: Alright. Were there any weapons found on this guy's body?
20 ANS: No.
21
22 QUES: Were any weapons found in the car?
23 ANS: I don't think so.
24
25 QUES: Okay. Did you hear any specific commands by Officer Bennett directed to the suspect?
26 ANS: I wasn't paying attention.
27
28 QUES: Okay. Those were the main points I wanted to cover. Is there anything that you'd like to
29 add to your statement at this time?
30 ANS: No, sir.
31
32 QUES: Has anyone from this office made any threats or promises to you for giving this statement?
33 ANS: No, sir.
34
35 QUES: And once your statement has been transcribed, would you be willing to sign your
36 statement?
37 ANS: Yes.
38
39 QUES: Great. Um, it's 1:11 p.m. and we can conclude the interview.

40
41
42 Signature: [REDACTED] Date: 1-21-11

43
44
45 cms



MINNEAPOLIS POLICE DEPARTMENT

"GARRITY WARNING"

TO: Officer John Bennett
FROM: Chief Timothy J. Dolan
DATE: 10/25/2010

CRA Case Number: 10-2823

CRA Investigator: [REDACTED]

CRA Investigator's Phone Number: [REDACTED]

MPD CCN: [REDACTED]

READ ALL OF THE FOLLOWING VERY CAREFULLY AND COMPLETELY

The Civilian Review Authority has informed Minneapolis Internal Affairs Unit that they are conducting an investigation in which they need your cooperation for a question and answer statement.

You are being ordered to take the following two actions by **11/1/2010**:

1. At this time, you are being advised of the Garrity Warning pursuant to Department Policy. Therefore, you are being ordered to review and sign this form and return it to the Internal Affairs Unit.

"I, the undersigned Minneapolis Police Officer, hereby acknowledge that I have been ordered under the authority of the Minneapolis Chief of Police to provide a statement to CRA related to CRA investigation number 10-2823 as it pertains to the scope of my employment and my fitness for duty. I understand that the statement I am being ordered to provide to CRA is a compelled statement as defined by the Garrity Decision and can not be used in criminal proceedings against me except in cases of alleged perjury."

x John Bennett
Officer Signature

x 10-25-10
Date

faxed
10-27-10
cm



MINNEAPOLIS POLICE DEPARTMENT

"GARRITY WARNING"

TO: Officer [redacted] witness

FROM: Chief Timothy J. Dolan

DATE: 10/20/2010

CRA Case Number: 10-2823

CRA Investigator: [redacted]

CRA Investigator's Phone Number: [redacted]

MPD CCN: [redacted]

READ ALL OF THE FOLLOWING VERY CAREFULLY AND COMPLETELY

The Civilian Review Authority has informed Minneapolis Internal Affairs Unit that they are conducting an investigation in which they need your cooperation for a question and answer statement.

You are being ordered to take the following **two** actions by **10/29/2010**:

1. At this time, you are being advised of the Garrity Warning pursuant to Department Policy. Therefore, you are being ordered to review and sign this form and return it to the Internal Affairs Unit.

"I, the undersigned Minneapolis Police Officer, hereby acknowledge that I have been ordered under the authority of the Minneapolis Chief of Police to provide a statement to CRA related to CRA investigation number 10-2823 as it pertains to the scope of my employment and my fitness for duty. I understand that the statement I am being ordered to provide to CRA is a compelled statement as defined by the Garrity Decision and can not be used in criminal proceedings against me except in cases of alleged perjury."

[Redacted signature area]

Officer Signature

10/20/10

Date

*faxed
10-21-10
cm*



Minneapolis
City of Lakes

**Civilian
Police Review Authority**

350 South 5th Street - Room 239
Minneapolis MN 55415-1369

Office 612 673-5500

Fax 612 673-5510

TTY 612 673-2157

March 3, 2011



RE: Complaint No. 10-2823

Dear Mr. Miamen:

This letter is to inform you of the status of this complaint. Your CRA complaint is now closed and has been referred to the Chief of Police for further action. The Chief of Police shall provide the Authority and the Mayor with a written explanation of the reasons(s) for any additional action that is taken on the complaint.

If discipline is imposed on the officer, the Minneapolis Civilian Police Review Authority cannot advise you of this discipline until there is a final disposition in this matter. Final disposition occurs when the officer has exhausted all his/her appeal rights and the discipline is upheld.

If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Yours truly,

Samuel L. Reid
Assistant Director
Department of Civil Rights



SLR:sp

cc (w/ encl): Andrew J. Noel, Esq.



**Civilian
Police Review Authority**

350 South 5th Street - Room 239
Minneapolis MN 55415-1369
Office 612 673-5500
Fax 612 673-5510
TTY 612 673-2157

March 3, 2011

OFFICER JOHN BENNETT
MINNEAPOLIS POLICE DEPT
ATTN: CANINE UNIT
350 S 5TH ST
MINNEAPOLIS MN 55415

RE: Complaint No. 10-2823

Dear Officer Bennett:

Enclosed with this letter please find the determination of the Hearing Panel in connection with this case.

The review authority shall forward the investigatory file, the findings of fact and the panel determination to the Chief of Police, who shall make a disciplinary decision based upon this information.

Thank you for your attention to this matter.

Yours truly,

Samuel L. Reid
Assistant Director
Department of Civil Rights



REC'D JAN 26 2011



FLYNN|GASKINS|BENNETT^{LLP}

GEORGE W. FLYNN
STEVE GASKINS
ROBERT BENNETT
JEANNINE L. LEE
TIMOTHY R. SCHUPP
STEVEN E. RAU

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333 SOUTH 7TH STREET, SUITE 2900, MINNEAPOLIS, MN 55402
TEL 612.333.9500 FAX 612.333.9579 TOLL 866.397.4497
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ANDREW J. NOEL
SHARON M. HOROZANIECKI
SARA DAGGETT
JEFFREY S. STORMS
ASHLEY A. WENGER

Direct: [REDACTED]

January 26, 2011

HAND DELIVERED

Donald Bellfield, Board Chair
Mpls. Civilian Police Review Authority
607 Grain Exchange Building
301 Fourth Avenue South
Minneapolis, MN 55415

Re: Abel G. Miamen v. John Bennett and City of Minneapolis
Complaint No. 10-2823
Our File No. 18921

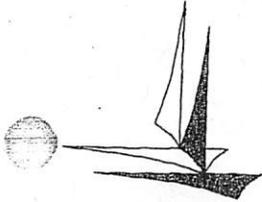
Dear Mr. Bellfield:

I represent [REDACTED] regarding his claims against Officer John Bennett and the City of Minneapolis. Yesterday I left a message for Lee Reed requesting that today's CPRA hearing be rescheduled. I have not heard back. Thus, I am informing you that we will not appear this evening. We respectfully ask that the hearing be rescheduled. Please contact me with any questions.

Very truly yours,

AJN/mo

c: Abel Miamen



Minneapolis
City of Lakes

**Civilian
Police Review Authority**

301 4th Avenue South – Room 670
Minneapolis MN 55415-1019

Office 612 673-5500
Fax 612 673-5510
TTY 612 673-2157

January 18, 2011

Officer V [REDACTED]
Minneapolis Police Dept
Precinct 4
1925 Plymouth Av N
Minneapolis MN 55411

RE: CRA (File #10-2823)

Dear Officer [REDACTED]

Enclosed are two copies of your statement given on October 29, 2010 at the Civilian Police Review Authority's office.

Please review and initial any corrections you wish to make. Sign and return one copy **by interoffice mail**.

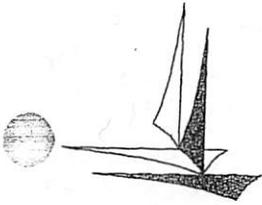
Thank you for your cooperation, and feel free to contact our office if you have any questions.

Sincerely,

[REDACTED]
[REDACTED]
Case Investigator

Enc: cms





Minneapolis
City of Lakes

**Civilian
Police Review Authority**

301 4th Avenue South – Room 670
Minneapolis MN 55415-1019

Office 612 673-5500
Fax 612 673-5510
TTY 612 673-2157

July 8, 2010

[REDACTED]

Dear [REDACTED]

Enclosed are two copies of your statement given on June 11, 2010. Please review and initial any corrections you wish to make on your statement. Sign and return one copy of the statement in the enclosed stamped, self-addressed envelope.

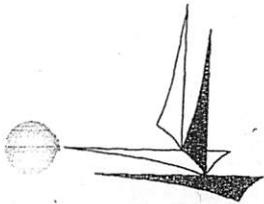
Thank you for your cooperation and feel free to contact our office if you have any questions.

Sincerely,

[REDACTED]

[REDACTED]
Case Investigator





Minneapolis
City of Lakes

**Civilian
Police Review Authority**

301 4th Avenue South – Room 670
Minneapolis MN 55415-1019

Office 612 673-5500
Fax 612 673-5510
TTY 612 673-2157

June 10, 2010

OFFICER JOHN BENNETT
MINNEAPOLIS POLICE DEPT
ATTN: CANINE UNIT
350 S 5TH ST
MINNEAPOLIS MN 55415

Dear Officer Bennett:

RE: **File No. 10-2823**

Enclosed please find a Notice of Complaint in connection with a complaint filed with the Civilian Police Review Authority. When you have received your **Garrity Warning** requiring you to provide a statement to our office, please contact Investigator [REDACTED] at [REDACTED]

Thank you for your attention to this matter.

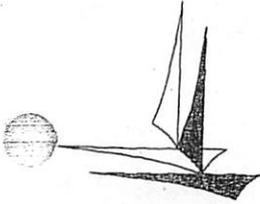
Yours truly,

Samuel L. Reid II
Manager

SLR:sp

enc





Minneapolis
City of Lakes

**Civilian
Police Review Authority**

301 4th Avenue South - Room 670
Minneapolis MN 55415-1019

Office 612 673-5500
Fax 612 673-5510
TTY 612 673-2157

June 10, 2010

[REDACTED]

Dear [REDACTED]

Thank you for returning to us your signed complaint. A copy of our Notice of Complaint is enclosed. This is also sent to the officers involved and to the Police Department. We will now begin our process of reviewing the allegations in your complaint, and we will inform you of the status of our review in accordance with our rules.

The investigator assigned to your complaint is [REDACTED]. His direct telephone number is [REDACTED].

If you have a change of address or telephone number, please notify Investigator McKean.

Yours truly,

Samuel L. Reid II
Manager

SLR:sp

enc

