



January 31, 2012

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

Officer Jon Fairbanks
Fifth Precinct
Minneapolis Police Department

Officer Fairbanks,

RE: CRA Number 11-3046
LETTER OF SUSPENSION

The finding for CRA Case #11-3046 is as follows:

MPD P/P 5-105 (15) Professional Code of Conduct-Language...SUSTAINED (Category B)

You will receive a 10 Hour Suspension in regards to the above 5-105 (15) Professional Code of Conduct violation. It was determined that the language used was harsh and unnecessary. This sustained violation will remain a B violation and can be used as progressive discipline for three years, or 08-11-2014. The case will remain in the IAU files per the record retention guidelines mandated by State Law.

Although CRA also sustained 2-106 Complaint Investigations-Garrity Decision, MPD will not impose discipline regarding this reported policy violation. It was determined that the investigation, as conducted, did not show a preponderance of evidence to properly sustain a policy violation or impose discipline.

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

Sincerely,

Timothy Dolan
Chief of Police

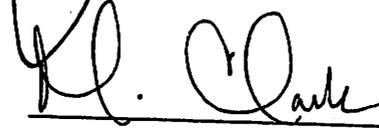


Page 2
Officer Jon Fairbanks
Letter of Suspension

I, Jon Fairbanks, acknowledge receipt of this
Letter of Suspension



Officer Jon Fairbanks 02-01-2012
Date



Inspector Matthew Clark 2-1-12
Date

CC: Inspector Matthew Clark
Personnel
IAU



Minneapolis
City of Lakes

January 31, 2012

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

Officer James Mota

Fifth Precinct

Minneapolis Police Department

Officer Mota,

RE: CRA Number 11-3046

LETTER OF SUSPENSION

The finding for CRA Case #11-3046 is as follows:

MPD P/P 5-105 (15) Professional Code of Conduct-Language...SUSTAINED (Category 1)

You will receive a [REDACTED] Hour Suspension in regards to the above 5-105 (15) Professional Code of Conduct violation. You will also receive a transfer of assignment as determined by Inspector Clark. It was determined that the language used was foul and particularly offensive to the complainant. This sustained violation will remain a [REDACTED] violation and can be used as progressive discipline for [REDACTED] years, or 08-11-20 [REDACTED]. The case will remain in the IAU files per the record retention guidelines mandated by State Law.

Although CRA also sustained 2-106 Complaint Investigations-Garrity Decision, MPD will not impose discipline regarding this reported policy violation. It was determined that the investigation, as conducted, did not show a preponderance of evidence to properly sustain a policy violation or impose discipline.

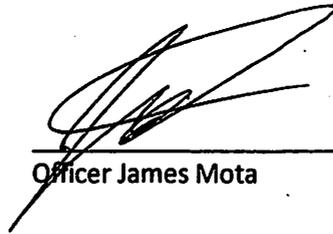
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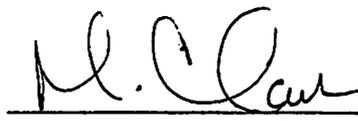
Timothy Dolan
Chief of Police



I, James Mota, acknowledge receipt of this
Letter of Suspension



Officer James Mota 2/1/12
Date



Inspector Matthew Clark 2-1-12
Date

CC: Inspector Matthew Clark
Personnel
IAU



DEC 23 2011

**Civilian
Police Review Authority**

350 South 5th Street - Room 239
Minneapolis MN 55415-1389

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

December 21, 2011

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

RE: Complaint No. 11-3046

Dear Chief Dolan:

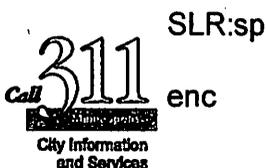
I am submitting to you the Civilian Review Authority Board's Findings of Fact and Determination in this complaint.

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



Findings of Fact and Determination

Complaint Number 11-3046
Hearing Panel [REDACTED] (Chair), [REDACTED], [REDACTED]
Officer Jon Fairbanks (Badge #1901)
Jurisdiction M.C. O. §§ 172.10, 172.70, 172.160, 172.100
Date Complaint Filed November 2, 2011
Hearing Date December 14, 2011

INCIDENT

This incident occurred on August 11, 2011 at approximately 10:45 a.m. at the location of Lyndale Avenue South and West 22nd Street.

Officers responded to calls concerning the behavior of the Complainant. The officers located the Complainant and made contact. The Complainant was taken into custody and cited for disorderly conduct and transported by officers to Hennepin County Medical Center (HCMC) Crises without incident.

SUMMARY OF ALLEGATIONS

This complaint alleges that Officer Jon Fairbanks used inappropriate language towards the Complainant; "Get your fucking hands on the car, bitch," and "We're fucking in charge, you got that cocksucker? Not you, we are."

SUMMARY OF EVIDENCE

1. Complainant Statement – [REDACTED]
2. Subject Officer Statement – Officer Jon Fairbanks (Badge #1901)
3. Witness Officer Statement – Officer James Mota (Badge #4880)
4. Minneapolis Police Department (MPD) Capt's Incident Report # [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. Min [REDACTED]

FINDINGS OF FACT

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

1. On the date and time in question, Officer Fairbanks and Officer Mota were working squad 514 when dispatched to the location of [REDACTED] on a report of a suspicious person complaint.
2. When the officers arrived on the scene, they located the Complainant in front of Caffetto Coffee Shop on 22nd Street just west of Lyndale Avenue South.
3. After a brief conversation, the Complainant was told to come toward the squad car.
4. When the Complainant did not respond immediately, Officer Fairbanks grabbed the Complainant and escorted him over to the squad car and held him against the squad.
5. During this encounter, the Complainant held his cell phone in the palm of his hand which video and audio recorded the initial contact with the officers.

6. During this recorded contact, you can hear an officer yelling profanities at the Complainant; while the Complainant is heard speaking in a calm tone of voice.
7. On the recording an officer is heard making the following statements;
 - "Get your ass over here. Get over here!"
 - "You think this is fucking funny?"
 - "Get your hands on the car!"
 - "Get your fucking hands on the car, bitch!"
 - "Now, we're fuckin' in charge, you got that, cocksucker? Not you. We are!"
 - "Acting like you're fuckin' four years old out here."
 - "Stupid fuck!"
8. Complainant identified Officer Fairbanks as the officer who made the above statements.
9. Officer Fairbanks stated he made the statement, "You're not in charge here. We are."
10. Officer Fairbanks stated he did not recall using any profanity, but if he did use profanity, the "fuck" word, it would have been, "Keep your hands on the fucking car," and that he "never called anybody a cocksucker."
11. Officer Fairbanks stated he never heard Officer Mota use any profanity while dealing with the Complainant.
12. Officer Mota stated he did not use any profanity and did not hear Officer Fairbanks use any profanity while dealing with the Complainant.

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)

SUMMARY

The Hearing Panel accepts and incorporates the investigator's analysis.

Inappropriate Language – That Officer Fairbanks used inappropriate language towards the Complainant;

The following was recorded on the Complainant's cell phone that he held in the palm of his hand during the incident.

- "Get your ass over here. Get over here!"
- "You think this is fucking funny?"
- "Get your hands on the car!"
- "Get your fucking hands on the car, bitch!"
- "Now, we're fuckin' in charge, you got that, cocksucker? Not you. We are!"
- "Acting like you're fuckin' four years old out here."
- "Stupid fuck!"

At the time of this incident Officer Fairbanks was driving with Officer Mota as passenger officer. Officer Fairbanks drove the squad car eastbound on 22nd Street toward Lyndale Avenue South. Based on a description given by the 911 callers, the Complainant was located on 22nd Street in front of Caffeto Coffee Shop just west of Lyndale Avenue South carrying a box. Officer Fairbanks stopped the squad blocking the driveway to the parking lot adjacent to the coffee shop, placing the Complainant on the driver's side of the squad car. The officers exited the squad car and after a brief conversation, Officer Fairbanks is heard shouting profanities at the Complainant and calling the Complainant a "cocksucker."

Officer Fairbanks stated that he may have told the Complainant, "Keep your hands on the fucking car" but did not recall using any other profanities, and believed he made the statement, "You're not in charge here. We are." However, Officer Fairbanks was adamant that he would never call anyone a "cocksucker" and for this reason: "because I look at it as a sexual gender offensive comment and I have a brother, uncle, nephew who are gay, and a lesbian, in my family." That Officer Fairbanks would use such a tactic to be misleading in the course of this investigation is inappropriate.

MPD 5-101.01 TRUTHFULNESS (01/26/05)

The integrity of police service is based on truthfulness. Officers shall not willfully or knowingly make an untruthful statement, verbally or written, or knowingly omit pertinent information pertaining to his/her official duty as a Minneapolis Police Officer.

MPD employees shall not willfully or knowingly make an untruthful statement or knowingly omit pertinent information in the presence of any supervisor, intended for the information of any supervisor, or before any court or hearing. Officers shall not make any false statements to justify a criminal or traffic charge or seek to unlawfully influence the outcome of any investigation. (12/14/07)

These requirements apply to any report, whether verbal or written, concerning official MPD business including, but not limited to, written reports, transmissions to MECC and officers via radio, telephone, pager, e-mail or MDC.

MPD employees are obligated under this policy to respond fully and truthfully to questions about any action taken that relates to the employee's employment or position regardless of whether such information is requested during a formal investigation or during the daily course of business. (12/14/07)

MPD 5-102 MINNESOTA LAW ENFORCEMENT CODE OF ETHICS

I will never act officiously or permit personal feelings, prejudices, animosities or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear of favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

There is no dispute that Officer Fairbanks used inappropriate language during his contact with the Complainant. The only officers in contact with the Complainant at that time were Officer Fairbanks and Officer Mota. It is apparent that the specific language was used by one or both of the officers. Officer Mota denied using any profanity and Officer Fairbanks confirmed this. Officer Fairbanks admitted to a fraction of the inappropriate language, however, the recording gave the specific language used.

Based on the preponderance of evidence Officer Fairbanks is in violation of MPD policies and therefore this complaint is sustained.

MPD 5-105 PROFESSIONAL CODE OF CONDUCT

10. Employees shall not use indecent, profane or unnecessarily harsh language in the performance of official duties or in the presence of the public.

14. Employees shall not use any derogatory language or actions which are intended to embarrass, humiliate, or shame a person, or do anything intended to incite another to violence.

15. Employees shall be decorous in their language and conduct. They shall refrain from actions or words that bring discredit to the Department. They shall also not use words or terms which hold any person, group or organization up to contempt. The use of such unacceptable terms is strictly forbidden. (04/01/93)

Officer Mota's truthfulness is questionable as he stated that he did not hear Officer Fairbanks use any profanity or make the alleged statements when dealing with the Complainant. Officer Fairbanks and Officer Mota stated they grabbed hold of the Complainant, each taking an arm, and escorted him over to the squad car where he was restrained against the car until placed inside. This placed the officers in close proximity of each other while dealing physically with the Complainant. It would be nearly impossible for Officer Mota not to have heard the statements shouted by Officer Fairbanks toward the Complainant (as heard on the recording).

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*Officer Fairbanks – The Hearing Panel determination is that the allegation of INAPPROPRIATE LANGUAGE be **SUSTAINED**.*

*Officer Fairbanks – The Hearing Panel determination is that the allegation of TRUTHFULNESS be **SUSTAINED**.*

*Officer Mota – The Hearing Panel determination is that the allegation of TRUTHFULNESS be **SUSTAINED**.*

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.

COMPLAINT

CITY OF MINNEAPOLIS
CIVILIAN POLICE REVIEW AUTHORITY
350 South 5th Street, Room 239
MINNEAPOLIS, MN 55415-1369
(612)673-5500

CASE NUMBER 11-3046
DATE REPORTED 09/19/11
TIME REPORTED 10:00

Type of Incident Code Primary
Inappropriate Language 2BCD 2D

Location Where Occurred Pct. Ward Date Occurred Day of Week Time Occurred
Lyndale Avenue South & West 22nd Street 5 10 8/11/11 THU 10:45

Code Name Age DOB Gender Race
CV [REDACTED] [REDACTED] [REDACTED] M W

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
Jon Fairbanks 1901 I M Officer/Pct 5

Allegations

The Complainant alleges that Officer Jon Fairbanks used inappropriate language towards the Complainant when he was arrested for disorderly conduct.

The Complainant alleges that Officer Fairbanks said to him, "Get your fucking hands on the car, bitch," and "We're fucking in charge, you got that, cocksucker? Not you, we are."

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

[REDACTED]
Complainant's Signature

10/29/11
Date

[REDACTED]
Investigator's Signature

10-28/11
Date

Investigative Report

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

Complaint Number 11-3046

Investigator [REDACTED]

Officer

Jurisdiction

Date Complaint Filed _____

INCIDENT

This incident occurred at
Lyndale Avenue

in of

Officers responded to the
location of the Complainant
cited for disorderly conduct
Center (HCMC)

Officers
and
dical



SUMMARY OF ALLEGATIONS

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4. Minneapolis Police Department (MPD) Caprs Incident Report # [REDACTED]
5. [REDACTED]
6. [REDACTED] (by Complainant)
7. [REDACTED]

FINDINGS OF FACT

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

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INVESTIGATIVE ANALYSIS AND RECOMMENDATION

Inappropriate Language – That Officer Fairbanks used inappropriate language towards the Complainant;

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STATEMENT OF

PLACE: Minneapolis Civilian Police Review Authority Offices

DATE: November 18, 2011

TIME: 10:11 a.m.

CASE NO: 11-3046

INVESTIGATOR:

REC'D DEC 7 2011

Q. Please state your full name for me, sir, spelling your first and last name .

A. [REDACTED]

Q. What is your home address?

A. [REDACTED]

Q. What is your home phone?

A. [REDACTED]

Q. What is your age and date of birth?

A. [REDACTED]

Q. Mr. [REDACTED], directing your attention to the day of August 11, 2011: on that date, sir, you came in contact with Minneapolis police officers, is that correct?

A. Yes.

Q. And do you know approximately what time that contact took place?

A. I don't know. I think it was... maybe around 11 o'clock, or noon, or around that time.

Q. Eleven o'clock a.m.?

A. Yes.

Q. And what was the location of that contact, sir?

A. 22nd Avenue, or... 22nd... Street? And Lyndale. 22nd and Lyndale.

Q. And tell me, sir, how did this contact come about?

A. Um, there had been several 911 calls from people in the neighborhood calling and concerned about my behavior.

Q. What was going on?

A. Um, well, I, the night before, had gone to the bus station to pick up a bag that was left on the bus, and when I got there, all the bus drivers in the break room were complaining about the re-servicing of Lyndale and that none of them knew about it. And I thought this was kind of strange, for such a big project, it wouldn't have been conveyed to the bus drivers or MTC. So when I woke up the next morning to go down to The Wedge, I noticed that there was the re-servicing crew there and there was some [INAUDIBLE] behind, and he was obviously seemed like a supervisor. I asked him if he was the supervisor and he said, "Yes," and then I asked him why they hadn't phoned the bus company about the re-servicing of Lyndale. And he said that they, the signs had been up for a week. And I said, "Well, the signs didn't work," and he said, "Well, whaddya want me to do? Take an ad out?" I said, "Well that would be a good idea." And it just kind of escalated from there. And the point of escalation really happened when he called me a faggot, and told me to step out of his work zone and that's where I got very upset and couldn't let it go.

resurfacing

resurfacing ^(M)

Q. What did you do as a result?

A. Um, well, he called me a faggot so I went home and I put on a super faggot costume for him, just for his enjoyment. And came back down on the Lyndale sidewalk there, to do... entertain him in the way he seemed like he wanted to be entertained.

Q. And was this going on when the police arrived?

A. Uh, no. It took quite some time for the police to arrive, and I was heading west on 22nd when the police stopped me.

Q. And what happened from there?

A. Um, basically Officer Fairbanks immediately kind of started yelling at me, "What are you doing out here? You're acting like a four-year-old," blah, blah, blah, blah. And then from there, you know, I only know now

exactly what happened from the recording that was going on, that I didn't even know about.

Q. What recording?

A. I had a cell phone in my hand and somehow it was on video record. So it recorded all of Officer Fairbanks' words.

Q. So you had a cell phone in your hand when you first came in contact with the officers?

A. Correct.

10 Q. And this cell phone was on record—video record?

A. Yes.

Q. Was that as well as audio?

A. Yes.

15

Q. Go on, sir.

A. Um, and Officer Fairbanks got forceful. He called me a little bitch, and he threw me up against his car and called me a cocksucker and told me that he was in charge—they were in charge, and then put me in the back seat.

20

Q. Was Officer Fairbanks the only officer on the scene?

A. No, he had a partner, Officer Moto [sic].

Q. And where was Officer Moto when you made contact with Officer Fairbanks?

25 A. I'm not sure where he was but when I got put into the car, Officer Moto sat in the front passenger seat while I sat in the back.

Q. Did Officer Mota put hands on you at all?

A. No.

30

Q. Where exactly were you located when the officers came on the scene?

A. I was just up from Caffetto which is like a coffeehouse on the north side of 22nd Street.

Q. Were you carrying anything at the time?

35

A. Yes, I was carrying a box.

Q. Was there anything in this box?

A. Uh, yes, there was but Officer Fairbanks searched it and determined there was nothing in it and threw it away.

40

Q. What was in the box?

A. A broken piece of a bottle.

Q. Were you standing in front of this coffee shop when the officers arrived?

45

A. Yes.

Q. And where did the officers park versus where you were standing?

A. They kind of parked right in the entrance to the alley, [INAUDIBLE] alley.

50

Q. Pardon me?

A. Blocked the entrance to the alley.

Q. And how far away were you from the squad car when they parked?

55

A. Um, probably I'd say 15 feet.

Q. And when the officers pulled up, did they exit their squad car immediately?

A. I think so. They didn't talk to me from their window or anything.

Q. Did both officers exit the vehicle at the same time?

60

A. I believe so.

Q. And after exiting the vehicle, did they then approach you?

A. Yes.

Q. And did you attempt to walk away from the officers?

A. No.

Q. Do you recall what was said to you upon first contact with the officers?

A. Just some comment about, "What are you doing out here, acting like a four-year-old?"

Q. And who was talking at that time?

A. Officer Fairbanks.

Q. Did you have any conversation with Officer Mota?

A. No, not until I was inside the vehicle.

Q. You stated that you were placed inside the vehicle and Officer Mota was seated in the front passenger's seat?

A. Yes.

Q. Was he seated inside the squad car before or after you were placed inside?

A. Um, I'm not sure. I just know that once I was inside, he was inside.

Q. And what about Officer Fairbanks? Where was he?

A. Officer Fairbanks was out talking to other officers.

Q. Were other officers on the scene when you were being placed inside the squad car?

A. Mmhmm.

Q. Pardon me?

A. Yes, there were.

Q. And were they close to where you were being placed inside the squad car?

A. Well, I just remember a squad car pulling up alongside of them.

Q. So were there any officers standing with Officer Fairbanks and Officer Mota when you were being placed inside?

A. I'm not sure.

Q. So, how did it come about that you were placed in the squad car?

A. I don't know. Officer Moto just—er, Officer Fairbanks said those things to me, threw me up against the squad car, and threw me inside.

Q. Did he ever ask you to come to the squad car?

A. No.

Q. When the officers exited the squad car, did they approach you?

A. Um, Officer Fairbanks came up to me.

Q. And then where—you said your cell phone was video recording this incident?

A. Mmhmm.

Q. Sir?

A. Yes.

Q. And where was the cell phone located at that time?

A. In the palm of my hand.

Q. At any time did the officers attempt to remove the phone from your hand?

A. No, they didn't.

Q. And how—did you walk on your own to the squad car before you were placed inside?

A. No, he grabbed me.

Q. Who did?

A. Officer Fairbanks.

Q. And once he grabbed you, what did he do?

A. He threw me up against the car.

Q. But you stated earlier you were about 10 feet away from the car when they first drove up?

A. When they first drove up but then he got out of his car and came to me.

Q. He came to you and he did what?

A. And he started talking, saying I was acting like a four-year-old, and I don't know, some other things that I can't remember, and then grabbed me and threw me up against the car.

Q. So did he escort you to the squad car?

A. No, it was pretty forceful the way he threw me up against the car.

Q. Can you describe to me how that was done sir?

A. He grabbed me and pulled me over to the car and pushed me up against it.

Q. And then once you were up against the squad car, were you pat-searched at all?

A. No.

Q. Were you handcuffed?

A. No.

Q. So were you restrained against the squad car?

A. Only by his arm and his weight.

Q. And were you then placed immediately inside?

A. Yes.

Q. So would you say he was restraining you up against the squad car until he opened the door to place you inside?

A. It would seem so, yes.

Q. Did you resist the officer at all?

A. Did I what?

Q. Did you resist him?

A. No.

Q. His efforts of putting you inside the squad car?

A. No.

Q. Did you ever try to clench up and hold your arms at your sides to prevent him from holding you against the squad car?

A. No.

Q. Where was your cell phone when you were placed up against the squad car?

A. In the palm of my hand.

Q. And then when you were placed inside the squad car, where was the cell phone?

A. I had my cell phone, in fact I made several phone calls from the backseat of the car.

Q. So at what point did you stop recording?

A. I didn't know about the recording until about seven days later, when I was going through my phone at HCMC. That's when I discovered that I had this video of the arrest.

Q. So once you were placed inside the squad car, what took place, sir?

A. Basically a conversation with Officer Moto.

Q. And what was in that conversation?

A. Well, I told him that I didn't think Timothy Dolan would approve of Officer Fairbanks' tactics or language. And Officer Moto said that, "You know, sometimes we have to take extreme measures to get people's attention."

Q. Any further conversation with Officer Mota?

A. Well, we talked back and forth about stuff, I asked him if he had a good health plan and he said no, that it sucked. And I said, well, obviously because your partner Fairbanks could use some dental work. And then later when Officer Fairbanks was driving us downtown, Moto told him, "You know, by the way, the guy in the back seat was talking about your bad teeth," and he's like, "That's it! He's going to jail! He's going to jail, no Crises for him. He's going to jail." And so for several blocks, I thought I was going to jail.

* Crisis

Q. Where were you taken?

A. Hennepin County Medical Center.

Q. Did you have any more contact with or conversation with Officer Fairbanks once you were placed inside the squad car?

A. We had some idle chitchat kind of back and forth. I know that he told me that he's an ^{Assiniboin} Eswabanee [sic] Native American.

Q. When did that conversation take place?

A. On the drive to Hennepin County Medical Center.

Q. How did you come about the identity of Officer Fairbanks?

A. Oh, I paid attention right away.

Q. From what point did you take notice?

A. Right away, instantly. Instantly, when I saw his name on his uniform.

Q. On your initial contact with him?

A. Yup, yup.

Q. And I don't know if I asked you this but just for clarification: where was Officer Mota located during the time that Officer Fairbanks grabbed you and pulled you towards the squad car.

A. I dunno. I want to say he was outside of the vehicle on the passenger's side of the car.

Q. Do you recall where he was when Officer Mota was making these statements to you?

A. What?

Q. These alleged statements?

A. Where Moto was?

Q. Yes.

A. No, I don't know for sure.

Q. And how sure are you that the statements came from Officer Fairbanks?

A. Oh, absolutely sure.

Q. And did Officer Mota remain inside the squad car with you while you were still on the scene?

A. Yes.

Q. So did he ever exit the squad car once you were placed inside?

A. No. I don't think so, I think he was there pretty much the whole time.

Q. Did you speak to any other officers on the scene?

A. Nope.

Q. Did Officer Fairbanks ever come to open the rear door of the squad car and talk to you, just standing outside?

A. He, um, he may have. Something seems slightly familiar about that but I don't remember exactly what was said.

Q. Is there anything else that you recall about this incident, sir?

A. Mm, no.

Q. Is there anything you wish to add to your statement?

A. Um, no... have you heard the recording?

Q. We can discuss that after the statement.

A. Oh, okay. I have nothing to add to my statement.

Q. Has anyone from the Minneapolis Civilian Police Review Authority made any threats or promises to you for giving this statement here today?

A. No.

Q. After you've read your statement, and if necessary made any corrections to it, are you then willing to sign it, sir?

A. Yes.

Q. That concludes this interview. The time is 10:30 a.m.

Signature: [REDACTED]

Date:

12/4/2011

cms

STATEMENT OF **Officer Jon Fairbanks**
PLACE: Minneapolis Civilian Police Review Authority Offices
DATE: November 17, 2011
TIME: 10:12 a.m.
CASE NO: 11-3046
INVESTIGATOR: [REDACTED]

REC'D NOV 29 2011

- 10 Q. State your full name, spelling your last name for me please.
A. Jon Philip Fairbanks, F-A-I-R-B-A-N-K-S.
- Q. And your rank and present duty assignment?
A. Patrol officer, 5th Precinct, daywatch.
- 15 Q. How long have you been a police officer for the City of Minneapolis?
A. Oh, going on 19 years.
- Q. Have you been ordered by your department to appear here to provide a statement as provided by the
Garrity decision?
A. Yes.
- 20 Q. And you are willing to give me a statement at this time, sir?
A. Yes.
- 25 Q. Officer Fairbanks, directing your attention, sir, to the day of August 11, 2011 at approximately 10 :45-11:00
a.m. On that date and time, you were working with squad 514 with Officer James Mota, is that correct?
A. Yes.
- Q. And on that date and approximate time, you and Officer Mota responded to a location in the area of
Franklin Avenue and 22nd Street on a suspicious person, is that correct, sir?
A. Well, Lyndale, and 22nd.
- Q. Lyndale and 22nd? Okay. And do you recall if you were given any information as far as any particulars
regarding this call before arriving on the scene?
A. I can't remember all the details but what I remember is, it was a, I think it was a white male and he was
35 yelling and screaming at Hennepin County—well, yeah, Hennepin County road crew that was repaving
Lyndale, in that area.
- Q. And what was the situation when you arrived on the scene?
A. He was gone. We got waved down by one of the Hennepin County road crew workers, said that he'd last
40 seen him walking southbound on Lyndale.
- Q. Did you eventually locate this individual?
A. Yeah, so I went down southbound on Lyndale, then went westbound. As I was going westbound on 24th
45 Street, dispatched aird that this individual had returned and he was yelling and screaming, back at the
Hennepin County road crew workers, and other remarks I believe say that he was undressing and he had a
broken bottle and he was threatening the workers with that broken bottle. And I think he was supposed to
be on the other side of the street; I'm not sure, I can't remember the details on the remarks, unless you
have all the dispatch remarks. I'm not sure. So anyway, I went north on Aldrich, 'cause I was the driver and
my partner was the passenger... yup, Fairbanks – driver, Mota – passenger. And so I then went east on
50 22nd Street from Aldrich 'cause I think—yeah, he was supposed to be at 22nd and Lyndale—and as I turned
the corner I could see a white male. Had the same description clothes, I think it was a striped shirt and I'm
not sure if he had shorts or pants but he was standing in front of, there's a [REDACTED]? Yeah,
Caffetto Coffee. And on the sidewalk, they had their tables. I think there were like two or three tables, and
there were probably four customers outside having coffee or whatever they're doing, computer laptop,
whatever, 'cause it was a nice day. And there he was. I believe he was holding a box? But he was facing
the individuals, probably from me-to-you away, so two yards, three yards away, two yards, yard and a half.
His fly was undone, and pardon the expression, but he was dry-humping, facing them, and was yelling

something at these people.

Q. Dry humping what?

5 A. The air. As in gestured, like he's screwing the air. Or, you know. Towards these people, he is, like, uhh! I know you can't get the sound on there... it's hard to explain. The only thing that I can explain is that he's standing in front of these people, in front of the tables, dry-humping with his zipper down.

Q. And you say he was holding a box?

10 A. I think it was a box. I know he had something, he had a box or something. But the best way I can explain it is his dry-humping right at these people with his fly down. Right there, disorderly conduct, and he was saying something, 'cause I didn't have my window down but he was motioning, gesturing to these people. Anyways, so we pull up, stop, tell him to come here. And he stops and looks at us. And didn't do anything. Like he totally ignored that we were even there. I said, "Look, c'me're." And still, no response from him. So me and my partner walked up to him. You know, we're doing this as we're walking up to him. We definitely
15 need to get this guy isolated from the rest of the people and put him in our backseat. This guy is angry, agitated, sweating profusely, very upset. So, told him to go to the car and he wouldn't go to the squad car. And I don't know what he was saying 'cause I don't remember the exact words what he was saying, but he was in defiance to us, to what we were trying to give him verbal commands to do. And he was totally in defiance, refused to comply with any commands that we gave him. He only put the box down because—
20 yeah, I think we had to put the box down for him. You know, we didn't know what was in his box. And then... so at that point, I believe I made the statement, "You're not in charge here. We are." And so then I grabbed his—I believe it was his right arm—and my partner had his left arm, and we started to escort him to the squad car, and the whole time he was, you know, he was balking, would not comply with any of our commands, refused to comply with any of our commands, as a matter of fact: you know, tell him to walk to the squad car and we had to basically escort him to the squad car, and the whole time he's still jabbering. And like I said, I don't remember what his words were, or what he said. And we got him to the squad car and told him to put his hands on the squad. Well, he wouldn't. He held them tight and clenched like this so then me and my partner had to grab each hand and put them on the squad car and then he immediately jumped back. But of course we wanted to pat-search him for our safety and for his safety before placing
30 him in the back of the squad car.

Q. Did he verbally refuse to place his hands on the squad?

35 A. Physically. And he was saying other things but I can't remember what they were. But at one point, yes, I may have told him, you know, "Keep your hands on the fucking car." I may have said that, but if I did say that word, that foul language, it wasn't to belittle him in any way; it was an exclamation point at the end of a lawful verbal command, to get his attention so he would comply which he didn't.

Q. What happened

40 A. He pulled away. He backed up—he immediately pushed off the car. Wouldn't put his hands on the car so we had to place his hands on the car and at one point we even had to lean him up against the car so we could control him so we could pat-search him because he was starting to, you know, he was resisting, tensing up, doing everything that an angry person that sooner or later is going to come down to a fight. But he was, he didn't. You know, he finally relaxed when I told him that, he relaxed a little bit—enough to where we got the pat-search and then we placed him in the backseat of the squad car. Now, once in the back seat
45 of the squad car, I then went and talked to the people and then Sergeant Moore showed up, and we ended up dealing with the county workers, road crew workers. But anyways, so then I went back to talk to him, 'cause I wanted to explain to him—'cause he was asking, you know, demanding this, demanding that, and all this—and so I really don't remember everything he was wanting or what he was saying.

50 Q. This is while he was in the backseat of the squad car?

55 A. Before the squad car. So I wanted to get him in there, isolate him from the rest of the people 'cause he was very angry, very upset, very agitated, wouldn't listen to us, wouldn't comply with us, so the best way to do it in a situation—a lot of situations: place him in the backseat of the squad car, he's away from the atmosphere, he's isolated, he'll start to calm down, relax a little bit for the, you know—I can't give you a percentage but there's some people, once they get in the back they just start kicking and screaming. But he

started to calm down, started to calm down. He wasn't handcuffed.

Q. Oh.

A. No, he was not handcuffed.

Q. So you went back to and sat in the squad car—?

A. No, I opened the door for him. I even rolled the window down for him, you know, 'cause it was hot. But I opened up the back seat and he was sitting, so he was in the left-rear passenger seat area.

Q. Behind the driver's side?

A. Mmhhh, yup. So I opened it up and started talking to him, explained the situation to him and tell him what everyone was complaining about, and I asked him 'cause I had a feeling, you know, he might've had some mental issues. And so I asked him, "Do you have any mental issues?" and he says, "Yes." And I said, "Well, what are your mental issues?" And I think he told me I think bi-polar, schizophrenic, and something else—something unique. So I know the bi-polar and schizophrenic part, I think that's one of them. But there's like three, he listed off, like, three of them. And I said, "Are you currently on any medication?" And he says, "Yes," and I said, "Have you taken any medications lately?" and he says, "No." I said, "Well, when are you supposed to take your medication?" You know, this is the same question I ask people all the time when they tell me that and so I pretty much remember all of it by heart. It's the same Q&A every time. And I can't remember—I believe he said no he hasn't, but you could tell he might've had some alcohol too, which isn't a good thing if you're on medication, so I'm not sure. I'm not positive, I don't remember that point, I don't remember that. And I asked him, I told him the complaints were threatening with the broken bottle, threatening to do harm to these individuals and he denied, with the broken bottle. And he did admit that he was angry and yelling and screaming at him and he said because they disrupted the bus route, with the repaving. And I said, "Well they have to repave." And I explained to him, "Well, they have to repave. They want to do their job, let them do their job, repave, and the bus routes would be better." And he told me that because of his condition, that if anybody tries to argue back with him it escalates. He gets angrier and angrier and almost in a violent mode and he told me—he also told me that he had an appointment, I think, that day with his doctor and he asked me could you call to let him know that he's not going to be there, and I said, "Yeah, tell him you're going to be at Crises." Because I'd told him he was going to go to Crises.

Q. Was he taken to Crises from the scene?

A. Yeah, he was.

Q. Was he accepted there?

A. Yes, he was.

Q. And was that at Hennepin County?

A. Hennepin County, HCMC, yeah. But part of that, I asked him—so I helped make his phone call but during the whole process I asked him also, I said, "Are you the same guy that runs into the ice cream shop and causes a scene there and I get a call 'cause you're being disorderly in the ice cream shop on Franklin?" It's off of Franklin and Hennepin. And he goes, "Oh, yeah." He says—I had two calls on that guy. And he goes, "Oh yeah but me and the manager have an understanding. I explained to him my mental issues and so we have an understanding," and I said, "Oh, okay, well that's good." It was just a, I just had an intuition that he might've been the individual because he lived on Franklin, in apartment 905 I think, 905 or 903? Maybe it was—it was somewhere between Lyndale and Hennepin on Franklin, but anyways, so I knew he had mental issues so I told my partner, "Maybe you should just take him to crises," so Sergeant Moore was there so I started talking to him and talking to the guys—the road crew guys, and Sergeant Moore was thinking, "We should book this guy," and so I looked at the road crew construction guys, and I told them all his mental issues. I said, "He's got issues. We're just going to take him to crises." They wanted him booked, they wanted him arrested, for attempted, I guess, aggravated assault. So I looked at the guys, I said, "Are you guys, were you guys afraid at any point in time that this individual might harm you in any way?" And they went, "No." And I went, "Oop, that ends that one." And he goes, "Well, how about disorderly?" And I go, "Okay, but he's got ID so I guess we'll just write him a ticket but we're going to take him to Crises." He goes, "Oh, that sounds good. Peg him for disorderly and take him to Crises. That sounds good, Jon." And I

5 said, "Alright," so then we went to The Wedge who were the original caller—I believe we had two people, I think one of the original calls was from The Wedge, was an employee. So my partner, Officer Mota, went inside and found the employee. I don't know if it's a he or she, did fill out the citizen's arrest, so then we wrote him a citation and, you know, on the way down to Crises, and then took him to Crises where he needed to go. At the time, I had no idea this guy had any mental issues or anything like that. All I could see was this really angry guy and his disorderly behavior in front of these people and it wasn't until after I'd placed him in the car, that's when I asked.

10 Q. And after you had the conversation with him?

A. Yeah. When he was inside the squad car. When he calmed down, because—when I start talking—it took him a while 'cause he had his ups and downs. When he was in the backseat on the way, I mean, I'd open up the door and talk to him and he'd be nice and calm, and then I'd shut up. Next thing you know, I'd open it up again and he's in a different world: back to angry, agitated, and it was all the way to Crises like that.

15 Q. And where was Officer Mota and Sergeant Moore when you were talking to him?

A. Um, Mota was inside the squad car in the passenger's side 'cause he was ID'ing him, probably ID'ing him. Sergeant Moore was over with the, he was with the County, the—

20 Q. Construction guys?

A. Yeah. They were off to the side, and then Sergeant Moore went looking for the broken bottle. He walked all the way down Lyndale, from 22nd to Franklin, looking for that broken bottle—and then back again. I wasn't concerned with that, once they told me that they weren't afraid. My concern was that we needed to get this guy to Crises. He needed Crises.

25 Q. And at what point did Sergeant Moore show up on the scene?

30 A. Mm, I don't remember. It was probably after we had placed the guy in the backseat of the squad car. Now, his comment saying that I said, "Bitch," afterwards, that I do not remember or recall but if he was to ask me I would say more to the "no" side, okay? And as for that comment about cocksucker, I would never call anybody a cocksucker, and I'll tell you the reason why: why is because I look at it as a sexual/gender offensive comment and I have a brother, uncle, nephew who are gay, and a lesbian, in my family. I would never. That's the funniest part of all.

35 Q. So, you stated that when—

A. "Keep your hands on the fucking car."

Q. Okay, you made that statement?

A. Yeah, I may have—if I said that offensive word, can I say it?

40 Q. Yes, sir.

A. Okay, "fuck," it would've been in a sentence like that, "Keep your fucking hands on the car," 'cause once you take your hands off the car you're not listening to me so I gotta open up your ears and put an exclamation mark at the end of that statement. It's not to belittle, but to make a statement of the fact that I'm not messing around; you will do what I tell you to do.

45 Q. Now, you and Officer Moto—

A. Mota.

Q. You and Officer Mota were—?

50 A. Side-by-side.

Q. Side-by-side?

A. Yeah. I believe he was on his right side, I was—no. He was on the left side, I was on the right side.

55 Q. Did Officer Mota use any profanity when you were attempting to restrain this individual against the squad car?

A. No.

Q. Do you recall if Officer Mota said anything, or giving any orders?

A. I don't remember. Well, we both were giving verbal commands.

5

Q. But he didn't use any profanity while speaking to this individual?

A. No. I never heard any. Like I said, if I said a profanity word, it was not to belittle him in any way.

Q. Other than what you've just spoke of as far as the profanity that you had used?

10 A. The three complaint?

Q. Yes, did you use any profanity when dealing with this individual?

A. I don't recall ever using any profanity, like I said. If I used profanity, the "fuck" word, it would've been, "Keep your hands on the fucking car."

15

Q. And the allegation regarding you referring to this individual, calling him a "bitch"?

A. Don't remember. I would wager on the side of no. As for "cocksucker," never.

Q. Okay.

20

A. I've never called anybody a cocksucker.

Q. Were there any incidents while you were en route to Hennepin County Medical Center?

A. Oh, he was—like I said, he was up and down. He'd be calm and very intelligent and smart, and next thing you know he's off on another tangent, you know? I didn't say anything to him. I tried to keep him calm.

25

Q. And you stated that the force that you and Officer Mota used was during the time just restraining him against the squad car while you pat-searched him?

A. Yes, yup. It was just to hold him, keep him in place, and he was fighting the whole time as in tensing up, pulling away, arms, hands, fists clenched. As soon as someone puts their fist in a clenched position like this, they are laying on that squad car.

30

Q. Was he facing the squad car?

A. Facing the squad car.

35

Q. And for the record, just showing with your arms—?

A. Two fists.

Q. Arms clenched to the side?

A. Yup.

40

Q. And forearms up?

A. Yup. That's when we had to try to place his hands on the car.

Q. Exactly where was he located? Was he on the sidewalk when you pulled up on the scene?

45

A. Yes. He was actually—he was in front. He was in front of that coffee shop, right in front of those tables with, I think it was four people. Like I said, zipper down, dry-humping in front of them in a sexual gesture and saying... I don't know what he was saying 'cause you could see his mouth moving, lips moving. And I told my partner, I'm like, "There he is."

50

Q. And how far away was he from the squad car once you parked?

A. When I pulled up—

Q. Did you pull up right alongside him?

55

A. No. That's not safety; that's not officer safety. You know that, being an ex-cop. No, you've got to pull up a little distance away. He was, oh, I don't know, I can't... tell you how many feet. I can... shoot, I don't know,

can't explain it. A safety position—officer safety position. Let me see. So, maybe... well, as you pull around the corner you go down the hill, there's the business. There's a parking lot and then I was blocking the driveway 'cause you have the Caffetto and then there's a parking lot back here that's for the Red Dragon, bar and grill, and then he was in front of the business, the driveway, and I parked like right next to the driveway so I was blocking the driveway entrance. So it was probably a squad-length's distance.

5

Q. About a car-length away?

A. Yeah.

10 Q. And he was out in front of the squad car?

A. Yes. He was in front of the squad car, in front of those people, doing sexual gestures with an, unzipped pants.

Q. Did you make a report on this incident?

15 A. No. It's a misdemeanor so my partner did the statement. If he would've got tased or strapped down then yeah, then I'd have to do a statement.

Q. Anything else, sir, you wish to add to your statement?

20 A. No, other than when we first started walking up to the guy, the way he was tensed up, I thought he was going to get ready to fight.

Q. Was he using any harsh words towards you when you first approached him?

25 A. You know, I don't remember any of his comments or language other than defiance, whatever he was saying. He wouldn't do anything we wanted him to do; he wouldn't even acknowledge our presence.

Q. Anything else, sir?

30 A. No, like I said: if I did say a foul word, it wasn't to belittle in any way, it was to make an exclamation point at one of my lawful commands. I give a command and he did refuse, well then. So it was just to open up his ears that, listen, I'm not messing around. There was no belittling. "Cocksucker," never. "Bitch," I don't remember, but I'd lean towards no.

Q. Has anyone from the Minneapolis Civilian Police Review Authority made any threats or promises to you for giving this statement here today?

35 A. No.

Q. After you've read your statement, and if necessary made any corrections to it, are you then willing to sign it?

A. Yes.

40 Q. That concludes this interview. The time is 10:36 a.m.

Signature: _____

Date: _____

11-28-2011

45 cms

STATEMENT OF Officer James Mota
PLACE: Minneapolis Civilian Police Review Authority Offices
DATE: November 22, 2011
TIME: 10:10 a.m.
CASE NO: 11-3046
INVESTIGATOR: Robin M. Lolar
ALSO PRESENT: Lyall Delaney, Minneapolis Police Federation

REC'D DEC 5 2011

- 10 Q. Officer, if you would state your full name, spelling your last name for me please.
A. James Edward Mota, M-O-T-A.
- Q. And your rank and present duty assignment?
A. I'm a police officer with the 5th Precinct, Daywatch.
- 15 Q. How long have you been a police officer for the City of Minneapolis?
A. Since 1995, June 5th.
- Q. Have you been ordered to appear here as stated by the *Garrity* decision?
A. Yes.
- 20 Q. And you are willing to give me a statement at this time, sir?
A. Yes.
- 25 Q. Officer Mota, directing your attention to the day of August 11, 2011 at approximately 10:45 a.m., you were working with Officer Fairbanks—Jon Fairbanks—when the two of you responded to Franklin Avenue and 22nd Street on a suspicious person complaint, is that correct, sir?
A. The location was Lyndale Avenue and 22nd Street.
- Q. Is that where you were originally were sent to?
A. Well, Franklin and 22nd Street don't intersect; they're both east-west streets.
- Q. Okay. And who was driving at the time, sir?
A. Officer Fairbanks.
- 35 Q. Do you recall any remarks given by dispatch regarding this call before your arrival?
A. Yes. Actually, it was the second call of the day regarding this same individual. The first call was approximately 10:01 and on the complaint, I wrote, "A male harassing County workers." County workers were doing construction on Lyndale Avenue at the time. Upon our arrival on that call, the person was gone, coded GOA. And then at about 10:49 we received another 911 call. The description of the man involved in
40 the call was the same as the description or similar to the description given at the call at approximately 10:01. And there were several remarks on this call because, as the call came in, other people had called 911 and their calls were being entered as separate calls so eventually dispatch combined them all into one. Several of the remarks said the male was making gestures towards construction workers. He had broken a beer bottle and was pointing it at them. The suspicious person had a bottle as a weapon and was threatening. An employee from The Wedge grocery store said he came in earlier to the store without pants on. Another remark that was sent: suspect now outside of Hums Liquor, which is at 22nd and Lyndale, and has a broken bottle, threatening the boss' life. Suspect said he would kill him. Male is now exposing himself. Those are the remarks that we were getting prior to our arrival on the call.
- 45
- 50 Q. And what was the situation upon your arrival, sir?
A. Um, when we arrived, just west of Lyndale and 22nd, there's a coffee shop right there. We observed a white male who had clothing that matched the description of the guy we were looking for. He was waving his arms around and he was standing in front of the patrons seated outside. So we pretty much assumed that was the guy we were looking for, just by the way he was acting.
- Q. He was waving his arms around? Was he trying to wave you guys down? Did it appear as though he was trying to flag you down?

A. Um, I don't recall that he was trying to flag us down. No, he wasn't flagging us down. He was facing—I believe he was facing the coffee shop patrons. I'm not sure. But he didn't appear that he was looking at us, trying to get our attention.

5 Q. He was just flailing his arms?

A. Yeah, his arms were up in the air and this type of thing.

Q. What did you do once you arrived?

10 A. We got out of the squad car and ordered him to — asked him if we could see his hands, said, "Let us see your hands. Come over to the squad car, we need to talk to you," and at that point, he didn't comply with those initial orders.

gpa
15 Q. Did he verbally refuse?

A. No, he just ~~started~~ ^{stared} at us and didn't do anything.

Q. And what did you and Officer Fairbanks do?

A. We approached him and I grabbed, I believe it was his left arm and I assume Officer Fairbanks grabbed his right arm, and we brought him over to the squad car, and put him up against the squad car while we patted him down, his pockets and stuff.

20 Q. Did he try to resist you at all?

gpa
A. A little bit. He tensed up and you could tell—you know, low resistance, but nothing like running or trying to ~~fight~~ ^{fight} or anything like that.

25 Q. Was he handcuffed after being pat-searched?

A. No.

Q. What did you do with him after he was pat-searched?

A. We put him in the backseat of the squad car, again, un-handcuffed.

30 Q. Did he have any property in his possession, in his hands, before you put hands on him to escort him to the squad?

A. I think he might have but I don't know what it was, if he did. He had a wallet in his pocket. Stuff like that. But....

35 Q. Who gave the order for him to come over to the squad car?

A. I know I did; Officer Fairbanks might have too but I was going about my—giving the orders, and it's not uncommon for the other officer to do the same thing.

40 Q. And when he failed to comply, did Officer Fairbanks use any profanity towards this individual?

A. I didn't hear him use any profanity.

Q. Did you use any profanity towards the individual?

A. No.

45 Q. Once you got him over to the squad car where he was patted down, did Officer Fairbanks use any profanity towards this individual?

A. Not that I heard.

50 Q. Did Officer Fairbanks ever tell this individual, "You're not in charge. We are."?

A. I didn't hear him say that.

Q. Did Officer Fairbanks ever say to the individual, "Keep your hands on the fucking car"?

A. I didn't hear him say that.

55

Q. Did you have to force his hands onto the car at all?

A. Slightly, yes.

Q. What do you mean by "slightly" sir?

5 A. I had to forcefully escort him to the car in the first place and while at the car he continued to move and we didn't want to handcuff him but I had to keep my grip on his hand and his arm 'cause he was moving around, tensed up and stuff like that. Feeling him tensed up, my first thought was, "Okay, any minute he's going to try something" like assault us or whatever, run or something. So I had to keep a firm grip on him.

10 Q. Did Officer Fairbanks ever call this individual a "cocksucker"?

A. I didn't hear that.

Q. Did any other officers show up on this scene?

A. Yes.

15

Q. Who was that sir?

A. Sergeant [REDACTED] and Sergeant [REDACTED]

Q. Sergeant [REDACTED] as in [REDACTED]

A. Yup.

Q. And at what point did they arrive on the scene?

A. I believe Sergeant [REDACTED] arrived after we had the person in our squad, and Sergeant Moore arrived after that, even.

25

Q. Did either one of the sergeants have any contact with this individual? After he was placed inside the squad car?

A. Um, no. 'Cause he was in our car the whole time, he never got back out until we let him out at Hennepin County APS.

30

Q. And for the record, sir, when you say Hennepin County APS, what does that mean?

A. Hennepin County Adult Psychiatric Services.

Q. And he was taken there why?

35 A. Um, due to his behavior he had exhibited on the first call and also on the call we were currently on, all the remarks that callers had given, and he admitted to us that he had a mental illness and that's why we took him to Hennepin County APS.

Q. And at what point did he admit to you that he had mental problems?

40 A. When he was in the back seat of our squad car.

Q. Once he was placed into the back seat of your squad car, what did you and Officer Fairbanks do?

45 A. I began gathering his information: name, address, [INAUDIBLE] for the report. I thought we were probably going to arrest him for aggravated assault or second-degree assault with the beer bottle, but regardless I was gathering his name, ID'ing him and all that, and I don't know what Officer Fairbanks said—he sat there and I think he got out of the car at one point because I think he went into The Wedge with Sergeant Moore at one point, so, he was in and out of the car a couple times, I think.

50 Q. So once the suspect was placed inside, then you immediately got inside the car and began gathering his information?

A. I don't know if it was "immediately" like as soon as he was in the car I went around and got in. I might've stood outside for a couple seconds and talked to Fairbanks, or talked to a witness or something but shortly thereafter I got in the passenger's side of the squad car.

55 Q. Did Officer Fairbanks have any conversation with this individual after he was placed inside the squad car...

let me back this up. Did Officer Fairbanks speak to this individual from the outside of the squad car while the suspect was seated inside the squad?

A. You mean, was Officer Fairbanks standing—?

5 Q. Outside, yes.

A. And talking through an open window or door or something?

Q. Yes.

A. I don't know, I don't remember if that happened or not.

10

Q. And once you were inside the squad car with this individual did you remain inside with him?

A. I believe I did.

Q. Did this individual have any conversation with you about the way Officer Fairbanks spoke to him?

15 A. I don't remember him saying anything about Officer Fairbanks.

Q. Do you recall if he made any complaints about Officer Fairbanks?

A. No.

20 Q. No, he didn't, or?

A. I don't remember him making a complaint. He talked a lot, during the whole time he was with us, and he was talking about all kinds of things but I don't remember him talking about Officer Fairbanks specifically.

Q. Is there anything you wish to add to your statement, sir?

25 A. Just a short thing is I heard you use the word "cocksucker"—that was the quote from the complainant, and I've never heard Jon Fairbanks use words like that so I would think that if he would say something like that to somebody, I would remember that so I don't know whether, I mean, that's kind of surprising to me to hear that.

30 Q. What about calling this individual a "Bitch"?

A. I didn't hear Officer Fairbanks say that to him.

Q. And "Acting like you're fucking four-years-old."?

A. I don't remember hearing that either.

35

Q. Anything else, sir?

A. No.

Q. Has anyone from the Minneapolis Civilian Police Review Authority made any threats or promises to you for giving this statement here today?

40 A. No.

Q. After you've read your statement, and if necessary made any corrections to it, are you then willing to sign it?

45 A. Yes.

Q. That concludes this interview. The time is 10:23 a.m.

50 Signature: _____

Date: _____

12-1-11

cms

TRANSCRIPT OF Video Recording off of Complainant's Cellphone

PLACE: Minneapolis Civilian Police Review Authority Offices
DATE: August 11, 2011
CASE NO: 11-3046
INVESTIGATOR: Robin M. Lolar

OFF: [INAUDIBLE] cellphone. What's your problem?

MM: What's my problem?

OFF: Yeah.

MM: I was at the bus garage yesterday and all the bus drivers were complaining about the traffic. About the traffic.

OFF: What's that got to do with you [INAUDIBLE]?

OFF: Yeah, what's that got to do with the County, fixing it?

MM: 'Cause the county knew, the County had to schedule it.

OFF: Yeah, so?

MM: [INAUDIBLE] should have known.

OFF: Yeah but they've got to fix the road, don't they? Don't they?

MM: They've got to fix the road when it's been scheduled.

OFF: Yeah, [INAUDIBLE]

MM: Right, I know, but how long has it been scheduled?

OFF: Get your ass over here. Get over here! You think this is fucking funny?

MM: No, I don't.

OFF: Fucking [INAUDIBLE]

OFF: Get your hands on the car!

MM: One moment please.

OFF: Get your fucking hands on the car, bitch. Now, we're fuckin' in charge, you got that, cocksucker? Not you. We are!

1:00

OFF: Acting like you're fuckin' four years old out here. Stupid fucking' [INAUDIBLE].
[INAUDIBLE] over here. You hear of disorderly conduct? You hear of threaten?
Threatened assault? You ever hear of that?

MM: Yes. I have. I also know Timothy Dolan.

OFF: So?

OFF: Good for you. So do I.

MM: Good.

OFF: I'm sure he'd be proud of your behavior [INAUDIBLE].

MM: I'm sure he would.

OFF: [INAUDIBLE] jail.

2:00

OFF: So what is your major problem today?

MM: My major problem is that the bus drivers were complaining, and people were complaining on the bus yesterday that they were late for work.

OFF: That's your reason to being out here swearing at people?

MM: Um.

OFF: [INAUDIBLE]them, exposing yourself?

MM: I didn't expose myself.

OFF: That's what they said.

MM: I know that's what they said. It'll be their word against mine.

OFF: If you didn't do that, then that's your reason to being out here swearing, threatening people?

MM: I never swore once.

OFF: Okay, well we got several people that say—

3:00

MM: What was the swear word that I used?

OFF: I dunno, they said, "belligerent and swearing."

MM: Okay but I never swore once, defi—

OFF: Threatening people with a broken bottle? What's the matter with you?

MM: I think he saw that in a movie once.

OFF: You think you saw it in a movie once?

MM: I think he saw it in a movie once.

OFF: He saw it in a movie?

MM: Yeah, it was about—

3:17

NOTICE OF COMPLAINT
Civilian Police Review Authority
350 South 5th Street, Room 239
Minneapolis, Minnesota 55415
612-673-5500

File: 11-3046
Date: November 4, 2011

Officer Jon Fairbanks (Badge #1901):

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:

INAPPROPRIATE LANGUAGE

The Complainant alleges that Officer Jon Fairbanks used inappropriate language towards the Complainant when he was arrested for disorderly conduct.

The Complainant alleges that Officer Fairbanks said to him, "Get your fucking hands on the car, bitch," and "We're fucking in charge, you got that, cocksucker? Not you, we are."

This incident occurred on August 11, 2011 at approximately 10:45 at the location of Lyndale Avenue South and West 22nd Street.

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
Assistant Director
Minneapolis Department of Civil Rights

cc: Deputy Chief
IAU
Complainant

noc 11-3046

MINNEAPOLIS CIVILIAN POLICE REVIEW AUTHORITY
350 SOUTH 5TH STREET, ROOM 239
MINNEAPOLIS, MN 55415
(612) 673-5500

NOTICE OF HEARING

Complaint No. 11-3046

Complainant: [REDACTED]
Officer(s): Jon Fairbanks (Badge #1901)

To The Above Officer(s), Assistant Director Of Minneapolis Department of Civil Rights for the Minneapolis Civilian Police Review Authority, Complainant and Panel Members:

Please take Notice that a Hearing shall be held in this matter in Room 241 City Hall, 350 South 5th Street, Minneapolis, Minnesota at 6:30 p.m. on December 14, 2011.

At the hearing, the review authority manager shall present the investigatory findings of fact and recommendations to the panel. No person other than the review authority manager and the panel members shall be present during the presentation and discussion of the case. At the close of the case presentation, the complainant and the police officer, or their representatives, shall each be permitted ten (10) minutes to address the review authority, in the presence of each other, regarding the complaint.

Please be prompt. Failure to arrive at the start of the hearing will cause you to lose your opportunity to address the panel.

I have appointed the following members of the Authority to serve as the Hearing Panel in this matter:

[REDACTED] (Chair)

ANY MEMBER NOT ASSIGNED TO A PANEL MAY SERVE AS ALTERNATE

The hearing will be conducted in accordance with Title 9, Chapter 172 of the Minneapolis Code of Ordinance of the Minneapolis Civilian Police Review Authority, in particular with Section 172.100. For further information about the hearing process, please refer to the ordinance and administrative rules that can be found on the City's website: www.ci.minneapolis.mn.us/cra.

On Behalf of the Minneapolis Civilian Police Review Authority,



Donald Bellfield, Board Chair

Date: December 5, 2011



**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

November 28, 2011

[REDACTED]

RE: CRA File # 11-3046

Dear [REDACTED]

Enclosed are two copies of your statement given on November 18, 2011. 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

Enc: cms





MINNEAPOLIS POLICE DEPARTMENT

"GARRITY WARNING"

TO: Officer Jon Fairbanks
FROM: Chief Timothy J. Dolan
DATE: November 14, 2011

CRA Case Number: 11-3046
CRA Investigator: [REDACTED]
CRA Investigator's Phone Number: [REDACTED]
MPD CCN: [REDACTED]

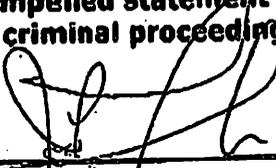
READ ALL OF THE FOLLOWING VERY CAREFULLY AND COMPLETELY

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 November 20, 2011:

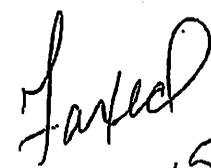
1. At this time, you are being advised of the Garrity Warning pursuant to Department Policy. Therefore, you are being ordered to review and sign this form and return it to the Internal Affairs Unit.

"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 11-3046 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 

Officer Signature

x 11-14-2011
Date


11-15-11




MINNEAPOLIS POLICE DEPARTMENT

"GARRITY WARNING"

TO: Officer James Mota
FROM: Chief Timothy J. Dolan
DATE: November 10, 2011

CRA Case Number: 11-3046

CRA Investigator: [REDACTED]

CRA Investigator's Phone Number: [REDACTED]

MPD CCN: [REDACTED]

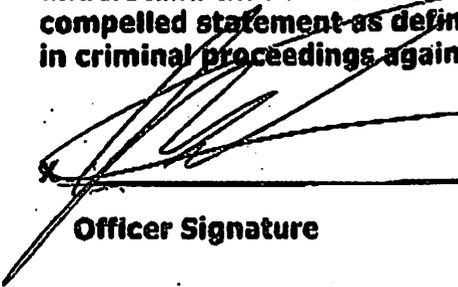
READ ALL OF THE FOLLOWING VERY CAREFULLY AND COMPLETELY

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 November 19, 2011:

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.

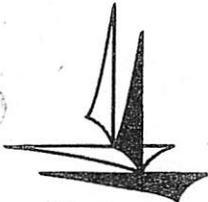
"I, the undersigned Minneapolis Police Officer, hereby acknowledge that I have been ordered under the authority of the Minneapolis Chief of Police to provide a statement to CRA related to CRA investigation number 11-3046 as it pertains to the scope of my employment and my fitness for duty. I understand 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."



Officer Signature

x 11/11/11
Date

*Faxed
11-14-11
m*



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

December 21, 2011

[REDACTED]
[REDACTED]
[REDACTED]

RE: Complaint No. 11-3046

Dear M [REDACTED]

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.

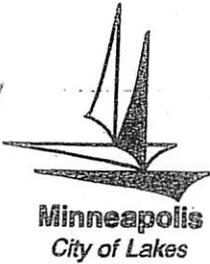
If you have any questions, please feel free to contact me. Thank you for your attention to this matter.

Sincerely,

Samuel L. Reid II
Assistant Director
Department of Civil Rights



City Information
and Services SLR:sp



**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

October 28, 2011

[REDACTED]

Dear M [REDACTED]

Please read over the enclosed Complaint Form, correct any errors, and sign it. Return the first copy to us in the self-addressed, postage-paid envelope, and retain the second copy for your records.

Respectfully,

[REDACTED]

Case Investigator

enc

