

Hill, Liisa

From: Ramirez, Gabriel
Sent: Thursday, December 01, 2016 3:29 PM
To: Wuorinen, Steve
Cc: Hill, Liisa; kbeck@kellyandlemons.com
Subject: Approval of statement regarding OPCR Case # 15-16258
Attachments: Officer Wuorinen Statement.pdf

Sensitivity: Confidential

Sent on behalf of Liisa Hill – Investigator, Office of Police Conduct Review (OPCR)

RE: OPCR Case # 15-16258

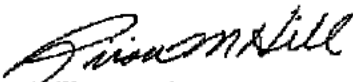
Dear Officer Wuorinen:

Attached you will find the statement which you provided on November 14, 2016 to the Office of Police Conduct Review. Please review the statement, initial any corrections you wish to make and sign it. You can submit the revised version by scanning it and emailing it to gabriel.ramirez@minneapolismn.gov or return one copy by interoffice mail to OPCR, Room 239 City Hall.

If we have not received your signed statement within seven business days, it is assumed that the contents of our statement are correct and accurately reflect your testimony.

Thank you for your cooperation. Should you have any questions, feel free to contact me at (612) 673-2093.

Sincerely,



Liisa Hill, Investigator,

Office of Police Conduct Review | 612.673.2093 |
www.minneapolismn.gov/civilrights/police-review | [Facebook](#) | [WordPress](#)

Disclaimer: Information in this message or an attachment may be government data and thereby subject to the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13, may be subject to attorney-client or work product privilege, may be confidential, privileged, proprietary, or otherwise protected, and the unauthorized review, copying, retransmission, or other use or disclosure of the information is strictly prohibited. If you are not the intended recipient of this message, please immediately notify the sender of the transmission error and then promptly delete this message from your computer system.



January 27, 2017

Officer Dan Misgen
Minneapolis Police Department
5th Precinct Directed Patrol
RE: IAU Case Number 15-16258
Notification Letter

Officer Misgen,

You are being called as a *witness* in a matter being investigated the Minneapolis Police Department Internal Affairs Unit. The assigned IAU administrative investigation case number is 15-16258.

It is alleged that Officer Blayne Lehner violated the City of Minneapolis Police Department's Use of Force Policy during an arrest at 43rd St. E. and Nicollet Ave. S. on 12-29-2013 at approximately 0240 hours. The CCN for this case is 13-430045

MPD Policy and Procedure alleged to have been violated:

- 5-303, Authorized Use of Force

***The listed policy violations may be amended and/or changed at any point during the investigation.**

Per our phone conversation on Friday, January 27, 2017 at approximately 1050 hours, we agreed that your appointment to provide a statement to the Internal Affairs Unit has been scheduled for **Tuesday, January 31, 2017 at 1030 hours**. The interview will take place in the IAU office, Room 112, City Hall. You will be granted overtime as this is outside of your regular working hours.

MPD Federation President Lt. Bob Kroll and Attorney Mr. Kevin Beck were present when this date and time was agreed upon on your behalf.

Failure to show for your scheduled interview may result in charges against you. This is an ongoing investigation and as such you are not to discuss this case or interview with anyone other than your attorney and/or Federation Representative.

Respectfully,

A handwritten signature in black ink, appearing to read "M. J. McLean".

Sergeant Matt McLean
Internal Affairs Unit

CC: Inspector Waite
Lt. Halvorson
Internal Affairs File

MPD 10287-000344



February 1, 2017

Officer Dan Misgen
Minneapolis Police Department
5th Precinct Directed Patrol

Officer Misgen,

Enclosed you will find two identical copies of your statement. Please take time to review your statement. Make any corrections by crossing out any discrepancies, then write in the correction, and initial the correction. After reviewing each page, please initial the bottom of each page. At the end of reviewing your statement, and any corrections that you may have made, please sign and date the last page.

Please mail back, one of the reviewed and signed copies by the end of your next scheduled shift. You may keep the other copy for your own records. If a corrected and signed statement is not returned within five (5) days, it will be assumed that the statement does not require corrections and will be added to the case file unsigned.

Thank you for your assistance in this case. If you have any questions you can reach me at 612-673-3702, 0700-1500, Monday through Friday.

Sincerely,

A handwritten signature in black ink, appearing to read "M. J. McLean". The signature is written in a cursive style with a large, looping "L" at the end.

Sergeant Matt McLean
Minneapolis Police Department
Internal Affairs Unit



Civilian Unit
350 S. Fifth St. – Room 239
Minneapolis, MN 55415
TEL 612.673.5500

Internal Affairs Unit
350 S. Fifth St. – Room 112
Minneapolis, MN 55415
TEL 612.673.3074
www.minneapolismn.gov

January 20, 2017

Officer Daniel Misgen
Fifth Precinct – Directed Patrol
Minneapolis Police Department

OPCR Case Number 15-16258
CAPRS Number MP-13-430045
VisiNet 13-430045

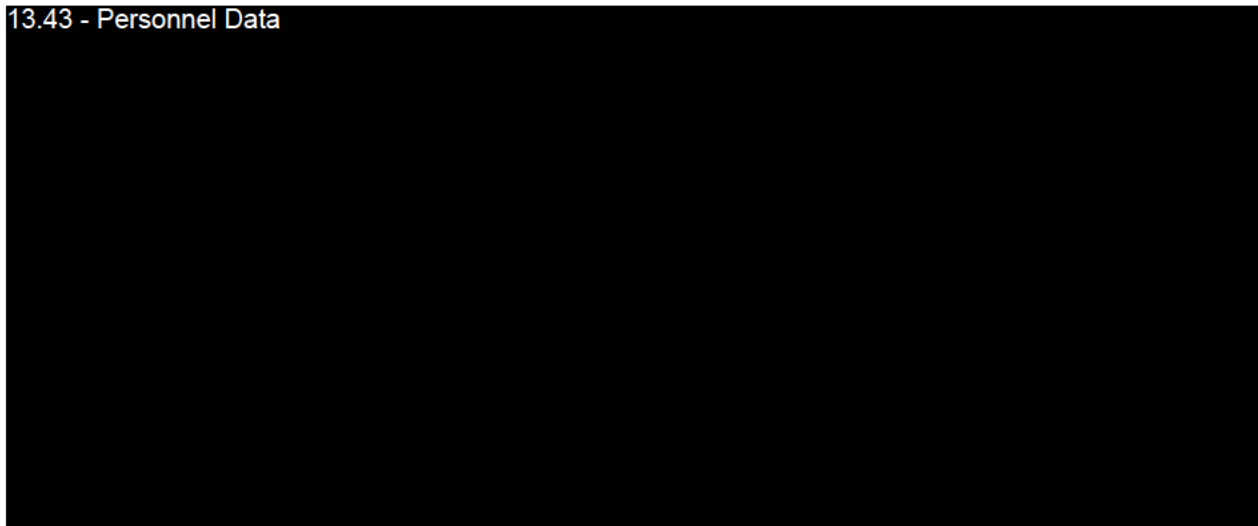
Dear Officer Misgen:

NOTIFICATION LETTER

You are being called as a witness for the following alleged violation(s) of Minneapolis Police Department Policy and Procedures. The specific policies alleged to have been violated are:

MPD P/P 5-301 EXCESSIVE FORCE: *Based on the Fourth Amendment's "reasonableness" standard, sworn MPD employees shall only use the amount of force that is objectively reasonable in light of the facts and circumstances known to that employee at the time force is used. The force used shall be consistent with current MPD training.*

13.43 - Personnel Data



Daniel Misgen
January 20, 2017
Page 2

Luis Garcia-Pineda alleges that he was a passenger in a vehicle which was stopped for reckless driving. Garcia-Pineda was subsequently arrested for Obstruction and Consumption of Alcohol by a Minor. Garcia-Pineda suffered injuries to his face and jaw which he alleges were caused by Officer Blayne Lehner.

Pursuant to the Minneapolis Police Department's Discipline Process, the above allegations, if true, constitutes a policy violation. However, the above listed policy violations may be amended or changed at any time during the investigation.

According to Workforce Director you are scheduled to work:

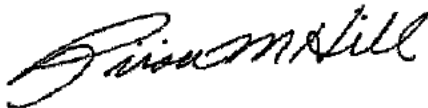
January 27, 2017, 1700 hrs to 0300 hrs

Your appointment to provide a statement to the Office of Police Conduct Review is scheduled for January 27, 2017 at 1300 hours at the Department of Civil Rights, Office of Police Conduct Review, Room 239 in City Hall. If you have a compelling conflict you must contact me by January 25, 2017 to discuss an alternate date.

I can be contacted by e-mail at liisa.hill@minneapolismn.gov or phone at 612-673-2093 between the hours of 08:30 and 16:30, Monday through Friday. Failure to show for your scheduled interview or to request one of the alternate dates by the time directed will result in additional charges.

This is an ongoing investigation and you are not to discuss this case or interview with anyone other than your union/federation representative. You are entitled to be represented at this interview by a union/federation representative or an attorney.

Sincerely



Liisa M Hill
Investigator - Civilian
Minneapolis Office of Police Conduct Review

OFFICER WISBEN

DATA PRACTICES ADVISORY

**Internal Investigation Warning for Employees under Investigation
(Tennessee Warning)**

You are being questioned as part of an official internal investigation into a complaint of misconduct. The information you provide will be used in a fact-finding process, as part of the total evidence, to determine if misconduct occurred and for assessing whether disciplinary action should be taken. Any admissions that you make during the course of questioning may be used against you as evidence of employee misconduct or as a basis for discipline. The information you supply may also be used in a grievance hearing, arbitration, or appeal procedure. The following individuals and entities may have access to the information you provide:

- The subject of the data, which includes you, but may include someone else.
- Employees and officials of the City of Minneapolis whose work assignments reasonably require access to the information.
- Individuals or entities that have contracts with the City of Minneapolis reasonably requiring access to the information.
- Attorneys for the City of Minneapolis reasonably requiring access to the information.
- If disciplinary action is imposed against you based on the results of this investigation, the information you provide may be made available to the public as documentation supporting final disciplinary action.
- Minneapolis City Council Members and the Mayor.
- Hearing officers, judges or courts.
- Private parties through discovery in civil litigation.
- Your union representative.
- Other persons or entities authorized by you, by a state or federal law, or by court order to have access to such information.

Failure to provide the information requested means that the internal investigation must be concluded based upon all evidence and testimony received by the investigator(s) without your statement.

I have read the above warning or have had it read to me.

<i>[Signature]</i>	1-31-17 1000 hrs
Signature	Date/Time
<i>[Signature]</i> <i>[Signature]</i>	1-31-17 1000
Witness	Date/Time

1 ALL RIGHT. THIS IS A RECORDED STATEMENT OF OFFICER DAN MISGEN TAKEN ON
2 TUESDAY, JANUARY 31, 2017, AT APPROXIMATELY 1011 HOURS IN THE INTERNAL
3 AFFAIRS UNIT CONFERENCE ROOM. ALSO, PRESENT IS MINNEAPOLIS POLICE
4 FEDERATION PRESIDENT, LIEUTENANT BOB KROLL. THIS INTERVIEW IS BEING
5 CONDUCTED BY SERGEANT MCLEAN OF THE INTERNAL AFFAIRS UNIT. TRANSCRIBED BY
6 R. METCALF.

7
8 RE: IAU (OPCR) Case Number #15-16258

9
10 Q: Sir, what is your full name, please?

11 A: Daniel Michael Misgen.

12
13 Q: And what is your present rank and work assignment?

14 A: Police Officer, Fifth Precinct Directed Patrol.

15
16 Q: And what is your employee number and date of appointment, please?

17 A: 4824 and I think it's March 27, 2006 or right around there.

18
19 Q: All right. Thank you, sir.

20
21 YOU ARE BEING ORDERED TO GIVE A COMPLETE AND TRUTHFUL STATEMENT
22 PERTAINING TO THE SCOPE OF YOUR EMPLOYMENT OR FITNESS FOR DUTY. IT IS A
23 COMPELLED STATEMENT PURSUANT TO MPD POLICY AND PROCEDURE.

24
25 UNDER THE GARRITY DECISION, ANY STATEMENT PROVIDED IN THIS INVESTIGATION
26 CANNOT BE USED IN A CRIMINAL PROCEEDING AGAINST YOU, EXCEPT IN THE CASE OF
27 ALLEGED PERJURY. HOWEVER, THESE STATEMENTS MAY BE USED AGAINST YOU IN
28 RELATION TO EMPLOYMENT ALLEGATIONS.

29
30 Do you understand this warning?

31 A: Yes.

32
33 Q: I AM ADVISING YOU THAT IF YOU REFUSE TO ANSWER, GIVE A FALSE OR
34 INTENTIONALLY INCOMPLETE STATEMENT, OR INTENTIONALLY OMIT INFORMATION
35 THAT IS PERTINENT TO THIS INVESTIGATION, YOU WILL BE SUBJECT TO DISCIPLINARY
36 ACTION UP TO AND INCLUDING SUSPENSION OR DISCHARGE.

37
38 Do you understand this?

39 A: Yes.

40
41 Q: Is it correct that you have read, understood, and signed the Data Practices Advisory,
42 otherwise known as the Tennesen Warning?

43 A: Yes.

44
INT 

1 Q: Have you been informed that the purpose of this statement today relates to an
2 internal investigation, and specifically, an administrative review that is being conducted
3 and it has been alleged that Officer Blayne Lehner is accused of using unauthorized
4 force on a party, uh, later identified as Luis Garcia-Pineda during his arrest?

5 A: Yes.

6

7 Q: And have-, have I explained that you are being called as a witness to explain the
8 circumstances as you recall them regarding this allegation?

9 A: Yes.

10

11 Q: All right. This incident occurred on 12/29/2013 at approximately 0240 hours at
12 30...43rd Street East and Nicollet Avenue. There was a shots fired call and officers were
13 out looking for evidence when a car, uh, was alleged to have been driven in such a way
14 as to put an officer in danger of being struck by that vehicle. The vehicle was stopped,
15 and during the course of the stop, Mr. Garcia-Pineda was placed under arrest. And
16 during the course of the stop and arrest, Mr. Garcia-Pineda was injured where he
17 suffered, uh, two lost front teeth and other injuries. Officer Lehner had reported in his
18 CAPRS supplement that he had kicked Mr. Garcia-Pineda.

19

20 So, um, what did you do for your...to prepare for your interview today, Officer Misgen?

21 A: I talked to, um, Lieutenant Kroll and, um, I contacted Officer Lehner to make sure
22 that I could get ahold of his attorney cause I knew that because of the deposition that
23 he was gonna try and attend.

24

25 Q: OK. So, you were-, you were able to review the report?

26 A: Yes.

27

28 Q: Did reviewing the report recall or, uh, refresh your, uh, memory of the event?

29 A: Uh, yeah, somewhat. Obviously, this is over three years old and, um, uh, you know,
30 to the best of my ability, I remember it.

31

32 Q: All right. Uh, what squad were you working that night?

33 A: Uh, I was working 511.

34

35 Q: Who was your partner?

36 A: I was training Officer Marcus Lukes.

37

38 Q: All right. Why don't you take me through what happened on the call starting with
39 when you arrived at the traffic stop -- not the part where you're looking for shell
40 casings, but at the traffic stop? So, just walk me through what happened there.

41 A: Uh, basically, I think we arrived. Um, it took us awhile to get from our shots call, uh,
42 cause we were waiting for a camera, so there was a-, there was a, I think, pretty good

INT-

1 delay. Um, I wanted the driver. I wanted my recruit to handle the arrest of the driver
2 and the report because he was gonna be the victim, and I wanted him to get that
3 experience of doing that. Um, we went and took him into custody, I believe. I think I
4 went over and talked to Officer Lehner real quick. Um, I think I looked at, uh, this
5 alleged, uh, victim that he kicked. Uh, I was, uh...and then, we took the, uh, suspect into
6 cuffs and we left. We didn't spend very much time there and I think I asked for a new
7 case number. Because I think at that point, I realized that, uh, dispatch had put all this
8 new information with the vehicle. They just added that straight to our, uh, shots call
9 and they didn't give us a second case number. So, I asked for a second case number and
10 asked for all that information to be put onto that, uh, case number, so we could have a
11 second booking. We were gonna be writing a report on the shots call and then we were
12 gonna be writing a report on this.

13

14 Q: OK. So, you mentioned that you-, that you talked to Officer Lehner.

15 A: Yep.

16

17 Q: Did you see the person that was -- not the driver -- the other male that was there?
18 That's Mr. Garcia-Pineda.

19 A: Brief...

20

21 Q: He was in the backseat of the suspect vehicle.

22 A: He was already in the backseat of a squad car at that point.

23

24 Q: All right. Do you remember what squad he was in the back of?

25 A: I don't. I think -- if I remember correctly -- I think he was in Officer Lehner and
26 Officer Wuorinen's car.

27

28 Q: All right. What was he doing in the backseat?

29 A: I think he was just in handcuffs sitting there at that point.

30

31 Q: Was he thrashing around, or kicking, or anything like that?

32 A: Not at that point.

33

34 Q: OK. Um, could you see any injuries on him?

35 A: You know, I saw...I think I saw...I-, I vaguely recall that he had a little bit of blood on
36 his lips and I think I said something to the fact that, um, I don't think there's much we
37 can...I don't think there's much the paramedics can do on this. I would just bring him to
38 the hospital. If -- mouth injuries -- if they're not actively bleeding, there's not much first
39 responders can really do other than, you know, get them check out, so.

40

41 Q: OK.

INT 

1 A: I think that's all I said. It was very quick. If-, if I...and, again, I have...it's a vague
2 memory of that, um, and then-, then we left. We took the driver and we wanted to go
3 to get him to jail.

4
5 Q: OK. Did you-, um, did you-, did you know or learn how he had suffered the injuries
6 to his mouth?

7 A: Um, we kind of figured that there had been a force incident cause we had heard...I-,
8 I-, I vaguely recall a request for a supervisor for force. Um, I didn't learn until later as we
9 were all sitting down doing the reports of what exactly had transpired, um, but at that
10 time I don't recall getting a ton of information. It was a really quick, hey, what
11 happened. OK. He's bleeding. Yeah, I don't think...doesn't look like it's actively
12 bleeding. I don't think there's much the medics can do. I would just transport him to
13 the hospital. And then, we got out of there. It was really fast from what I recall.

14
15 Q: All right. At the scene, did you learn that he had been kicked?

16 A: I don't recall that. Like I said, I think I learned more-, more of that later, uh, when we
17 were sitting in the report room when we were all talking about how things had
18 transpired, but I don't recall getting that information at the scene.

19
20 Q: All right.

21 A: I might have, but it was a quick conversation cause I was more focused on getting my
22 recruit and dealing with this other, uh, arrest.

23
24 Q: All right. So, were you doing the reports in the report room at the Fifth Precinct?

25 A: Yes.

26
27 Q: OK. And who was there doing them?

28 A: I think everyone that was there on the scene and I remember Blayne was on one
29 computer. I was on another, supervisor, and then doing my rep...or doing my
30 supplement and then supervising my recruit cause he had two reports to do. I wanted
31 make sure...uh, Marcus is a really good police officer, but he had...uh, and he had
32 experience prior, but it was from a small town. And we had stacked a few reports that
33 day, if I recall, and I wanted to see how he was gonna do handling multiple reports and
34 keeping track of the different facts correctly, so I was more concerned on that.

35
36 Q: OK. Did it come up when you were in the report room writing your reports how the
37 injuries occurred?

38 A: I believe so.

39
40 Q: And-, and what did you learn?

41 A: Uh, that Blayne had, uh, you know, tried to push him back, uh, and -- this is, you
42 know, a three year conversation ago, so this is kind of what I vaguely recall -- that Blayne

INT DM

1 said that, you know, the guy had come out of control, and that he was gonna grab him
2 and try and secure him, uh, to prevent injury, and then, um, the kid had lunged at him.
3 Uh, and then, Blayne had kind of realized maybe he needs more help or something -- I
4 don't know -- and then had pushed him back with his foot.

5
6 Q: OK. So, your recall is that Officer Lehner said he pushed him back with his foot?

7 A: I think so. I mean that's-, I mean that's...it's a three year old conversation. Uh,
8 something similar to that.

9
10 Q: Did he say where the subject was when he did that?

11 A: I believe it was the back of the car.

12
13 Q: OK.

14 A: Or the back of the squad I should say.

15
16 Q: Was there any discussion in the report room about when Mr. Pineda was taken out
17 of the car about anything that happened there?

18 A: There might have been. I don't recall. I-, I honestly I mean, again, I was more focused
19 on my recruit. We did -- me and Blayne -- did talk about it and-, and we talked about it
20 since then, um, so I don't wanna give a wrong ans...information. I just don't recall
21 everything that was said that day.

22
23 Q: All right. Were you aware that Mr. Pineda was taken out of the car?

24 A: I was.

25
26 Q: And how did you become aware of that?

27 A: Uh, you know what, I think it was either Blayne told me or I read it in the report later,
28 um, as we were going...as I was going through it. Um, uh, cause I-, I think I reviewed
29 every...I think I reviewed every statement on that, um, but I don't...I can't give you an
30 exact time of when. I'm sorry. I just can't. It's three years ago.

31
32 Q: All right. Did-, did you learn any information or did you hear anything to the effect
33 that Mr. Pineda was kicked while he was outside of the squad car?

34 A: No, that'd be...I-, I have never heard that.

35
36 Q: Did you learn any information or hear anything that Mr. Pineda suffered other
37 injuries or suffered injuries while he was outside of the squad car?

38 A: Well, no, I had never heard that other than...everything I've heard, even through my
39 deposition up-, up until this point, was that he had injured himself in the squad.

40
41 Q: He had injured himself?

INT. 

1 A: Yeah, that he was thrashing around trying to harm himself. That's...and then, Blayne,
2 um, you know, either -- however, you wanna define it -- either kicked him or pushed
3 him with his foot, uh, and then there was alleged injury from that, but I don't know how
4 any of the injuries occurred or where.

5

6 Q: OK. All right. Did you hear anything that, um, there was any other force used on him
7 besides the kick delivered by Officer Lehner, which he reported in his-, in his, uh,
8 statement?

9 A: Not that I recall. No, I have no idea.

10

11 Q: OK. After the incident after the report room, did you have any further conversations
12 -- not-, not your depositions and any other things, but -- did you have you have further
13 conversations with any of the officers that were out there about the force that was used
14 on Mr. Pineda-Garcia (Garcia-Pineda)?

15 A: Um, I think the only I did was, um, I think I had reviewed all the statements on it, um,
16 and I think I was confused about something Blayne had said in his report, and I had
17 pointed that out to him. I'm like I don't know if this line makes sense, and he looked at,
18 and he goes, oh, yeah, I think you're right that...I mean I-, I don't recall what exactly the
19 line was, but it...there was some...uh, it just didn't make sense to me the way he had
20 worded it. And he was like, oh, yeah, whatever he said, and he went back, and I think
21 had his report...um, gets back, and I think he changed a couple of words to make the
22 sentence a little bit more clear and then that was probably it for the night.

23

24 Q: Was that, um, having to do with the use of force or was it other parts of the report?

25 A: I don't reca...it was just something didn't make sense the way it was worded and I
26 don't...and I didn't think that it was, uh, a huge issue. I just said I don't understand this-,
27 this line, and before the sarge reviews it, you might wanna explain that. And I think he
28 said, oh, yeah, you're right and that's all I recall. I don't recall it having to do anything
29 with something as specific to be with force or anything that was super important. Just
30 that...just a clarification I think is what it was.

31

32 Q: There were two females that were also in the car. Do you recall there being two
33 females there?

34 A: I had no contact with them, so, no, I don't.

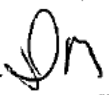
35

36 Q: All right. Did you consider calling EMS at any point because of the injury?

37 A: I think I looked at him. Like I said, I-, I was, uh...I had been -- previously -- I had been
38 EMT. I was about to retake EMT class within a couple weeks, and so, I've been going
39 through my book. And I'm like, I just don't think there's much here. I think if you're
40 gonna take him to the hospital it's gonna be just good as, uh, having an ambulance
41 come down here, and, you know, we gonna save the taxpayers, you know, a thousand
42 bucks if we take him instead of an EMS ride, and we're gonna get him to the same spot.

INT 

1
2 Q: OK. So, when you looked at him, you saw that he was bleeding a little bit?
3 A: I think there was a little bit of blood, but I wouldn't call it actively bleeding.
4
5 Q: OK. Did you do that through the window of the squad-
6 A: Yes.
7
8 Q: -or did you open the door?
9 A: I don't believe I opened the door. I think I just turned my flashlight on and looked
10 and like that doesn't look like anything that EMS can really do anything with.
11
12 Q: Did he look at you or was he looking away from you?
13 A: [sighs] Well, I think he looked at me, but again that's three years ago, so. Um...
14
15 Q: How would you describe his-, his demeanor at the time?
16 A: Uh, he seemed...he was upset, but he wasn't thrashing around at that point.
17
18 Q: OK. Did you see any blood on his shirt or down in the squad?
19 A: No.
20
21 Q: Did you, um, notice that his front teeth were missing?
22 A: No, I didn't.
23
24 Q: Were you aware that his front teeth were knocked out?
25 A: Uh, no, I wasn't.
26
27 Q: Um, did you at some point learn that his front teeth had been knocked out?
28 A: Uh, yeah, I was found...I found out later, uh, when all this came to being a lawsuit
29 that his teeth had been knocked out, but I was not aware of that at the time.
30
31 Q: OK.
32 A: They looked to be...everything looked to be intact when I was there.
33
34 Q: OK. So, do you think he still had his teeth or no when you looked at him?
35 A: I would say that he probably still had his teeth. Whether they got pulled by a dentist
36 later because of, you know, whatever or they were loose and they fell out later. I think
37 that they were still there when I saw him. Again, it was just a quick that doesn't look
38 like anything EMS can handle or do anything with. Um, I would just transport him to the
39 hospital. See you guys later. We're gonna take my guy to the...we're gonna take our
40 guy to the jail, so.
41

INT 

1 Q: Is there anything that, uh, I didn't ask you that you think we should know for this
2 investigation?

3 A: No, I...uh, as far as I know, the...no, I think this was, uh...like I said, our...my time
4 down there was very brief, um, just a few minutes, and I was more focused on the other
5 guy.

6
7 Q: Is there anything you'd like to add that, uh, we didn't talk about that you think we
8 should put in there?

9 A: No. Just, again, that, you know, I-, I hate to use these words vague and I don't recall
10 as this is...it's a three year old case. And, um, you know, I've had to give a deposition on
11 this and that was over a year ago, too, so just trying to keep everything straight.

12
13 Q: OK. Um, Lieutenant Kroll, anything from you?

14 LIEUTENANT BOB KROLL: Nope, I'm good.

15
16 Q: All right. We'll go ahead and conclude the interview. The time is 1025 hours.
17 Thanks for coming in-

18 A: Yep.

19
20 Q: -both of you gentlemen.

21
22 
23

2-3-17
Date

24 Officer Daniel Misgen
25
26
27
28 _____
29 Witness

30
31 Job #: 49338

INT _____



Civilian Unit
350 S. Fifth St. – Room 239
Minneapolis, MN 55415
TEL 612.673.5500

Internal Affairs Unit
350 S. Fifth St. – Room 112
Minneapolis, MN 55415
TEL 612.673.3074
www.minneapolismn.gov

January 20, 2017

Officer G. Malloy
Fifth Precinct – Daywatch
Minneapolis Police Department

OPCR Case Number 15-16258
CAPRS Number MP-13-430045
VisiNet 13-430045

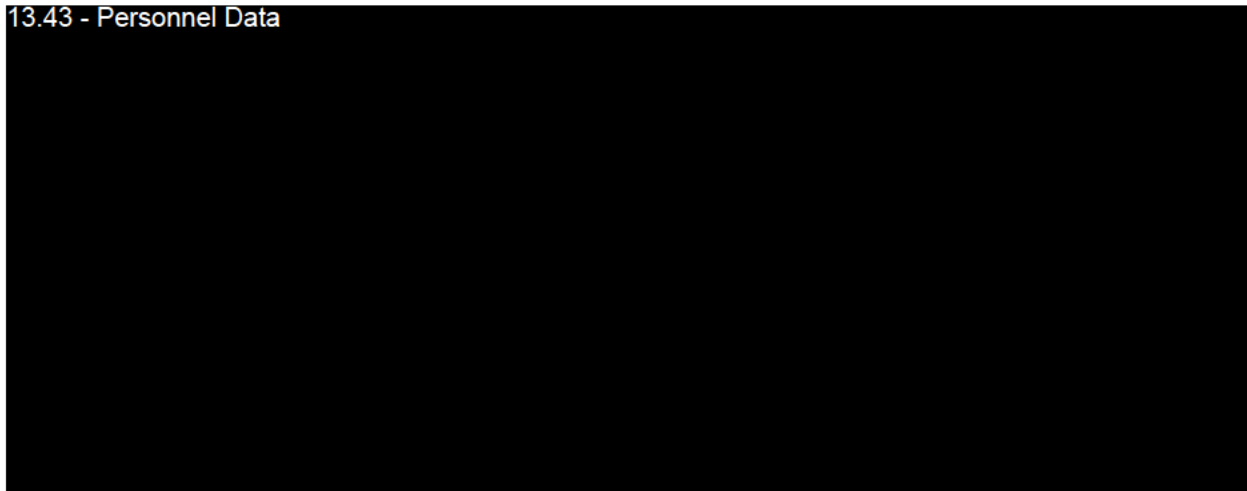
Dear Officer Malloy:

NOTIFICATION LETTER

You are being called as a witness for the following alleged violation(s) of Minneapolis Police Department Policy and Procedures. The specific policies alleged to have been violated are:

MPD P/P 5-301 EXCESSIVE FORCE: *Based on the Fourth Amendment’s “reasonableness” standard, sworn MPD employees shall only use the amount of force that is objectively reasonable in light of the facts and circumstances known to that employee at the time force is used. The force used shall be consistent with current MPD training.*

13.43 - Personnel Data



Luis Garcia-Pineda states that he was a passenger in a vehicle which was stopped for reckless driving. Garcia-Pineda was subsequently arrested for Obstruction and Consumption of Alcohol by a Minor. Garcia-Pineda suffered injuries to his face and jaw which he alleges were caused by Officer Blayne Lehner.

Pursuant to the Minneapolis Police Department's Discipline Process, the above allegations, if true, constitutes a policy violation. However, the above listed policy violations may be amended or changed at any time during the investigation.

According to Workforce Director you are scheduled to work:

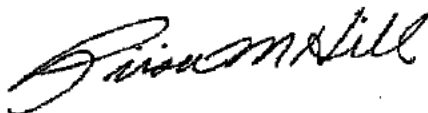
January 27, 2017, 0630 hrs to 1630 hrs

Your appointment to provide a statement to the Office of Police Conduct Review is scheduled for January 27, 2017 at 1000 hours at the Department of Civil Rights, Office of Police Conduct Review, Room 239 in City Hall. If you have a compelling conflict you must contact me by January 25, 2017 to discuss an alternate date.

I can be contacted by e-mail at liisa.hill@minneapolismn.gov or phone at 612-673-2093 between the hours of 08:30 and 16:30, Monday through Friday. Failure to show for your scheduled interview or to request one of the alternate dates by the time directed will result in additional charges.

This is an ongoing investigation and you are not to discuss this case or interview with anyone other than your union/federation representative. You are entitled to be represented at this interview by a union/federation representative or an attorney.

Sincerely



Liisa M Hill
Investigator - Civilian
Minneapolis Office of Police Conduct Review

Hill, Liisa

From: Hill, Liisa
Sent: Friday, January 20, 2017 10:31 AM
To: Malloy, Jodene G.
Cc: Waite, Kathy; Jaafar, Imani S.; Case, Jason; Halvorson, Henry
Subject: OPCR Officer Notification
Attachments: OPCR Officer Notification Letter-G. Malloy-Witness.docx

Importance: High

Tracking:	Recipient	Delivery	Read
	Malloy, Jodene G.	Delivered: 1/20/2017 10:31 AM	Read: 1/20/2017 10:32 AM
	Waite, Kathy	Delivered: 1/20/2017 10:31 AM	Read: 1/23/2017 11:14 AM
	Jaafar, Imani S.	Delivered: 1/20/2017 10:31 AM	Read: 1/20/2017 11:04 AM
	Case, Jason	Delivered: 1/20/2017 10:31 AM	
	Halvorson, Henry	Delivered: 1/20/2017 10:31 AM	Read: 1/20/2017 10:46 AM

RE: OPCR File 15-16258

Officer Malloy,

Attached is a letter scheduling your appointment for an interview with the Office of Police Conduct Review . Your OPCR interview is scheduled for Friday, January 27, 2017 @ 1000 hrs. The details are included in the letter. You will also be receiving a hard copy of this letter in the Inter-Department Mail. Please call me if you have any questions.

Liisa M. Hill
Case Investigator

City of Minneapolis – Department of Civil Rights
Office of Police Conduct Review
350 S. Fifth St. – Room # 239
Minneapolis, MN 55415

Office: 612-673-2093
Fax: 612-673-5510
liisa.hill@minneapolismn.gov

Office of Police Conduct Review
Data Practices Advisory

Internal Investigation Warning for Employees under Investigation
(Tennessee Warning)

You are being questioned as part of an official internal investigation into a complaint of misconduct. The information you provide will be used in a fact-finding process, as part of the total evidence, to determine if such misconduct occurred and for assessing whether disciplinary action should be taken. Any admissions that you make during the course of questioning may be used against you as evidence of employee misconduct or as a basis for discipline. The information you supply may also be used in a grievance hearing, arbitration, or other appeal procedure. The following individuals and entities may have access to the information you provide:

- The subject of the data, which includes you, but may include someone else.
- Employees and officials of the City of Minneapolis whose work assignments reasonably require access to the information.
- Individuals or entities that have contracts with the City of Minneapolis reasonably requiring access to the information.
- Attorneys for the City of Minneapolis if such information is related to a matter upon which the City seeks legal advice.
- If disciplinary action is imposed against you based on the results of this investigation, the information you provide may be made available to the public as documentation supporting final disciplinary action.
- Other persons or entities authorized by you, by a state or federal law, or by court order to have access to such information.

Failure to provide the information requested means that the internal investigation must be concluded based upon all evidence and testimony received by the investigator(s) without your statement.

I have read the above warning or have had it read to me.

Podene Malloy
Signature

1/27/17
Date/Time

[Signature]
Witness

1/27/2017
Date/Time

1 THIS IS A RECORDED STATEMENT OF OFFICER MALLOY TAKEN ON FRIDAY, JANUARY 27,
2 2017, AT APPROXIMATELY 1005 HOURS IN THE OFFICE OF POLICE CONDUCT REVIEW
3 CONFERENCE ROOM. THIS INTERVIEW IS BEING CONDUCTED BY SERGEANT MCLEAN OF
4 THE INTERNAL AFFAIRS UNIT.

5
6 RE: OPCR Case Number #15-16258
7

8 Q: Also, present in the room with us today is Lieutenant Kroll, Police Officers
9 Federation, and Kevin Beck, Attorney at Law, representing...
10 ATTORNEY KEVIN BECK (Herein referred to as KB in transcribed statement): The Police
11 Federation.
12

13 Q: Thank you.
14

15 Um, ma'am, what is your full name, please?

16 A: Glenda Jodene Malloy.
17

18 Q: And what is your present rank and work assignment?

19 A: I'm a Patrol Officer in the Fifth Precinct Daywatch.
20

21 Q: And what is your employee number and date of appointment, please?

22 A: 4366. November 1, 1998.9 *gm*
23

24 Q: OK. Thank you.
25

26 YOU ARE BEING ORDERED TO GIVE A COMPLETE AND TRUTHFUL STATEMENT
27 PERTAINING TO THE SCOPE OF YOUR EMPLOYMENT OR FITNESS FOR DUTY. IT IS A
28 COMPELLED STATEMENT PURSUANT TO MPD POLICY AND PROCEDURE.
29

30 UNDER THE GARRITY DECISION, ANY STATEMENT PROVIDED IN THIS INVESTIGATION
31 CANNOT BE USED IN A CRIMINAL PROCEEDING AGAINST YOU, EXCEPT IN THE CASE OF
32 ALLEGED PERJURY. HOWEVER, THESE STATEMENTS MAY BE USED AGAINST YOU IN
33 RELATION TO EMPLOYMENT ALLEGATIONS.
34

35 Do you understand this warning?

36 A: Yes, I do.
37

38 Q: I AM ADVISING YOU THAT IF YOU REFUSE TO ANSWER, GIVE A FALSE OR
39 INTENTIONALLY INCOMPLETE STATEMENT, OR INTENTIONALLY OMIT INFORMATION
40 THAT IS PERTINENT TO THIS INVESTIGATION, YOU WILL BE SUBJECT TO DISCIPLINARY
41 ACTION UP TO AND INCLUDING SUSPENSION OR DISCHARGE.
42

43 Do you understand this?

44 A: I do.

INT. *gm*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42

Q: Is it correct that you have read, understood, and signed the Data Practices Advisory, otherwise known as the Tennessen Warning?

A: Yes, I have.

Q: And have you been informed that the purpose of your statement today relates to an internal investigation, and specifically, an administrative review that is being conducted and that it has been alleged that Officer Blayne Lehner is accused of using unauthorized force on a party identified as Luis Garcia-Pineda during his arrest?

A: Yes.

Q: And has it been explained to you that you are being called as a witness today to explain the circumstances as you recall them regarding this allegation?

A: Yes.

Q: All right. This incident occurred on 12/29/2013, at approximately 0240 hours, in the area of 43rd Street East and Nicollet Avenue. Um, there was a shots fired call and officers were out looking for evidence when a car was allegedly to have been driven in such a way as to put an officer in danger of being struck. That-, that car was stopped, and during the course of the stop, Mr. Garcia-Pineda was placed under arrest. During the course of the stop, Mr. Garcia-Pineda was injured where he lost, uh, his two front teeth, 13.384 Medical Data , 13.384 Medical Data

and Officer Lehner reported in his CAPRS supplement that he had kicked Mr. Garcia-Pineda.

So, with that in mind background-wise, what did you do to prepare for your interview today?

A: Nothing.

Q: Did you get...

A: I tried to read my supplement, but I didn't write one.

Q: OK. Did you get a chance to review the CAPRS report?

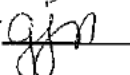
A: I looked at just the main body of it. I didn't read everybody else's statements.

Q: I have a copy of it and I'd be happy to give it to you at this time if you'd like to review it.

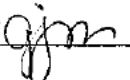
A: I'm fine.

Q: All right.

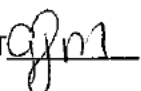
A: Thanks.

INT 

1 Q: Yep. Um, do you recall the incident?
2 A: Somewhat, yes.
3
4 Q: All right. Were you the driver or the passenger officer?
5 A: I was the passenger.
6
7 Q: OK. Um, just talk me through what happened on the call -- All right? -- um, starting
8 with when you made the traffic stop on the suspect vehicle. Tell me what happened.
9 A: As I recall, we made the traffic stop. I was on the pass...went up to the passenger
10 side of the vehicle. Don't really recall if we got anybody's names or anything then and
11 then returned to my squad.
12
13 Q: OK. What did you do once you're back in the squad?
14 A: I remember eventually running names, but I don't know if I had gotten them at that
15 time or if I had walked back up a second time and gotten them.
16
17 Q: OK. What was your partner doing and-, and who was your partner?
18 A: Chris Kelley.
19
20 Q: What was he doing? Was he dealing with any of the occupants in the car?
21 A: The driver.
22
23 Q: OK. What did he do with the driver?
24 A: Right now, I don't recall.
25
26 Q: Did the driver...was anyone ever placed in the rear of your squad?
27 A: Yes.
28
29 Q: So, who was the person that was placed in your squad?
30 A: I don't recall right now.
31
32 Q: What did you do with him?
33 A: ID'd him, maybe. I don't recall.
34
35 Q: OK. As the passenger officer, were you ID'ing him or was Officer Kelley?
36 A: [sighs] I remember putting people into the computer. I don't know who got the
37 initial information.
38
39 Q: OK. And what eventually happened with the person who was placed in the rear of
40 your car?
41 A: I don't recall at this point in time.
42

INT 

1 Q: Did you book him? Was he cited and released? Do you know what-, what the
2 ultimate disposition was for him?
3 A: I do not.
4
5 Q: OK. Um, so, you're the passenger officer. Up there, there's a-, there's a sketch. It's
6 a rough sketch, but...
7 A: OK.
8
9 Q: All right. Does that look familiar as to how the cars were laid out? And it shouldn't
10 be...this shouldn't say your car. This should be the suspect vehicle here. We'll call it SV.
11 And what car...what squad were you that night?
12 A: I don't recall right now.
13
14 Q: Yeah.
15 A: I don't remember from reading the report this morning.
16
17 Q: Did you guys make the traffic stop?
18 A: Yes.
19
20 Q: All right. So, were you positioned here on the suspect vehicle-
21 A: Yes.
22
23 Q: -if this was your squad?
24 A: Yes.
25
26 Q: OK. And you were in the passenger seat, right?
27 A: Correct.
28
29 Q: Were there other cars that came to back you up?
30 A: Yes.
31
32 Q: And where did they park then?
33 A: Behin...back to the rear of our car. To the driver's side rear, I guess, back behind us.
34
35 Q: OK. So, where would you say?
36 A: Uh...
37
38 Q: Do you wanna come up and draw where that other backup car was?
39 A: Here.
40
41 Q: OK. Were there any other cars there?

INT 

1 A: I know someone else drove through. I remember cause we...it was discussed in my
2 previous statement, but I don't...I couldn't tell you what car it was.

3
4 Q: All right. So, the squad that you said was behind you and a little bit to the left. Was
5 that Officer Lehner and Officer Wuorinen's car/squad?

6 A: Yes.

7
8 Q: OK, great. So, once the stop had progressed, from the reports, it can be, um,
9 deduced that the driver was taken out and put in a squad, and the backseat passenger
10 was taken out and put in the squad of Officer Wuorinen-, Wuorinen and Officer Lehner,
11 and I think everyone would stipulate to that based on the CAPRS reporting. So, Mr.
12 Garcia-Pineda was placed in the backseat of Squad 513. While you were in the front
13 seat of the car of your squad, did you hear any kicking, or thrashing, or anything from
14 Squad 513?

15 A: No.

16
17 Q: OK.

18 A: I did not.

19
20 Q: Your partner wrote in his supplement -- It's in the second to the last paragraph. --
21 and it says, "*Assisting officers placed him in Squad 513. I then got back into my squad
22 and assisted in the identification process. While in my squad, we could hear the party in
23 Squad 513 kicking on the doors or partition in the back of the squad.*" So, I'm assuming
24 that Officer Kelley is meaning "we" meaning you and him.

25 A: Yes.

26
27 Q: Does that help you recall if there was thrashing or kicking going on?

28 A: I don't recall hearing any.

29
30 Q: All right. He writes in his report, "*I also heard assisting officers give him,*" -- meaning
31 Garcia-Pineda -- "*verbal commands to stop kicking.*" Do you recall any verbal
32 commands being said by any of the officers at the scene?

33 A: I-, I don't recall.

34
35 Q: All right. "*The kicking stopped when the officers removed AP2 from the squad,*" is
36 the final sentence in, um, Officer Kelley's report. Do you recall that?

37 A: No.

38
39 Q: OK. Did you see Officer Lehner open the rear door of the squad -- his Squad 513?

40 A: No.

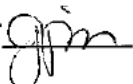
41
42 Q: Did you see or hear Mr. Garcia-Pineda kick at Officer Lehner?

INT 

1 A: No.
2
3 Q: Did you see or hear Officer Lehner or Officer Wuorinen-, Wuorinen remove Mr.
4 Garcia-Pineda from the rear of Squad 513?
5 A: No.
6
7 Q: Were you aware at any time in the course of the stop that he had in fact been
8 removed from the rear of the squad?
9 A: Not that I recall.
10
11 Q: Do you know what happened when Mr. Garcia-Pineda was removed from the squad?
12 A: I do not.
13
14 Q: Do you know where the officers put him?
15 A: No.
16
17 Q: Do you know what they did with him?
18 A: I do not.
19
20 Q: Did you see Officer Lehner kick Mr. Pineda while he was out of the squad and on the
21 ground?
22 A: I did not.
23
24 Q: Did you at any time ever turnaround and look to see what was happening to the side
25 or the rear of your squad?
26 A: No.
27
28 Q: Where was Officer Kelley during the time when, um, Mr. Garcia-Pineda was
29 thrashing and yelling in the back of the...in the back of 513?
30 A: If he was in our car, he was in the driver's seat.
31
32 Q: Did he stay in the driver's seat for the entire time of the evolution with Mr. Garcia-
33 Pineda or did he get out of the squad at any time?
34 A: I don't recall.
35
36 Q: Were you ever aware during the course of this call that Mr. Garcia-Pineda had been
37 injured?
38 A: I know there was a sergeant called to the scene.
39
40 Q: Do you know why the sergeant was called?
41 A: I don't. I don't recall now-
42

INT 

1 Q: Were you ever aware...
2 A: -specifically. Yeah. No.
3
4 Q: Were you...
5 A: I don't think so.
6
7 Q: OK. Were you at any time during the call ever aware that Mr. Garcia-Pineda had
8 been injured?
9 A: Not that I recall.
10
11 Q: Did you have any discussions with your partner, Officer Kelley, about any injuries
12 suffered by Mr. Garcia-Pineda?
13 A: No.
14
15 Q: Did you have any discussions with your partner about a force that was used-
16 A: No.
17
18 Q: -on Mr. Garcia-Pineda? Did you have any discussions with your partner about any
19 activities, um, that Mr. Garcia-Pineda engaged in that were assaultive towards officers?
20 A: No, not that I recall.
21
22 Q: Was EMS called to the scene?
23 A: [sighs] I don't remember.
24
25 Q: All right. Um, did you have any discussions with any other officers after the event
26 regarding the use of force?
27 A: Typing the report, there-, there was a force screen filled out. I typed the names and
28 stuff into the report.
29
30 Q: OK. You-, you typed the...you did the...yeah, you did the-
31 A: I did the body, yeah.
32
33 Q: -the entry page, didn't ya?
34 A: The entry page, yeah.
35
36 Q: Yeah, that-, that shows that. OK. So, you typed force...the use of force in there,
37 right?
38 A: Yes.
39
40 Q: Yeah, cause I-, I see that. It was on Offense #5. OK. So, what did you put for use of
41 force then? Do you recall?
42 A: I don't recall.

INT 

1

2 Q: OK. What did you put for injuries?

3 A: I don't recall that either.

4

5 Q: Were you aware of where, um, Mr. Garcia-Pineda went? Did you know if he went to
6 jail or if he went to, uh, the hospital?

7 A: I don't know now. I-, I don't-, I don't recall.

8

9 Q: OK. Can I have you -- just for the record -- go ahead and draw a map of the layout of
10 the stop the way we've done it on the board there to the...to your-, to your memory and
11 just include the suspect vehicle, your vehicle, Officer Lehner's vehicle, and anything else
12 that you remember from the scene?

13 A: So, this is the suspect. [pause - on audio from 13:16 to 13:31]

14

15 Q: OK. And what squad were you working?

16 A: I don't remember, but I'm-, I'm thinking it was 521.

17

18 Q: Yeah, it's 521. So, go ahead and just write 521 on your squad there. All right. And
19 then, go ahead and sign and date it there for me, please. All right. Thanks.

20

21 Are there any facts concerning this incident that you have knowledge of, but have not
22 disclosed?

23 A: No.

24

25 Q: Is there anything that you want to add that you think we should know regarding our
26 investigation?

27 A: Mm-mmm (indicating no).

28

29 Q: All right.

30 A: No.

31

32 Q: How about you, Lieutenant, any questions or anything you need to add?

33 LIEUTENANT ROBERT KROLL: No.

34

35 Q: All right. Mr. Beck?

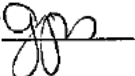
36 KB: Just one.

37

38 Q: Yes, sir.

39 KB: Uh, Officer Malloy, in an answer to your question today you referenced another
40 statement, were you referring to the deposition you-, you were a part of as part of the
41 civil case-

42 A: Yes.

INT 

1
2 KB: -not another-
3 A: Yes.
4
5 KB: -statement as part of an IA or OPCR case?
6 A: Correct. Sorry.

7
8 Q: All right. That's clarified. I don't have any further questions. Thank you. Interview
9 is concluded. The time is 10:19.

10
11
12
13
14
15
16
17
18
19
20
21

G. Jodene Malloy

Officer G. Jodene Malloy

02102117

Date

Witness

Job #: 49240

INT _____

SOSP

my
SOSP
5/1

513

Jedene n rdloy
01127/17



February 1, 2017

Officer G. Malloy
Minneapolis Police Department
5th Precinct Daywatch

Officer Malloy,

Enclosed you will find two identical copies of your statement. Please take time to review your statement. Make any corrections by crossing out any discrepancies, then write in the correction, and initial the correction. After reviewing each page, please initial the bottom of each page. At the end of reviewing your statement, and any corrections that you may have made, please sign and date the last page.

Please mail back, one of the reviewed and signed copies by the end of your next scheduled shift. You may keep the other copy for your own records. If a corrected and signed statement is not returned within five (5) days, it will be assumed that the statement does not require corrections and will be added to the case file unsigned.

Thank you for your assistance in this case. If you have any questions you can reach me at 612-673-3702, 0700-1500, Monday through Friday.

Sincerely,

Sergeant Matt McLean
Minneapolis Police Department
Internal Affairs Unit



Office of Police Conduct Review

Civilian Unit
350 S. Fifth St. – Room 239
Minneapolis, MN 55415
TEL 612.673.5500

Internal Affairs Unit
350 S. Fifth St. – Room 112
Minneapolis, MN 55415
TEL 612.673.3074
www.minneapolismn.gov

January 20, 2017

Officer Christopher Kelley
Fifth Precinct – Directed Patrol
Minneapolis Police Department

OPCR Case Number 15-16258
CAPRS Number MP-13-430045
VisiNet 13-430045

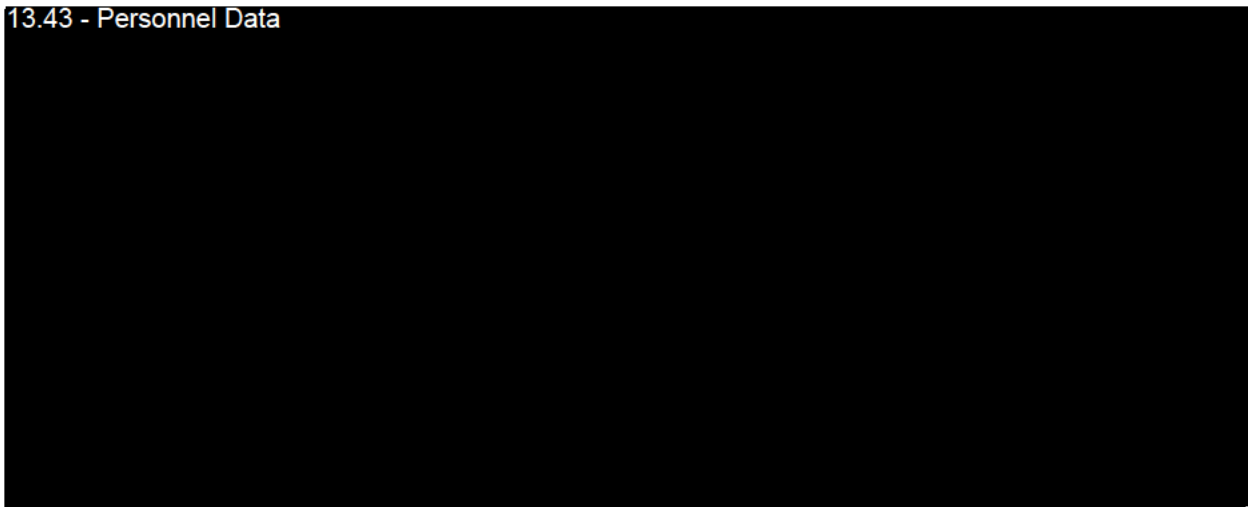
Dear Officer Kelley:

NOTIFICATION LETTER

You are being called as a witness for the following alleged violation(s) of Minneapolis Police Department Policy and Procedures. The specific policies alleged to have been violated are:

MPD P/P 5-301 EXCESSIVE FORCE: *Based on the Fourth Amendment's "reasonableness" standard, sworn MPD employees shall only use the amount of force that is objectively reasonable in light of the facts and circumstances known to that employee at the time force is used. The force used shall be consistent with current MPD training.*

13.43 - Personnel Data



Luis Garcia-Pineda states that he was a passenger in a vehicle which was stopped for reckless driving. Garcia-Pineda was subsequently arrested for Obstruction and Consumption of Alcohol by a Minor. Garcia-Pineda suffered injuries to his face and jaw which he alleges were caused by Officer Blayne Lehner.

Pursuant to the Minneapolis Police Department's Discipline Process, the above allegations, if true, constitutes a policy violation. However, the above listed policy violations may be amended or changed at any time during the investigation.

According to Workforce Director you are scheduled to work:

January 30, 2017, 1700 hrs to 0300 hrs

Your appointment to provide a statement to the Office of Police Conduct Review is scheduled for January 30, 2017 at 1330 hours at the Department of Civil Rights, Office of Police Conduct Review, Room 239 in City Hall. If you have a compelling conflict you must contact me by January 25, 2017 to discuss an alternate date.

I can be contacted by e-mail at liisa.hill@minneapolismn.gov or phone at 612-673-2093 between the hours of 08:30 and 16:30, Monday through Friday. Failure to show for your scheduled interview or to request one of the alternate dates by the time directed will result in additional charges.

This is an ongoing investigation and you are not to discuss this case or interview with anyone other than your union/federation representative. You are entitled to be represented at this interview by a union/federation representative or an attorney.

Sincerely



Liisa M Hill
Investigator - Civilian
Minneapolis Office of Police Conduct Review

Hill, Liisa

From: Hill, Liisa
Sent: Friday, January 20, 2017 10:53 AM
To: Kelley, Christopher
Cc: Waite, Kathy; Jaafar, Imani S.; Halvorson, Henry; Case, Jason
Subject: OPCR Officer Notification Letter
Attachments: OPCR Officer Notification Letter-Christopher Kelley-Witness.docx

Importance: High

Tracking:	Recipient	Delivery	Read
	Kelley, Christopher	Delivered: 1/20/2017 10:54 AM	Read: 1/20/2017 12:37 PM
	Waite, Kathy	Delivered: 1/20/2017 10:54 AM	
	Jaafar, Imani S.	Delivered: 1/20/2017 10:54 AM	
	Halvorson, Henry	Delivered: 1/20/2017 10:53 AM	Read: 1/20/2017 11:37 AM
	Case, Jason	Delivered: 1/20/2017 10:54 AM	

RE: OPCR File 15-16258

Officer Kelley,

Attached is a letter scheduling your appointment for an interview with the Office of Police Conduct Review . Your OPCR interview is scheduled for Monday, January 30, 2017 @ 1330 hrs. The details are included in the letter. You will also be receiving a hard copy of this letter in the Inter-Department Mail. Please call me if you have any questions.

Liisa M. Hill
Case Investigator

City of Minneapolis – Department of Civil Rights
Office of Police Conduct Review
350 S. Fifth St. – Room # 239
Minneapolis, MN 55415

Office: 612-673-2093
Fax: 612-673-5510
liisa.hill@minneapolismn.gov

Hill, Liisa

From: Kelley, Christopher
Sent: Tuesday, January 24, 2017 3:19 AM
To: Hill, Liisa
Subject: RE: OPCR Officer Notification Letter

I just looked on workforce and saw that i did not work on the 30th. (Please disregard my earlier email). I am working on the 31st, 1 Feb and 2 Feb. 1530 will work on any of those days for me. Also, I need to make sure counsel will be available to attend with me. Thank you!

Off Kelley

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Kelley, Christopher" <Christopher.Kelley@minneapolismn.gov>
Date: 01/23/2017 17:24 (GMT-06:00)
To: "Hill, Liisa" <Liisa.Hill@minneapolismn.gov>
Subject: RE: OPCR Officer Notification Letter

Would it be possible to move the time to 1530 hours since I have to drive a good distance and work that evening? Thank you!

Off Kelley

From: Hill, Liisa
Sent: Friday, January 20, 2017 10:53 AM
To: Kelley, Christopher
Cc: Waite, Kathy; Jaafar, Imani S.; Halvorson, Henry; Case, Jason
Subject: OPCR Officer Notification Letter
Importance: High

RE: OPCR File 15-16258

Officer Kelley,

Attached is a letter scheduling your appointment for an interview with the Office of Police Conduct Review . Your OPCR interview is scheduled for Monday, January 30, 2017 @ 1330 hrs. The details are included in the letter. You will also be receiving a hard copy of this letter in the Inter-Department Mail. Please call me if you have any questions.

Liisa M. Hill

Case Investigator

City of Minneapolis – Department of Civil Rights

Office of Police Conduct Review

350 S. Fifth St. – Room # 239

Minneapolis, MN 55415

Office: 612-673-2093

Fax: 612-673-5510

liisa.hill@minneapolismn.gov

Hill, Liisa

From: Hill, Liisa
Sent: Tuesday, January 24, 2017 2:26 PM
To: Kelley, Christopher
Cc: Waite, Kathy; Jaafar, Imani S.; Halvorson, Henry; Case, Jason
Subject: OPCR Statement

Importance: High

Tracking:	Recipient	Delivery
	Kelley, Christopher	Delivered: 1/24/2017 2:26 PM
	Waite, Kathy	Delivered: 1/24/2017 2:26 PM
	Jaafar, Imani S.	Delivered: 1/24/2017 2:26 PM
	Halvorson, Henry	Delivered: 1/24/2017 2:26 PM
	Case, Jason	Delivered: 1/24/2017 2:26 PM
	McLean, Matthew	
	Matthew.McLean@minneapolismn.gov	Delivered: 1/24/2017 2:26 PM

Officer Kelley,

Your appointment to provide a statement to OPCR has been approved to be moved to January 31, 2017. However, the appointment time will stay at 13:30. Per the Internal Affairs Commander, you will be afforded overtime pay. All other information in the notification letter is the same.

Liisa M. Hill
Case Investigator

City of Minneapolis – Department of Civil Rights
Office of Police Conduct Review
350 S. Fifth St. – Room # 239
Minneapolis, MN 55415

Office: 612-673-2093
Fax: 612-673-5510
liisa.hill@minneapolismn.gov

Hill, Liisa

From: Kelley, Christopher
Sent: Monday, January 30, 2017 2:06 PM
To: Hill, Liisa
Cc: Kroll, Bob (Federation)
Subject: RE: OPCR Statement

Hello Ma'am,

I will not be able to have representation at the meeting scheduled tomorrow at 1330 so i need to reschedule. Next Wed or thurs will work for me and a federation rep will be in attendance. I cc'd Lt Kroll also. Can you please advise us both of the rescheduled interview time??

Thanks,
Off Kelley
612-512-7126

Sent from my Verizon Wireless 4G LTE smartphone

----- Original message -----

From: "Hill, Liisa" <Liisa.Hill@minneapolismn.gov>
Date: 01/24/2017 14:25 (GMT-06:00)
To: "Kelley, Christopher" <Christopher.Kelley@minneapolismn.gov>
Cc: "Waite, Kathy" <Kathy.Waite@minneapolismn.gov>, "Jaafar, Imani S." <Imani.Jaafar@minneapolismn.gov>, "Halvorson, Henry" <Henry.Halvorson@minneapolismn.gov>, "Case, Jason" <Jason.Case@minneapolismn.gov>
Subject: OPCR Statement

Officer Kelley,

Your appointment to provide a statement to OPCR has been approved to be moved to January 31, 2017. However, the appointment time will stay at 13:30. Per the Internal Affairs Commander, you will be afforded overtime pay. All other information in the notification letter is the same.

Liisa M. Hill
Case Investigator

City of Minneapolis – Department of Civil Rights
Office of Police Conduct Review
350 S. Fifth St. – Room # 239
Minneapolis, MN 55415

Office: 612-673-2093
Fax: 612-673-5510
liisa.hill@minneapolismn.gov



January 31, 2017

Officer Christopher Kelley
Minneapolis Police Department
5th Precinct Directed Patrol
RE: IAU Case Number 15-16258
Notification Letter

Officer Kelley,

You are being called as a *witness* in a matter being investigated the Minneapolis Police Department Internal Affairs Unit. The assigned IAU administrative investigation case number is 15-16258.

It is alleged that Officer Blayne Lehner violated the City of Minneapolis Police Department's Use of Force Policy during an arrest at 43rd St. E. and Nicollet Ave. S. on 12-29-2013 at approximately 0240 hours. The CCN for this case is 13-430045

MPD Policy and Procedure alleged to have been violated:

- 5-303, Authorized Use of Force

***The listed policy violations may be amended and/or changed at any point during the investigation.**

Per a conversation on this date with Lt. Kroll and approval of attorney Kevin Beck, your appointment to provide a statement to the Internal Affairs Unit has been scheduled for **Wednesday, February 8, 2017 at 1130 hours**. The interview will take place in the IAU office, Room 112, City Hall. You will be granted overtime as this is outside of your regular working hours.

Failure to show for your scheduled interview may result in charges against you. This is an ongoing investigation and as such you are not to discuss this case or interview with anyone other than your attorney and/or Federation Representative.

Respectfully,

A handwritten signature in black ink, appearing to read "M. J. McLean", written over a horizontal line.

Sergeant Matt McLean
Internal Affairs Unit

CC: Inspector Waite
Lt. Halvorson
Internal Affairs File

OFFICER KELLEY

DATA PRACTICES ADVISORY

**Internal Investigation Warning for Employees under Investigation
(Tennessee Warning)**

You are being questioned as part of an official internal investigation into a complaint of misconduct. The information you provide will be used in a fact-finding process, as part of the total evidence, to determine if misconduct occurred and for assessing whether disciplinary action should be taken. Any admissions that you make during the course of questioning may be used against you as evidence of employee misconduct or as a basis for discipline. The information you supply may also be used in a grievance hearing, arbitration, or appeal procedure. The following individuals and entities may have access to the information you provide:

- The subject of the data, which includes you, but may include someone else.
- Employees and officials of the City of Minneapolis whose work assignments reasonably require access to the information.
- Individuals or entities that have contracts with the City of Minneapolis reasonably requiring access to the information.
- Attorneys for the City of Minneapolis reasonably requiring access to the information.
- If disciplinary action is imposed against you based on the results of this investigation, the information you provide may be made available to the public as documentation supporting final disciplinary action.
- Minneapolis City Council Members and the Mayor.
- Hearing officers, judges or courts.
- Private parties through discovery in civil litigation.
- Your union representative.
- Other persons or entities authorized by you, by a state or federal law, or by court order to have access to such information.

Failure to provide the information requested means that the internal investigation must be concluded based upon all evidence and testimony received by the investigator(s) without your statement.

I have read the above warning or have had it read to me.

Signature

Date/Time

2/8/17 1130

Witness

Date/Time

2/8/17 1130

1 THIS IS A RECORDED STATEMENT OF OFFICER CHRIS KELLEY TAKEN ON WEDNESDAY,
2 FEBRUARY 8, 2017, AT APPROXIMATELY 1138 HOURS IN THE INTERNAL AFFAIRS
3 CONFERENCE ROOM. THIS INTERVIEW IS BEING CONDUCTED BY SERGEANT MCLEAN OF
4 THE INTERNAL AFFAIRS UNIT. ALSO, PRESENT IN THE INTERVIEW IS THE PRESIDENT OF
5 THE MINNEAPOLIS POLICE OFFICERS FEDERATION, LIEUTENANT BOB KROLL.
6 TRANSCRIBED BY R. METCALF.

7
8 RE: IAU (OPCR) Case Number #15-16258

9
10 Q: Sir, what is your full name, please?

11 A: Uh, Christopher Patrick Kelley.

12
13 Q: And what is your present work assignment and rank?

14 A: Uh, I'm a Patrol Officer, Fifth Precinct Directed Patrol, which is Middle...Middlewatch
15 hours.

16
17 Q: And what is your employee number and date of appointment, please?

18 A: Uh, 3680 and I believe it was December 7th of '98.

19
20 Q: Thank you, sir.

21
22 YOU ARE BEING ORDERED TO GIVE A COMPLETE AND TRUTHFUL STATEMENT
23 PERTAINING TO THE SCOPE OF YOUR EMPLOYMENT OR FITNESS FOR DUTY. IT IS A
24 COMPELLED STATEMENT PURSUANT TO MPD POLICY AND PROCEDURE.

25
26 UNDER THE GARRITY DECISION, ANY STATEMENT PROVIDED IN THIS INVESTIGATION
27 CANNOT BE USED IN A CRIMINAL PROCEEDING AGAINST YOU, EXCEPT IN THE CASE OF
28 ALLEGED PERJURY. HOWEVER, THESE STATEMENTS MAY BE USED AGAINST YOU IN
29 RELATION TO EMPLOYMENT ALLEGATIONS.

30
31 Do you understand this warning?

32 A: Yes, sir.

33
34 Q: I AM ADVISING YOU THAT IF YOU REFUSE TO ANSWER, GIVE A FALSE OR
35 INTENTIONALLY INCOMPLETE STATEMENT, OR INTENTIONALLY OMIT INFORMATION
36 THAT IS PERTINENT TO THIS INVESTIGATION, YOU WILL BE SUBJECT TO DISCIPLINARY
37 ACTION UP TO AND INCLUDING SUSPENSION OR DISCHARGE.

38
39 Do you understand this?

40 A: Yes, sir.

41
42 Q: Is it correct that you have read, understood, and signed the Data Practices Advisory,
43 otherwise known as the Tennessen Warning?

44 A: Yes, sir.

INT 

1

2 Q: And have you been informed that the purpose of your statement this morning
3 relates to an internal investigation, and specifically, an administrative review that is
4 being conducted and it has been alleged that Officer Blayne Lehner is accused of using
5 unauthorized force on a party identified as Luis Garcia-Pineda during his arrest and that
6 you are being called as a witness-

7 A: I understand.

8

9 Q: -to explain the circumstances-

10 A: Yes.

11

12 Q: -as you recall them during...regarding this allegation?

13 A: Uh, I was there.

14

15 Q: All right. This incident occurred on, uh, December 29, 2013, at approximately 0240
16 hours at 43rd Street East and Nicollet Avenue. There was a shots fired call and officers
17 were out looking for evidence when a car was alleged to have been driven in such a way
18 as to put an officer in danger of being struck by that vehicle. The vehicle was stopped,
19 and during the course of the stop, Mr. Garcia-Pineda was placed under arrest. And
20 during the arrest, Mr. Garcia-Pineda suffered injuries, uh, to his facial area. Officer
21 Lehner reported in his CAPRS supplement that he had in fact kicked Mr. Garcia-Pineda.

22

23 Um, what did you do to prepare for your interview today?

24 A: Well, I just read my report.

25

26 Q: All right.

27 A: Spoke to my Federation Rep.

28

29 Q: OK. Did reading your report refresh your memory of the event?

30 A: Yes, sir. Although I gave a more detailed deposition prior to this and, uh, yeah, I'm
31 familiar with my, you know, uh, function in this or-, or my involvement.

32

33 Q: OK. Thank you. What squad were you working?

34 A: I believe it was Squad 521.

35

36 Q: And who was your partner?

37 A: Officer Jodene Malloy.

38

39 Q: Will take me through what happened on this call starting with when you stopped
40 the, uh, suspect vehicle? And before you-, before you do that, will you just draw a
41 sketch of where the suspect vehicle was, where yours was, and other squads that were
42 there as you recall it at the scene, please?

INT 

- 1 A: OK.
2
3 Q: Thank you.
4 A: [pause - time on audio from 3:17 to 3:40] On the diagram here, the suspect vehicle
5 is about midblock on 4300 block.
6
7 Q: OK.
8 A: I was Squad, uh, 521. I wasn't sure exactly what squad that was or it could be a
9 supervisor squad.
10
11 Q: OK.
12 A: I was offset to the left.
13
14 Q: Yep.
15 A: It was a standard stop. There was another vehicle/squad to my left and offset
16 backwards. I think it may have been Wuorinen and Lehner.
17
18 Q: OK.
19 A: I'm not sure.
20
21 Q: All right. So...
22 A: But, there was a car right there and I think there was somebody who came up after
23 behind me.
24
25 Q: All right. It-, it probably was based on-, on my interviews, so why don't you go ahead
26 and label that 513.
27 A: OK.
28
29 Q: And then, do you recall if Officer-, Officer Misgen showed up on the call a little bit
30 later?
31 A: I think he was there. I just...I'm not 100...you know, he was there, but I-
32
33 Q: All right.
34 A: -don't know where he was at in relation to me cause I never interacted with him, so.
35
36 Q: OK. Why don't you just draw in there where approximately you thought that, uh,
37 third squad was?
38 A: Somewhere behind...
39
40 Q: Was it a marked squad?
41 A: Yes.
42

INT 

1 Q: All right.
2 A: Somewhere behind me.
3
4 Q: And you're not sure which squad that was?
5 A: No, I'm-, I'm gonna assume it's Misgen, but I don't know.
6
7 Q: Fair enough.
8 A: I don't recall.
9
10 Q: OK. Is that it for the-, for the diagram?
11 A: Yeah, that's-, that's what I remember-
12
13 Q: OK.
14 A: -from my involvement. I knew there was one to my left, another squad behind me,
15 and-, and Officer Misgen was there. Because when-, when this whole call kicked off, we
16 were on the shots fired call-
17
18 Q: Yep.
19 A: -and I actually called out to him. I said did you see what I saw when that car
20 appeared to be running down Officer Lukes-
21
22 Q: OK.
23 A: -and then I went and pursued. And that's how we ended up here.
24
25 Q: Fair enough. Could you just sign and date that on the bottom for me, please?
26 A: All right.
27
28 Q: Thank you. All right. Now, we have the diagram. Can you just take me through, um,
29 what happened on the traffic stop-
30 A: OK.
31
32 Q: -after you, uh, you hit the lights, I assume, and the vehicle pulled over? Why don't
33 you just take me through what happened?
34 A: Yeah, there was, you know, quite a few blocks it took me to catch up with the
35 vehicle, so I caught up at 4300. Um, I exited the squad, immediately took the driver into
36 custody due to the fact that it appeared to me that he was gonna run...tried running
37 down an officer. He was very negligent in how he was operating the vehicle. I took him
38 into custody, and we placed him in the squad, and then, uh, went back to the vehicle
39 after everything was Code 4 at that point, and started to identify individuals in the
40 vehicle. There were two females and another male in the back on the driver's side.
41
42 Q: OK. So, how did that go?

INT



1 A: The females were compliant and -- I had to refer to my report, but -- I-, I recall them
2 being compliant. I got their information. And then, the male, um, wasn't compliant, uh,
3 appeared that he was drinking, you could smell it, and-, and his demeanor, and he
4 swore at me. So, I took him out of the car with the assistance of another officer and
5 handed him off.

6
7 Q: OK. Who did you hand him off to?

8 A: I-, I believe, and again, it might have been Wuorinen -- Steve Wuorinen.

9
10 Q: OK.

11 A: Uh, Blayne's partner.

12
13 Q: Did you arrest him at that point? Was he under arrest?

14 A: I was taken him out cause he was disrupting our investigation-

15
16 Q: OK.

17 A: -at this point.

18
19 Q: Did you handcuff him or did someone else handcuff him?

20 A: I believe I did.

21
22 Q: OK.

23 A: I-, I wanna say I did.

24
25 Q: OK. Did you cuff him behind his back?

26 A: Yes, sir.

27
28 Q: All right. So, when you interacted with him, could you tell he was drunk?

29 A: He was under the influence, and again, the negative demeanor, you know, I want to
30 take control of the situation and get him out of the car-

31
32 Q: OK.

33 A: -at this point cause don't want to fight and don't want it to escalate.

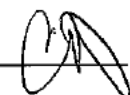
34
35 Q: OK. Did you place him under arrest at that point?

36 A: He was detained at that point.

37
38 Q: OK. Fair enough. So, when you're interacting with him, how far away from him
39 were you?

40 A: Well, I got down to talk to him and-, and you could smell and then hear him swear.
41 You know he uttered something. I don't recall what, but.

42

INT 

1 Q: OK. About how tall are you?

2 A: Six foot.

3

4 Q: And how tall would you say he was?

5 A: Well, he was sitting down, but, again, you know, whether he was five foot or six foot
6 he could still punch me or-, or do something to harm me-

7

8 Q: OK.

9 A: -if I didn't take control of the situation.

10

11 Q: OK. Were you ever talking to him face-to-face when you were both standing up?

12 A: I think he was turned away from me. Once he was out of the car and handcuffed,
13 um, we got him out of the way. Another officer took him and then I went to go deal
14 with the driver, who was really the primary concern, after I got the information of who
15 was in the car.

16

17 Q: OK. So, were you dealing with him ever face-to-face? Face-to-face...

18 A: I suppose when I got down and talked to him.

19

20 Q: OK. Did you notice if he had any injuries to his face?

21 A: I don't recall.

22

23 Q: Did you notice if he was-, was missing his teeth, or bleeding, or anything-

24 A: No, sir.

25

26 Q: -strike you as out of the ordinary injury wise about his face?

27 A: No, sir. I knew he was drunk and he was belligerent.

28

29 Q: OK. So, you handed him off to, uh, you think Officer Wuorinen?

30 A: I wanna say he walked up. I-, I think there was a video, but I...again, I don't know.

31

32 Q: OK. And then...

33 A: I wanna say Wuorinen, but.

34

35 Q: All right. And then, after you handed him off, then what did you start...what did you
36 do?

37 A: I went back into the squad and-, and we started to deal with the driver, who again
38 was the primary, uh, I guess, uh, person involved in this, who, you know...I saw him, you
39 know, try to...he appeared to run down the officer or intending at that point.

40

41 Q: OK. So, you started to ID the guys and figure out what you were gonna do with them
42 while you were in the squad?

INT



1 A: Mm-hmm (indicating yes).
2
3 Q: OK. While you were in the squad, did you hear, um, anything going on with the party
4 that you had handed off? And this is just-, just for the record-
5 A: Mm-hmm (indicating yes).
6
7 Q: -this is Mr. Garcia-Pineda.
8 A: Yes.
9
10 Q: Did you hear anything going on in Squad 513 while you were guys were in your
11 squad?
12 A: I heard like muffled kicking I said in my statement.
13
14 Q: OK.
15 A: That's what it sounded like to me. Again, I didn't see. I, you know, with...the squad
16 was offset. I wasn't visual, but I mean I've heard enough people kick in the squads.
17 That's what it sounded like to me.
18
19 Q: OK. How long did that go on would you say?
20 A: I don't recall that. I-, I heard it, you know, for a little bit -- I-, I don't know - you know,
21 thirty seconds maybe.
22
23 Q: OK. Yeah, I was just looking for a ballpark figure. I'm not looking for an exact
24 number.
25 A: No, right. Well...
26
27 Q: Did it go on for quite some time, or was it-, was it just a couple kicks, or...?
28 A: It maybe thirty seconds long. I just heard kicking and, you know, I-, I did not put it in
29 my report-
30
31 Q: OK.
32 A: - but I did hear it. And, you know, past experience dealing with people who have
33 kicked out squad windows before the bars and-, and you know, something was muffled.
34
35 Q: Well, you did put it in your report. You said-
36 A: Yes.
37
38 Q: -you said that you heard the kicking of the partition in the back of the squad.
39 A: Yeah, that's-, that's what it sounded like.
40
41 Q: OK. Um, did you hear any verbal commands by any of the officers there regarding
42 this-, this...the kicking?

INT 

1 A: I-, I don't recall that. I'm gonna assume there was-, there was verbal commands, but.

2

3 Q: OK.

4 A: I heard the kicking is what really stuck out to me and that's what I put it in my report.

5

6 Q: OK. Did you make any comments to your partner about it?

7 A: I don't recall that if I did or not.

8

9 Q: Did you ever consider getting out of your squad to go see what was going on back
10 there?

11 A: Actually, no, because there was two senior officers there. The guy was handcuffed, I
12 guess.

13

14 Q: OK.

15 A: Not-, not a guess. The guy was handcuffed. So, I guess at this point, I was...my
16 primary goal was dealing with my guy in back.

17

18 Q: OK. Did you see Officer, uh, Lehner open up the rear door of his squad?

19 A: I did not.

20

21 Q: Did you see or hear Mr. Garcia-Pineda kick at Officer Lehner?

22 A: No, I just heard, again, muffled kicking what it sounded like to me.

23

24 Q: Were you ever aware during the course of this call or afterwards that Mr. Garcia-
25 Pineda had in fact kicked at Officer Lehner?

26 A: No, I didn't talk to really anybody after that in regards once the call was done. You
27 know, we were dealing with my guy, getting the car towed, and getting the two female
28 passengers out of there-

29

30 Q: OK.

31 A: -to make sure they could get out.

32

33 Q: Did you see Officer Lehner kick at Mr. Garcia-Pineda-

34 A: I did not.

35

36 Q: -while he was in the backseat of the squad?

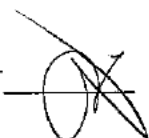
37 A: No, sir.

38

39 Q: Did you see, um, Officer Lehner and Officer Wuorinen-, Wuorinen remove Mr.
40 Garcia-Pineda from the back of the squad?

41 A: I did not.

42

INT 

1 Q: Were you ever aware at any time during the course of the call that Mr. Garcia-
2 Pineda had been removed from the squad?
3 A: I did not. No, I do not know.
4
5 Q: Did you see Officer Lehner kick Mr. Garcia-Pineda while he was out of the squad and
6 on the ground?
7 A: I did not see that.
8
9 Q: Did you see any other officer kick Mr. Garcia-Pineda while he was out of the squad-
10 A: No, sir.
11
12 Q: -and on the ground? Did you ever see Mr. Garcia-Pineda while he was on the
13 ground?
14 A: No, sir.
15
16 Q: Did you ever observe any of the female occupants -- and there were two of them --
17 A: Mm-hmm (indicating yes).
18
19 Q: -did you observe any of the female occupants get out of the suspect vehicle-, vehicle
20 at any time during the stop?
21 A: No, they were in the vehicle as far as I can recollect.
22
23 Q: Did you hear any verbal commands by any officer on the scene directed towards one
24 of those two females to get back in the squad or to get back in the car?
25 A: No, I did not.
26
27 Q: Did you ever at any point during the stop observe any-, observe any officers standing
28 around Mr. Garcia while he was on the pavement?
29 A: No, sir.
30
31 Q: Were you ever aware during the call that Mr. Garcia-Pineda had been injured?
32 A: No, sir.
33
34 Q: Did you ever learn that he was injured?
35 A: Maybe after.
36
37 Q: How did you learn that he was injured?
38 A: I...you know maybe officers talking, but, again, I didn't really get into a deep
39 conversation or question the situation.
40
41 Q: OK. Did you talk to Officer Lehner at all on this call?
42 A: No, not after. No.

INT 

1

2 Q: "Not after," what do you mean by that?

3 A: No, we-, we didn't...no, not-, not after...not during the incident or after, no. Just, uh,
4 the only interaction was Wuorinen, handed him off, and went back to those guys.

5

6 Q: All right. So, you didn't have any-, any interaction with, uh, Officer Lehner after you
7 handed him off?

8 A: No, sir.

9

10 Q: OK. Was there any discussions with any other officers after the event regarding use
11 of force or injuries?

12 A: No, sir.

13

14 Q: Where did you do the report?

15 A: I don't recall. Probably in the squad that's kind of my standard.

16

17 Q: OK. Did you go into the Fifth Precinct, um, report room to work on it?

18 A: I could have. I-, I just don't recall that.

19

20 Q: Who's-, who's report was it? Was it, uh, Malloy's? She was the passenger or...?

21 A: I-, I did the statement, and if I can refer to it, I'm sure the primary person is...she's
22 the reporting officer.

23

24 Q: Yeah.

25 A: Yes, sir.

26

27 Q: OK. Um, were you running your MVR during the course of the stop?

28 A: I don't recall that.

29

30 Q: Were...are you required to?

31 A: Yes.

32

33 Q: I-, I can tell you that the MVR was running-

34 A: OK.

35

36 Q: -for, uh, the first part of the stop, but then it shuts off shortly after the driver is put
37 back.

38 A: OK.

39

40 Q: Um, did you turn the MVR off?

41 A: I don't recall if I did or not.

42

INT



1 Q: Did Officer Malloy turn the MVR off?

2 A: I don't recall.

3

4 Q: Can you tell me why the MVR would have been turned off during the course of the
5 stop?

6 A: If the-, if the scene was Code 4 at the time after dealing with the driver, we'd shut it
7 down.

8

9 Q: All right. Is there, um, any reason that you remember why you specifically would
10 have shut it down either you or your partner?

11 A: No. No, sir.

12

13 Q: OK. Do you wanna take a break?

14 LIEUTENANT BOB KROLL (Herein referred to as BK in transcribed statement): No, just I
15 don't wanna put words in his mouth, but I think it was in compliance with policy back
16 then to shut it down.

17

18 Q: OK.

19 BK: That's what...as-, as I recall, the policy changed.

20

21 Q: My only concern was -- in asking the question was -- was there any event that
22 caused you to shut it down?

23 A: No, sir.

24

25 Q: OK.

26 A: No.

27

28 Q: You felt the situation was Code 4?

29 A: Once I got the driver out, once the...that, uh, Mr. Pineda was handcuffed and out,
30 yes, I think at that point it was, you know...there was no more incidents.

31

32 Q: OK. I-, I think at that point Mr. Pineda was still in the car, though. The driver was
33 out. Mr. Pineda was-

34 A: OK.

35

36 Q: -still in the backseat. So-

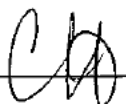
37 A: And I'm trying to think back to the deposition...

38

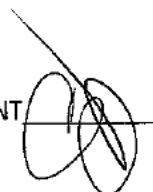
39 Q: -do you know for sure that it's Code 4? I guess you-, you have the driver out and
40 your primary concern is the driver.

41 A: Mm-hmm (indicating yes).

42

INT 

1 Q: He's the one that allegedly tried to run the person down.
2 A: Yes, sir.
3
4 Q: But, we're not completely sure because we still have three occupants in the car.
5 A: Yes, sir.
6
7 Q: OK. Fair enough. Um...
8 A: As far as I-, as I stood at that point, the-, the scene was Code 4. Because, you know,
9 again, we got the driver out, and again, I went through deposition. There was some
10 video there. I just apologize I don't recall exactly the full extent of it. If I could view it
11 again, probably could give, you know, situation unfolds.
12
13 Q: Yeah. OK. Um, did you ever-, ever have any follow-up with anyone else that was on
14 the call about the use of force or about the incident in general-
15 A: No, sir.
16
17 Q: -that may be later on? So, was the next time you brought it up when -- at the
18 depos?
19 A: Yeah, basically the deposition, sir.
20
21 Q: OK. All right. Is there anything that, uh...any facts concerning this incident that you
22 have knowledge of that you have not disclosed?
23 A: No, sir.
24
25 Q: OK.
26 A: I'd just to like add -- Officer Lehner -- we went to rookie school together. He's a good
27 cop. He's a cop that does his job well. He's not...he doesn't seem to be an emotional
28 guy and, uh, you know, I-, I stand behind him.
29
30 Q: OK. Is there anything else you'd like to add to your statement that I haven't asked
31 you concerning the incident to ensure a fair and impartial investigation?
32 A: No, sir.
33
34 Q: All right. How about Lieutenant Kroll? Anything from you?
35 BK: No, I'm good.
36
37 Q: All right. Is this a true and accurate statement to the best of your recollection?
38 A: Yes, sir.
39
40 Q: All right.
41

INT 

1 PER MPD POLICY AND PROCEDURE, SECTION 5-107.8, YOU ARE NOT TO DISCUSS THIS
2 INTERVIEW OR CASE INVESTIGATION WITH ANYONE OTHER THAN YOUR FED REP OR AN
3 ATTORNEY.

4

5 Do you understand this?

6 A: Yes, sir.

7


8 Q: All right. Interview is concluded and the time is, uh, 1153 hours.

9

10

11

12

 #3680 2/17/17

Officer Christopher Kelley Date

13

14

15

16

17


Witness

18

19

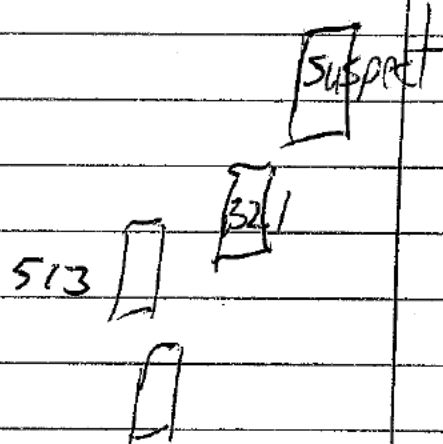
20

Job #: 49642

INT 

OFFICER Kelley

4300



W. Collet Arms

~~CPD~~ #3680
 2/8/17



February 13, 2017

Officer Chris Kelley
Minneapolis Police Department
5th Precinct Directed Patrol

Officer Kelley,

Enclosed you will find two identical copies of your statement. Please take time to review your statement. Make any corrections by crossing out any discrepancies, then write in the correction, and initial the correction. After reviewing each page, please initial the bottom of each page. At the end of reviewing your statement, and any corrections that you may have made, please sign and date the last page.

Please mail back, one of the reviewed and signed copies by the end of your next scheduled shift. You may keep the other copy for your own records. If a corrected and signed statement is not returned within five (5) days, it will be assumed that the statement does not require corrections and will be added to the case file unsigned.

Thank you for your assistance in this case. If you have any questions you can reach me at 612-673-3702, 0700-1500, Monday through Friday.

Sincerely,

Sergeant Matt McLean
Minneapolis Police Department
Internal Affairs Unit

MPD 10287-000111

Hill, Liisa

From: Hill, Liisa
Sent: Wednesday, January 18, 2017 10:24 AM
To: 'aguilarm92@hotmail.com'
Subject: Interview/Statement re Dec 29, 2013 incident

This is to confirm your appointment with Investigator Liisa M. Hill of the Minneapolis Department of Civil Rights, Office of Police Conduct Review, on January 23, 2017 at 9am.

The meeting will take place at the Minneapolis City Hall, 350 S. Fifth St. Room 239 (Minneapolis Civil Rights Department).

Thank you
Liisa
(612) 673-2093

Liisa M. Hill
Case Investigator

City of Minneapolis – Department of Civil Rights
Office of Police Conduct Review
350 S. Fifth St. – Room # 239
Minneapolis, MN 55415

Office: 612-673-2093
Fax: 612-673-5510
liisa.hill@minneapolismn.gov

Hill, Liisa

From: Microsoft Outlook
To: aguilarm92@hotmail.com
Sent: Wednesday, January 18, 2017 10:24 AM
Subject: Relayed: Interview/Statement re Dec 29, 2013 incident

Delivery to these recipients or groups is complete, but no delivery notification was sent by the destination server:

aguilarm92@hotmail.com (aguilarm92@hotmail.com)

Subject: Interview/Statement re Dec 29, 2013 incident



Interview/Statemen
re Dec 29,...

March 6, 2017

Miriam Aguilar-Garcia
3916 16th Ave. S., #2
Minneapolis, Minnesota 55407

Office of Police Conduct and Review
Case #16-16258

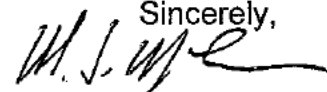
Ms. Aguilar-Garcia,

Enclosed you will find two identical copies of your statement. Please take time to review your statement. Make any corrections by crossing out any discrepancies, then write in the correction, and initial the correction. After reviewing each page please initial at the bottom of each page. After reviewing your statement and making any necessary corrections please sign and date the last page.

Please mail back, one of the reviewed and signed copies. You may keep the other copy for your own records. If a corrected and signed statement is not returned within 10 days of today, or by March 16, 2017 it will be assumed that the statement does not require corrections and will be added to the case file unsigned.

Thank you for your assistance in this case. If you have any questions or concerns related to this case or your statement you can reach me at (612) 673-3702.

Sincerely,



Sgt. Matt McLean
Internal Affairs Unit
Minneapolis Police Department

STATEMENT OF PLACE: **Miriam Aguilar**
Minneapolis Department of Civil Rights
Office of Police Conduct Review - Room 239

5 **DATE:** January 23, 2017
TIME: 9:40 a.m.
CASE NO: 15-16258
INVESTIGATOR: Liisa M. Hill
ALSO PRESENT: Sgt. Matthew McClean, Minneapolis Police Department Internal Affairs Unit

10 Q. This is a recorded statement of Miriam Aguilar Garcia on January 23, 23rd, 2017 at 9:40 a.m. in the Minneapolis Civil Rights Department Room 239 being interviewed by Investigator Liisa M. Hill. Also present is Sergeant Matthew McClean of Minneapolis Police Department Internal Affairs Unit. This is regarding OPCR Case 15-16258.

15 What is your full name?

A. Miriam Aguilar Garcia. Um, and I'll spell it out too. Ah, M-I-R-I-A-M A-G-U-I-L-A-R G-A-R-C-I-A.

20 Q. Thank you. What is your present address and phone number?

A. 3916 16th Avenue South, Apartment 2, Minneapolis, Minnesota 55407.

Q. What is your age and date of birth?

A. Um, age, I'm finally 24 and you?

25 Q. Date of birth.

A. Date of Birth? Um, 04/22/1992.

30 Q. You are being questioned as part of an official investigation into a complaint of police misconduct. The information you provide will be used in a fact finding process as part of the total evidence to determine if such misconduct occurred and for assessing whether disciplinary action should be taken. The information you supply may also be used in a grievance hearing, arbitration or other appeal procedure. Other parties outside the Minneapolis Civil Rights Department, OPCR Office, may have access to the information you provide as part of the internal investigation.

35 At this time, I'd like to ask you some questions about, ah, concerning an incident that occurred on December 29th. 2013 at approximately 3 a.m. in the morning, um, at the location or the vicinity of 44th and Nicollet in Minneapolis, Minnesota.

40 Go ahead and please tell me what, you know, start from when you were, you know, pulled over from, by the police officers and go ahead and just, you know, tell us what you, um, your experiences, what you saw, what you heard.

A. Okay. Well, I remember, um, leaving, sitting in the backseat of the car when I heard my, ah, my baby dad said that we were being pulled over. So, you know, obviously, he pulled over and then, um...

45 Q. And what was his name?

A. Antonio.

Q. Okay. And he was driving the vehicle?

50 A. Yeah, he was driving the vehicle.

Q. Okay.

A. I was in the backseat with my brother and, um...

55 Q. And, your brother is?

A. Luis, um, Garcia.

Q. Okay.

A. And, um, so I, I see a cop coming on the left side of the car and he was, um, he had, um, a flashlight and, um, he pointed it at the window with a gun which was where, ah, the driver was sitting at.

5

Q. Okay.

A. Um, so he went directly towards the driver and, ah, he, he was like, um, he told us that we were, you know, we were being stopped and then, um, he right away was, he, um, showed an aversive, um, behavior right away. Um, telling us that we were about to run over one of his, ah, partners, which is an officer. And, um, so he, you know, obviously, um, the window was already rolled out and, um, he said, "Do you know what just happened? Do you know what just happened back there? Did you see?" You, you, you know like he was cussing at, um, Antonio, um, tellin' him, "You almost ran over, um, an officer." and then he's like, "What? No." And he's like, "I stopped." It's like, and then he's like, "Okay." He was like, "Just step out, step outside of the car." And he was about to unbuckle his seatbelt when the officer ger, um, basically like opened the door and like grabbed him by his arm and pulled him out of the car.

10

15

Um, so from that moment, um, you know, he was taken and then another officer came, um, came on the left side of the car, um, but this time to the back door of the car so where my brother was sitting at. Um, he opens the door and he, he starts asking questions. Um, you know, um, "Do you have an ID? Can I see an ID? Do you have an identification? What's your name?" You know, stuff like that and then so my brother told him he's like, "An ID? No. I don't have an ID." And I first, you know, kind of thought my brother was kind of like just not, maybe not wanting to show identification or something. Um, but I was like, "Dude, just show them your ID." He's like, "I don't have it. Like, I really don't have one. I left it at home." I'm like, "Okay. Um, we'll just tell them that." And he's like, "I already did. You know, I keep telling him I don't have one. You know, I don't have anything to show him."

20

25

And so the officer was like, was like, "Show me an ID. Show me an ID. I want to see your identification. What's your name?" you know, and he's like, "I already told you, I don't have one." So the officer kept going and asking and then, you know, I was like, "He doesn't have an ID." And then he's like, "I'm talking to him." I'm like, "Well but he's telling you he doesn't have an ID. There's no ID." He said, "Do you have an ID?" I'm like, yeah, I'm like just, I had my school ID at the time, um, and so I showed him that one and so, um, I'm like, "I don't know if this works..." um, but and then he's like, "Yeah."

30

35

So, he didn't grab my ID right away but he kept going with my brother so obviously my brother got irritated and he said, "Hey, man, what the fuck and like I already told you I don't have an ID, like what do you want me to show you? I just fuckin' told you, I don't have an ID." And so the officer was like, "Okay, Okay, well, you need, you don't, you don't, you don't need to be like, you know." like I guess like over-react about it and my brother was like, "Well, what the fuck? I, you're getting me mad like I'm telling you I don't have an ID."

40

So, um, my brother was, um, a bit tipsy so that kinda contributed to like him, you know, he was getting upset but again the officer was just, you know, cussing, just kept asking for any ID's. So, Apparently, um, my brother got a little irritated, um, and then the officer was like, "Okay, um, just step outside of the car." And then he was like, "Why? I didn't do anything?" He was like, "Just step outside of the car." and took him with him as well.

45

Um, and so the only two people left in the car was myself and my, um baby dad, um, um, cousin. Her name is, ah, Stephanie [INAUDIBLE 6:54] and so she was sitting in, um, in the, next to the, was it the passenger seat? Yeah, the passenger seat. Um, and so we're just there waiting, wondering, you know, what's gonna happen. Like, we don't have a way to get home, you know, 'cause...

50

55

officer, um, cop, um, the, the cop car and there was, ah, two officers sitting in there and one of they looked at me but they didn't say anything so I kept walking towards like the end of the car...

Q. Mmhmm.

5 A. And that's where, um, that's where I saw, um, like about five officers like just kind of like in a half moon...

Q. Okay.

10 A. Um, and the car part was like just right behind the officers. Um, and then I see the, I see my brother is on the floor and by this time I forgot a lot more because I don't know what's going on, right? So, my head is like, I was like, "Oh, those, now is this, was them, you know, where is special in my brother getting, getting beat up by the officers. Um, and so I started calling out my brother's name, um, to see if I get a response from him so I started yelling, um, you know, his name, Luis, are you okay? Luis, what's going on? Luis, um, you know, talk to me. Um, and I'm

15 also, you know, talking to him in Spanish just, you know...

Q. Mmhmm.

20 A. Just so he, he knows I, it's me you know. Um, and, but same thing, you know, I'm telling him every, even in Spanish I'm telling him, you know, talk to me. Are you okay? I need to know that you're okay. And then I asked the officers. I'm like, "What's going on? Why is he on the floor? Is he okay? They all just kind of looked at each other like this like kind of like, you know, how would you say that? Um...

Q. Eyeing each other? You know, looking at each other.

25 A. Yeah.

Q. Without saying anything.

30 A. Yeah. Without saying anything and, and they all looked down to, to see my brother, see if he moved maybe and they just kind of stood there and they didn't answer any, any questions and so I try to get a little closer to my brother but again I, you know, I didn't get as much because I'm like I didn't want them to, you know, now, you know I'm, I'm like well if, if they did that to my brother or they do something to me. So, try to like kept my distance as well, um, and again I kept yellin' at him like, "Dude" you know, just circling around, "Get up." You know, "Do what they're telling you to do. Don't make this any worse. You know, um, I'm like, Come on, talk to me, say something,

35 are you okay? And, um, I'm like, Come on, get up, just...it doesn't, you know, I'm just freaking out and you know and I'm like, "Don't, don't be stupid. Which get up like...

Q. Mmhmm.

40 A. Like, stop fooling around, like, and then like he wasn't moving, he wasn't doing anything, like I was waiting for him to like at least, um, kind of lift his head a little but, you know, just to know that he was okay but he didn't move at all like he would just stare, um, face down on the ground, um, and he, um, and his hands were like handcuffed because his hands were like back not like on both sides of him...

45 Q. Mmhmm.

A. But like just, you know, on the back of, um, of his back and, and so, um, you know because I kept like yellin' his name and tellin' him, you know, that I know, tell me something. One of the officers was like, "Okay. That's enough. Shut up. Shut the fuck up. That's enough."

50 Q. And he said this to you?

A. Yeah, one of the officers, the one, the duh, the one that was, um, closer to me, um, said that and I, you know, I completely ignore him because I'm like you know what, whatever it's my brother. I didn't say anything to the, to the officer, I just ignored what he said, you know, and I kept tryin' to get, ah, you know, tryin' to get, ah, you know, tryin' get a reaction from my brother and, um, and

55 because I didn't stop, he, um, he walked towards me and he was like, "Okay, come on. That's it.

That's, that's enough. Get. Go back. Go back in the car and he, ah, he pushed me. Um, you know luckily I didn't feel anything but, um, he pushed me and so I was like all right, ah, I'm like, "If I stay here, you know, I, you, I don't know what's gonna happen, you know, what if they get also like aggressive towards me and all I could think in the back of my head is like I have my little boy waiting at me at home. I have my mother waiting for me so I, I better get, just get back in the car. So, that's what I did. I went back to, to the car, Um, and, and then, um, we're there waiting and then one of the officers, ah, comes and asks if we have a way to get home. We're like, "No." And he's like is there anyone that can come to get you and then, um, Stephanie said, "Ah, oh, I can see and try to call my mom to see if she can come get us. And then she's like, "Well, what's gonna happen? And then she's like, "Well, they were gonna take them, um, she's like, "Okay, what about the car? He, he's like, um, "You can't take that car. You have to leave the car here. Um, and then we, we need to have someone, you know, come get you.

So...

Q. Sgt. McClean: Can I stop you there?

A. Yeah.

Q. Sgt. McClean: Okay. Let's go back to them. Why don't you, um, just draw a little diagram. So, the, the, the drawing that I did of the cars here and then I'd like her to just mark on the paper...

A. [NO AUDIBLE DIALOGUE 7:15]

Q. Okay.

A. [NO AUDIBLE DIALOGUE 7:16]

Q. Sgt. McClean: Where she was when she saw [INAUDIBLE 17:16]. So, is this accurate where we have this is your car...

A. Mmhmm.

Q. Sgt. McClean: And you were seated back here and your brother was in this backseat?

A. Correct.

Q. Sgt. McClean: All right. And then you said you got out of the car and you walked past and you saw there was another squad car and you said that there were two officers in the squad car?

A. Yes.

Q. Sgt. McClean: Do you remember that?

A. Yes.

Q. Sgt. McClean: Was one officer a female?

A. Yeah, it was a, a, a lady and, and a man.

Q. Sgt. McClean: And was the man, um, in the squad car the same man that had taken out your, um, baby's father or was it a different officer?

A. Um-m-m-m-m, it should be asked. I don't remember. It's like I just remember the one, that took my baby's dad, um, it was a male, um, and he was, um, not as short, ah, not too tall either, maybe average.

Q. Sgt. McClean: Okay.

A. I don't know.

Q. Sgt. McClean: Okay.

A. But...the one in the car seemed a little, a little older than the one that had took so I don't know if it was the same one or not.

Q. Sgt. McClean: All right. But the female for sure was in the car?

A. Yeah.

Q. Sgt. McClean: Was she in the driver's seat or the passenger's seat?

5 A. Ah, as far as I remember, I think she was in, ah, my gosh, I don't remember exactly if she was the passenger or the driver's seat. But I know for sure it was a male and a female in the car.

Q. Sgt. McClean: Okay. All right. So you walked past that car?

A. Yes.

10

Q. Sgt. McClean: And you said you came back to, to, the third car...

A. Ah, no, it was actually the, the, at the, the police car that was right behind as I went around it?

Q. Sgt. McClean: Yeah. Yep. You went around it on this side?

15

A. Mmhmm, yes.

Q. Sgt. McClean: Yeah. And then where did you see your brother on the ground?

A. Um, right on this side on the.

20

Q. Sgt. McClean: And I'll have you draw it on the map.

A. Okay.

Q. Sgt. McClean: That, that Liisa's makin' for yuh. I'll have you draw that and then show me up here where you saw him, okay? Just come on up and just draw it right here so we're clear about what we're talking about.

25

A. [INAUDIBLE 19:20] picture?

Q. Sgt. McClean: Of course. And draw him the way you saw him, you know, with a head, legs and arms, okay?

30

A. Okay.

Q. Sgt. McClean: Facing the... however you saw him, wherever he was.

A. So, this is the car...

35

Q. Sgt. McClean: That's the car with the...

A. [INAUDIBLE 19:32]

Q. Sgt. McClean: Yep.

A. And, and went around it. So, he was right here.

40

Q. Sgt. McClean: You're, he was over there?

A. Mmhmm.

Q. Sgt. McClean: Okay. So, just draw here where, where his head was, where his legs were, when you saw him.

45

A. This is where his head was about right here. That was his body.

Q. Sgt. McClean: Okay.

A. There was another cop car right here and I think one of the officers was right here, the other one right here, another one and another one.

50

Q. Sgt. McClean: Okay. So, was this, this police car, was it actually over here?

A. Yes.

55

Q. Sgt. McClean: Okay. So I drew that wrong. I'm gonna re-draw that. Draw where the other police

car was on here, all right?

A. All right, there.

Q. Sgt. McClean: Okay.

5 A. (laugh)

Q. Sgt. McClean: Okay. Go ahead and draw it in there.

A. I'll just make a little more...

10 Q. Sgt. McClean: Yeah, just make it a box.

A. Um, so it was about right here.

Q. Sgt. McClean: That's how it was? Okay. And this is the front?

A. Yeah.

15

Q. Sgt. McClean: This, this. All right. So, you were standing right there.

A. I was standing right here.

Q. Sgt. McClean: Draw his legs in and his arms in.

20 A. [NO AUDIBLE DIALOGUE 20:44]

Q. Sgt. McClean: All right. And you said there were officers. How many officers were standing around?

A. I believe there was five around.

25

Q. Sgt. McClean: Five? So, you've drawn one, two, three, four, five and you were standing right there.

A. I was, ah, I was, stand right here first and then I moved over a little more in here.

30 Q. Sgt. McClean: All right.

A. Over here. Um, 'cause the officer didn't want much distance when [INAUDIBLE 21:11].

Q. Sgt. McClean: All right. Was the female officer standing in this group?

A. Um, as far as I remember, it was all males.

35

Q. Sgt. McClean: Okay.

A. For officers.

Q. Sgt. McClean: Okay. Let's sit back down. Thank you.

40 A. Mmhmm.

Q. Sgt. McClean: At any time...at any time, did you see any of the officers use a force on your brother?

45 A. Um, not when I was outside, no, not at all, um, like I said, there were just standing there staring at him, um, and then when I asked them what had happened, why was he on, you know, layin' on the ground, they just stared at each other and didn't say much.

Q. Sgt. McClean: How much time do you think elapsed from when you got out of the car and saw your brother lying on the ground motionless until you had to leave and go back into your car after the officer told you to do that?

50

A. I would say maybe...maybe ten minutes.

Q. Sgt. McClean: Ten minutes you were outside of the car?

A. Mmhmm. Yeah, I, I...

55

Q. Sgt. McClean: Now I want you to really think hard about that.

5 A. But I... well, I know he wasn't as in ten full minutes 'cause I remember I was kind of out there for, for a little bit, um, before I, I had to go back to the car. The only reason why I actually went back to the car is because, you know, the officer had told me to, you know, shut up and then well he didn't say shut, she said shut the fuck up.

Q. Sgt. McClean: She or he?

10 A. He did. Um, and he and I, I still, um spent, ah, a little time before he even pushed me. It wasn't like he told me shut the fuck up and then pushed me right away. It took some, some time.

Q. Sgt. McClean: All right.

A. So...

15 Q. Sgt. McClean: So, having thought about it, how long from the time you got there behind the car and saw your brother lying on the ground, 'til when you had to leave. How much time elapsed?

A. Ummmm, I don't remember exactly the amount of time but I know for sure it wasn't less than ten minutes. It, it couldn't had been less than ten minutes.

20 Q. Sgt. McClean: Okay. And in that entire time, ten minutes, was your brother unconscious?

A. Yes...

Q. Sgt. McClean: Did you...

A. He was...

25 Q. Sgt. McClean: Did you see him move?

A. No, not at all.

Q. Sgt. McClean: So, to be clear, you're saying that he was unconscious for approximately ten minutes?

30 A. Yeah, he was, I mean, at the most, at the, at the least, I would say maybe I was out there for like six, eight minutes but during that time he didn't move at all.

Q. Sgt. McClean: And what were the officers doing? Were they giving him first aid?

35 A. No, not at all. They were just around him like I said kind of like in a half moon just standing just staring at him and lookin' at me because I'm already, you know, there and talking to my brother and he's not moving. Like, he didn't respond at all.

Q. Sgt. McClean: Were any of the officers down on their knees attending to your brother or doing anything...

40 A. No.

Q. Sgt. McClean: Like that?

A. No. No.

45 Q. Sgt. McClean: Could you see if your brother was bleeding? Could you see blood on the pavement at all?

50 A. I couldn't see his face at all. I could see the back of his head which, um, I, his, um, I'm assuming his left side of his face was the one touching the ground because if he would have been like nose touching the ground I would have been able to see the left side of his face but I wasn't able to see his face at all.

Q. Sgt. McClean: You couldn't see his face?

A. No.

55 Q. Sgt. McClean: Okay.

A. No.

Q. Sgt. McClean: Did you hear the officers saying anything to each other during this time that you were standing there?

5 A. Ah, not as far as I remember. No.

Q. Sgt. McClean: Did you hear any of the officers say anything about getting an ambulance to the scene?

A. No.

10

Q. Sgt. McClean: Did you hear any officers saying anything about your brother using force or assaulting one of the officers or trying to kick one of the officers?

A. No.

15

Q. Sgt. McClean: Did the officers say anything?

A. Um, I, um, I'm not sure if there was...before I left, you know, before I head back to the car, or as we were leaving when, um, Stephanie's mom picked us up, um, that, ah, there was actually two other, two other, um, police cars, um, one was kind of like next to where, next to, ah, where the police, the police car where my brother was and the other one was a little more ahead.

20

Q. Sgt. McClean: This was after your brother was taken up off the pavement and put in the police car?

A. No, he was still, he, I, he was still laying down. I, I remember seeing about four to five police cars and that's when I saw my brother and I don't know if, um, I don't know if they had been as well as still standing there as I was walking back but I, if I didn't misheard one of them did ask, um, is everything okay? And they're like, yeah, yeah, we're, we're fine. Um, we're just gonna, ah, take him down, um, I can't remember where he said because I, I believe I was already walking back to the car but, um, but I don't know if, if, um, I don't know how long more my brother stayed there on the ground.

30

Q. Sgt. McClean: All right.

A. Because when I b...went back to the car, he was still there.

Q. Sgt. McClean: All right.

35

A. He was still laying down.

Q. Sgt. McClean: You said, um, earlier that while you were seated in the car you heard noises.

A. Yes.

40

Q. Sgt. McClean: What did the noises sound like?

A. Like...I don't know like, like something was hitting, kinda like big loud noises like, like if somethin' was like, like I don't know how you would call it taunting? I don't know, like...

Q. Sgt. McClean: Okay.

45

A. Kinda like...

Q. Sgt. McClean: Did it sound, did the pounding or the hitting noises sound like it was something that was hitting metal? You know the sound if you were to kick metal what that sounds like. Did it sound like that? Or did it sound like...?

50

A. Yeah...I'm usually, I, I, yeah, I bet, it's...it was just a big noise. Initially I...

Q. Sgt. McClean: How many, how many noises? How many times did you hear that noise, that particular noise?

A. Um, I probably stayed in the maybe 3-5 minutes before I even stepped out of the car.

55

Q. Sgt. McClean: But how many times did you hear that banging noise?

A. Um, just, um, approximately, approximately like it, it was just noise going on.

Q. Sgt. McClean: How long did that go on?

5 A. Ah, maybe about five minutes or so before I step out of the car.

Q. Sgt. McClean: Did you hear any yelling?

A. Um, I, it was just, just kind of hear 'cause I was in the car but, um, I don't know, there was just a lot going on all we could hear was metal noises like...

10

Q. Sgt. McClean: Did you hear any verbal commands from the officers?

A. No.

Q. Sgt. McClean: Saying to do something or to stop doing something?

15

A. No.

Q. Sgt. McClean: Any kind of orders from the officers?

A. No.

20

Q. Sgt. McClean: Did you hear your brother yelling anything?

A. Um, no.

Q. Sgt. McClean: Could you hear him yelling from the back of the squad car?

25

A. No. No. As far as I remember, no.

Q. Sgt. McClean: Do you ever recall your brother yelling once he was taken out of the squad car?

A. Um, no, I, own, the only thing he said was to the officers, he was asking why he was being taken.

Q. Sgt. McClean: And this was when he was being taken out of the car you were in?

30

A. Mmhmm.

Q. Sgt. McClean: The noises, the banging noises, did you ever hear them change in the way they sounded while they were going on? In other words, did it ever change from it sounded like banging on metal to something else, a different kind of a sound?

35

A. Um, um, it was just at points the, the loudness would kind of decrease a little bit and then you, you could be able to hear it again like more loud.

Q. Sgt. McClean: Did the noise sound like it was...did the noise sound like they were coming from inside a car or from outside?

40

A. No, outside.

Q. Sgt. McClean: Outside?

A. Mmhmm.

45

Q. Sgt. McClean: And how many bangs did you hear that you felt came from outside?

A. Hmmm, I don't...I'm not sure. "Cause they were, it was a lot...

Q. Sgt. McClean: One?

50

A. I just remember it was a lot, like...

Q. Sgt. McClean: More than one?

A. It was a lot of noise going on until the point that I couldn't take it anymore and that's when I decided to step outside of the car because if it would just been one loud noise, I wouldn't go. Well, you know, maybe I wouldn't have freaked out as much but, like I said, the noise just constantly kept going.

55

Q. Sgt. McClean: Are you sure your brother was out of the car when you heard these noises?

5 A. Um, I mean I, I, I believe he was outside because I'm, I don't know, I'm guessing that if he, if he would have been inside of the car, I wouldn't have been able to hear it as much since the, since it was a, um, a more longer distance...

Q. Sgt. McClean: Yeah.

A. Than from the police car that was behind us, you know.

10 Q. Sgt. McClean: The cars...were the engines running on the police cars?

A. Um, I, I believe so. I mean, the, the, the one behind us I'm fore sure it was because it, it, it had the lights on.

Q. Mmhmm.

15 A. Mmhmm.

Q. Sgt. McClean: Okay. How many separate bangs or noises do you think you heard then?

A. Um...I heard it maybe three to four times before I even step out of the car.

20 Q. Sgt. McClean: So, three to five bangs?

A. Like, loud noises.

Q. Sgt. McClean: Loud noises?

25 A. Mmhmm.

Q. Sgt. McClean: And how long do you think that lasted? Those three to five bangs or loud noises?

A. From the...from the time they took my brother to the time the other officer came to ask for ID's, went back, came back, I would say were inside the car maybe for a couple...fifteen minutes probably. 'Cause we were sitting there for like for a while.

30

Q. Sgt. McClean: Okay but when you were...Once you hear the bangs, how, how long did that time last do you think?

A. Um, maybe five minutes or maybe a little more before I even decided to go out.

35 Q. Sgt. McClean: Okay.

A. Yeah.

Q. Okay. So then, you get out. Do you hear anything? Maybe we've already covered this but as you're walking around, do you hear anything else? Do you hear those same bangs?

40 A. No.

Q. Okay. So, it's kind of silent and then you walk around and you see your brother on the...

A. Mmhmm.

45 Q. But you didn't hear anything else?

A. No.

Q. Okay.

A. [NO AUDIBLE DIALOGUE 32:46]

50

Q. Sgt. McClean: So, the banging stopped before you got out of the car?

A. I believe so because by the time I got out of the car I didn't hear anything.

Q. Sgt. McClean: Did you see any of the officers punch or kick your brother?

55 A. No.

Q. Sgt. McClean: Did your brother tell you that he'd been punched or kicked by any of the officers?

5 A. Um, he said at first he didn't remember but then, um, he said he was able to recover his conscious once he was already in the car but he was confused because he didn't know what was going on. He's like, I just feel a lot of pain and I noticed I was bleeding and I didn't kinda understand why but later on I guess as he tried to make more, like, like remember more of what happened, he's like, yeah, I do remember being kicked, um, I don't know with what but I know they kicked me. I just, I lost conscious right away, ah, like I, I was just...

10 Q. Did he say he remembered being kicked while he was in the police car or outside?

15 A. I don't remember to be exact. I know that in the, I guess, police report, it said that he was, he was inside the police car and the door was open and apparently he was gonna fall out of the car and so that's when he I guess like accidentally got hit himself with I don't know, I don't know if it was with like one of the officer's shoe or the door. I don't know but it was something like that in the reports that he said it probably was like an accident. But I'm like I don't, I don't think an accident can cause much harm. I mean especially, you know, from how high the police car is from the ground, like.

20 Q. Sgt. McClean: When did your brother tell you that he had been kicked and that he had lost consciousness? How long after that incident did he tell you this?

A. When, when we went to visit him at the hospital.

Q. Sgt. McClean: That night? The next morning?

25 A. The next, the next day.

Q. Sgt. McClean: The next day?

A. Mmhmm.

Q. Sgt. McClean: Okay. Do you remember what his injuries were?

30 A. Ah, his, he got stitches on his, I believe it was his bottom lip and, ah, he was in a lot of pain from where his jaw, ah...

Q.

35 A.

13.384 - Medical Data

Q. Sgt. McClean: Records?

A. Records, papers that they had.

40 Q. Did they have to wire it?

A. Ah, I don't remember, um, I don't remember, um, I don't think he did but they did have to stitch his lip because it was actually like kind of like hanging out.

Q. Sgt. McClean: Were his teeth damaged?

45 A. Yeah. Ah, he's missin' his two, um, two front ones, the two top ones.

Q. Sgt. McClean: Did he have those teeth...

A. Oh yeah.

50 Q. Sgt. McClean: That night before?

A. Yeah.

Q. Sgt. McClean: At the party?

55 A. Mmhmm.

Q. Sgt. McClean: And when you were stopped and taken out of the car?

A. Yes.

Q. Sgt. McClean: Do you remember his teeth? What they looked like?

5 A. Yes. Mmhmm.

Q. Sgt. McClean: Can you describe them?

A. Um, they were, they were just normal teeth, you know, they were clean and then they were in good condition.

10

Q. Sgt. McClean: Did he...?

A. Um, he, he was good. I mean, overall he had pretty good teeth.

Q. Sgt. McClean: Did he have problems with his? Were they decayed or had he gone to the dentist a lot for his teeth before...

15

A. Um, he, um...

Q. Sgt. McClean: This happened?

A. He, um, I don't know how long before the accident was but he, he had obviously, ah, visited the dentist before for like cleaning and, you know things like that.

20

Q. Sgt. McClean: Okay. But, did he have problems with his teeth?

A. No. No. He was pretty good. I mean, he, he didn't, he didn't, um, it's not like he complained of like having any pain before the accident.

25

Q. Sgt. McClean: That's what I was wondering.

A. [NO AUDIBLE DIALOGUE 37:12]

Q. Okay.

30

A. Mmhmm.

Q. Sgt. McClean: Okay. All right. Did you draw a map for her to look at and, and...

A. [NO AUDIBLE DIALOGUE 37:18]

Q. Yes.

35

A. [NO AUDIBLE DIALOGUE 37:19]

Q. Sgt. McClean: You did. Can you look at the map and then verify that everything is correct on the map?

40

A. Yep.

Q. Sgt. McClean: And what the map is, it's a reflection of what you've drawn on the board.

A. [NO AUDIBLE DIALOGUE 37:27]

Q. Right. Up there. So, we've got your vehicle. You said you walked out. Here's a police vehicle and then that's kind of where your brother is.

45

A. Mmhmm. Ah, except this one was a little more...

Q. Okay. So this one's about right there?

50

A. Mmhmm.

Q. And that's your car?

A. Mmhmm.

Q. Okay. So, so you get out and go this way?

55

A. Mmhhh.

Q. Okay. So is that pretty accurate?

A. Yeah.

5

Q. Okay. You know what I'm gonna do? I'm gonna have you sign right there and then I want you to initial right there that I made some changes.

A. Oh, right here?

10

Q. Yeah, you can just initial. And then you can just sign your name right there. All right.

A. [NO AUDIBLE DIALOGUE 38:31]

Q. Anything else?

A. [NO AUDIBLE DIALOGUE 38:36]

15

Q. Sgt. McClean: I don't have any more questions. No.

A. [NO AUDIBLE DIALOGUE 38:37]

20

Q. All right. Um, I think you were already asked this but of the five officers that you saw surrounding your brother when he was laying down, you said all of them were male?

A. As far as I remember.

Q. Okay. Um, white male, Hispanic, African?

A. White.

25

Q. Okay, all of 'em white male?

A. Mmhhh. As far as I remember, yes.

Q. Okay. And at that time was there only your observation one female officer out there?

30

A. Mmhhh. As far as I remember, yes.

Q. Okay.

A. Mmhhh. She was inside of the car.

35

Q. Okay.

A. Right, well by the time I got out of the car she was in the officers...

Q. Okay.

A. Um, car.

40

Q. Sgt. McClean: Did, um, did the other woman who was riding in the front seat, um, your, who was your baby's father's sister, correct?

A. Ah, cousin.

45

Q. Sgt. McClean: Did she get out of the car?

A. No.

Q. Sgt. McClean: She stayed in the whole time?

A. Yes.

50

Q. Sgt. McClean: Okay. Yeah, I don't have any more questions.

A. She, um, she actually, ah, suffers from I don't know how she's doing at this point but back then she was kind of delinquent with like, um, like, with like her, like nerves, like she kind of like got like nervous right away when some big im...like things would go like any huge impact, she would like, she, um, like at the time she kinda just spaced out like she was just very confused, she got really

55

scared, um...

Q. Sgt. McClean: Prior to this? That's what she did or did this incident cause that?

5 A. At the...no, she was previously like that but that they, um, because, you know, normally she talks more but that day she was just kinda just blanked out like. And, I, it got me worried because I know like the condition she has...

Q. Mmhmm.

10 A. And so like I, I hope she doesn't get any, you know, reaction, you know after this, um, she, she was pretty scared though. Um, like I said, she decided to stay in the car. Um, and was unable to react much, um, because of the impact. Otherwise, I'm pretty sure she would have probably stopped me from even putting myself at risk because I know I was putting myself at risk when I decided to step out of the car door.

15 Q. Mmhmm.

A. That was just somethin' that I, I felt I had to do.

Q. Sgt. McClean: All right.

20 A. [NO AUDIBLE DIALOGUE: 41:19]

Q. Okay. Is there anything else that you'd like to add to this statement that we haven't asked you?

A. Um, no.

Q. Okay. Is this a true and accurate statement?

25 A. Ah, yes. Oh, also, well I don't know if it appears on any of the police reports but my baby's dad was actually, um, um, he had, ah, physical aggression from the officers as well. As far as I know, he was, ah, pushed very hard against the, um, how do you, how do you call it the front part of the...?

30 Q. The hood?

A. The hood. And that he's had even one [INAUDIBLE 41:58] at a time and he had this part of his face swollen up.

Q. Okay.

35 A. Mmhmm. So.

Q. Okay. Again, is this a true and accurate statement?

A. Yes.

40 Q. Ah, that concludes the interview. The time is 10:21.

A. [NO AUDIBLE DIALOGUE 42:16]

Q. Sgt. McClean: Thank you.

45

Signature: _____ Date: _____

jmc