

- 1 A. Well, I know one case in particular a long time ago, and
2 I know it in particular because they eventually arrested
3 the guy later with the handcuffs cut in the middle
4 personally. But can I cite the case exactly right now?
5 No, I can't. It's been about 13 years.
- 6 Q. After -- how many times did you kick Mr. Garcia in the
7 face?
- 8 A. One time.
- 9 Q. How hard did you kick him?
- 10 A. I didn't think it was hard.
- 11 Q. Well, hard enough to dislodge his two front teeth,
12 right?
- 13 A. I didn't know his teeth were dislodged.
- 14 Q. I didn't ask if you know. I'm telling you that you did.
- 15 A. If that's what happened, that's what happened.
- 16 Q. And how long was Mr. Garcia unconscious after you kicked
17 him?
- 18 A. Half a second, a second.
- 19 Q. Half a second?
- 20 A. A second, sure.
- 21 Q. And was he unconscious -- did he remain in the squad at
22 that time or was he unconscious while he was on the
23 pavement?
- 24 A. If it was only a second, obviously it would have been in
25 the squad.

- 1 Q. So you kicked him. What part of your foot did you kick
2 him with?
- 3 A. It would have been the bottom of my feet or heel.
- 4 Q. Of which foot?
- 5 A. My right foot.
- 6 Q. And what kind of footwear were you wearing?
- 7 A. They're Danner black boots.
- 8 Q. Black boots. And so as you kicked him, what was Mr.
9 Garcia's response at that point?
- 10 A. He stopped doing what he was doing.
- 11 Q. He stopped because he was unconscious?
- 12 A. For half a second, yeah. But after that, he stopped.
13 He didn't flail around or kick anymore.
- 14 Q. And did he say anything or was he just quiet?
- 15 A. No. He was talking about -- because I asked him his
16 name. He gave me a false name. Was he talking as much
17 as he was? No.
- 18 Q. So, it's your testimony that after you kicked him is
19 when you asked him what his name was?
- 20 A. Yeah.
- 21 Q. What false name did he give you?
- 22 A. As I said before, I'd have to review the report for the
23 exact name.
- 24 Q. Would it help to refresh your recollection to take a
25 look at your report?

1 A. It would.

2 Q. And I'd be happy to show it to you. I believe he told
3 you his name was Luis Daniel -- you have in your record
4 Gargas with a d/o/b of 6/8 --

5 MR. EDLUND: May I approach, Your Honor?

6 THE COURT: Yes, yes, of course.

7 BY MR. EDLUND:

8 Q. -- '95.

9 A. Sounds right.

10 Q. On your Supplement 3 on Page 2 is where you indicate
11 that. Is that accurate of what you wrote in your
12 report?

13 A. Yeah. Luis Daniel Gargas, 6/8/95.

14 Q. And you understand that Mr. Garcia's name is, in fact,
15 Luis Daniel Garcia, right?

16 A. Garcia? Okay.

17 Q. And that his correct date of birth is the date of birth
18 of 6/8/95?

19 A. Right.

20 Q. Right?

21 A. Right.

22 Q. And so essentially what you have is you have his name
23 misspelled incorrectly after you kicked his teeth out of
24 his face, right?

25 A. I'm confused on the questions now. So which name are we

1 talking about here?

2 Q. My client's name. What is his name?

3 A. I guess you tell me. I have his name as Garcia-Pineda.

4 Not Gargas.

5 Q. Right. Garcia. Right. With a date of birth of 6/8/95?

6 A. Yes.

7 Q. Which is what he told you?

8 A. No. He even spelled his last name for me, and he
9 spelled it the way he did originally.

10 Q. He spelled it Gargas is what you're telling us?

11 A. Yes, he did.

12 Q. And while he was spelling it, you didn't observe that
13 his teeth were missing from his face?

14 A. Because they weren't.

15 Q. They weren't?

16 A. No.

17 Q. So, is it your testimony that when you brought him to
18 HCMC that his two front teeth were in his face?

19 A. When he was in the back seat of that squad, he had all
20 his teeth. Now, what happened when he was walked into
21 the hospital, and what happened in the hospital, and
22 later, with his teeth, I have no idea. But if he would
23 have been missing his teeth, an ambulance would have
24 been called and further investigation would have been
25 done through internal affairs.

1 Q. I'm sure that will be coming shortly, Officer.

2 A. I'm sure that will be.

3 MR. BLUM: Objection.

4 THE COURT: What's your objection?

5 MR. BLUM: Statement by counsel is not a
6 question and it's inappropriate badgering of the
7 witness.

8 THE COURT: I agree it's not a question. Ask
9 a question, Mr. Edlund.

10 BY MR. EDLUND:

11 Q. I just want to make sure that we're on the same page
12 here, Officer, because you are under oath and testifying
13 here and I want to be clear of what it is that you want
14 us to understand.

15 MR. BLUM: Objection.

16 THE COURT: I don't think he's gotten to his
17 question yet. He said he wants to be clear for us to
18 understand, so --

19 MR. BLUM: It's not a question.

20 THE COURT: What's your question, Mr. Edlund?

21 BY MR. EDLUND:

22 Q. Officer, you testified that you kicked Mr. Garcia
23 escorting him back into the vehicle with your boot.
24 That's clear, right?

25 MR. BLUM: Objection. Asked and answered.

1 THE COURT: Overruled because I don't think
2 he said he escorted him. You can answer that question.

3 THE WITNESS: I performed a push kick on the
4 defendant. It was to be in control of him and to keep
5 him in that squad car because he had already kicked at
6 me just narrowly missing me.

7 BY MR. EDLUND:

8 Q. Well, he's been contained in the squad car prior to your
9 opening the door, right?

10 A. But he was thrashing around, possibly damaging the squad
11 car and injuring himself.

12 Q. Possibly damaging the squad car?

13 A. And injuring himself.

14 Q. Well, you told us that he did not damage the squad car,
15 right?

16 MR. BLUM: Objection. Asked and answered,
17 Your Honor.

18 THE COURT: Sustained.

19 BY MR. EDLUND:

20 Q. And just so that -- for my clarification here, it's your
21 testimony that after you kicked Mr. Garcia, he had a
22 brief moment where he lost consciousness, and then did
23 you close the door at that point?

24 A. I believe I did.

25 Q. How long was the car door closed for?

- 1 A. Three, four seconds.
- 2 Q. After the car door -- how did the car door then become
3 opened?
- 4 A. I opened it and removed Mr. Garcia from the vehicle.
- 5 Q. And how -- did you ask him to come out? Did you pull
6 him out? What happened?
- 7 A. I pulled him out.
- 8 Q. By yourself or with the other officer?
- 9 A. I don't remember that. I know I was pulling him out.
- 10 Q. And as he was pulled out, what did you do with him after
11 that?
- 12 A. He was laid on the street.
- 13 Q. How was he laid on the street?
- 14 A. Face first.
- 15 Q. How was he laid face first?
- 16 A. I don't know how to answer that question. He was laid
17 down face first on the street.
- 18 Q. Well, was he pushed down? Did you gently escort him
19 down? Describe for us how you --
- 20 A. He was pulled from the vehicle and he was put on the
21 street.
- 22 Q. Which officer kicked Mr. Garcia while he was on the
23 street?
- 24 A. I'm sorry. What?
- 25 Q. Which officers kicked Mr. Garcia while he was lying on

1 the street?

2 A. Nobody did.

3 Q. Nobody did?

4 How long did Mr. Garcia lay face down in the
5 street?

6 A. I believe in my report it was, like, 30 seconds.

7 Q. And then what happened?

8 A. He stated he was going to cooperate with police and not
9 flail around, so he was picked up and put in the
10 squad.

11 Q. So is it your testimony he remained in the squad until
12 the ambulance came?

13 A. No ambulance came.

14 Q. So no ambulance came; you just took him to HCMC?

15 A. Yes.

16 Q. And why did you make a determination to take him to
17 HCMC?

18 A. Because he was bleeding from his mouth.

19 Q. How much blood was he -- how much was he bleeding?

20 A. I don't know. Not a lot, but not a little. He was
21 bleeding from his mouth. He had an injury where jail
22 would not accept him. They'd tell us to take him to the
23 hospital.

24 Q. Did you take a photograph of his injury?

25 A. I personally did not. I don't know if photographs were

1 taken.

2 Q. Why did you not take any photographs?

3 A. Because he was taken to the hospital. They would
4 document his injuries there.

5 Q. And they documented that his two front teeth were kicked
6 out?

7 A. Okay.

8 MR. BLUM: Objection. It's a statement; not
9 a question.

10 THE COURT: What's your question, Mr. Edlund?

11 MR. EDLUND: I don't have any further
12 questions, Your Honor.

13 THE COURT: All right. Any redirect?

14 MR. BLUM: No, Your Honor.

15 THE COURT: All right. Thank you. You may
16 step down.

17 THE WITNESS: Thank you.

18 THE COURT: Any more witnesses?

19 MR. BLUM: No, Your Honor.

20 THE COURT: All right. Any witnesses, Mr.
21 Edlund?

22 MR. EDLUND: No, Your Honor.

23 THE COURT: How do you guys want to deal with
24 the issues?

25 MR. EDLUND: I'm going to request a

1 transcript so I can have an opportunity to submit
2 something briefly if the Court would consider a letter
3 brief or something else, but that would be my
4 intention.

5 THE COURT: When do you want to submit that?

6 MR. EDLUND: I'd like two weeks after I get
7 the transcript and so, depending on when I can get it,
8 that's going to be what my time would be.

9 THE COURT: Who's our court reporter?

10 THE CLERK: Joanne O'Brien.

11 THE COURT: Can you e-mail her and ask her if
12 -- that Mr. Edlund is going to request a transcript and
13 how long does it -- she thinks it's going to take for
14 her to provide it. She's going to ask you if it needs
15 to be expedited and you should say no unless Mr. Edlund
16 wants to pay expedited.

17 MR. EDLUND: I would prefer not to, Your
18 Honor.

19 THE COURT: I was assuming that. I don't
20 know how much more they charge, but there is a
21 significant difference.

22 MR. EDLUND: I think so, yeah.

23 THE COURT: I mean it's not like just a
24 couple of what --

25 MR. EDLUND: No. It's not an extra five

1 bucks.

2 MR. BLUM: Two hundred dollars or something
3 like that.

4 THE COURT: Whatever it is, I don't know how
5 much they charge per page, but it is a lot more per
6 page.

7 MR. BLUM: And, Your Honor, the State's
8 position is that the Court could make a ruling today
9 based on legal issues presumptively and resolved by the
10 evidence. The motions are necessary.

11 THE CLERK: Three or four weeks.

12 THE COURT: Okay. So this is where I'm at so
13 you guys know where I'm at with the issues. I can tell
14 you that I don't know enough about the shock the
15 conscience to rule from the bench. I can tell you that
16 much. I would be interested in any cases that you
17 refer me to to read those.

18 I'm fairly comfortable with the stop and the
19 seizure of defendant in this case. I mean as far as
20 ruling on that, I'm -- I don't know -- I don't know
21 enough about shock the conscience. I don't think I've
22 seen -- I don't even know if I've dealt with that
23 before. I'm sure I've talked with lawyers before, but
24 I'm not comfortable with that one, as far as ruling
25 from the bench.

1 So I am going to allow Mr. Edlund to submit
2 whatever he thinks he needs to. So will you request
3 that between today and tomorrow? Is that part of -- I
4 don't know if they need a check up front. I have no
5 idea how that works, and that's why I'm asking how you
6 normally would request it.

7 MR. EDLUND: I typically kind of -- they have
8 an online kind of -- they have an on-line thing that
9 goes to kind of the 8th Floor, and they indicate who's
10 assigned to it, and then they'll do an estimate of what
11 the cost is. And typically I'll pay, usually, like at
12 least half of that, of what the estimate is and then
13 once it's completed, I pay the balance of it.

14 THE COURT: Okay.

15 MR. EDLUND: So if it's three or four weeks,
16 if I could have two weeks after that.

17 MR. BLUM: Judge, you said that you'd be
18 willing -- that you understood the issues -- the first
19 two issues, and you might be comfortable making a
20 ruling today on those.

21 Perhaps to reduce the scope of our motions,
22 you can do that if you feel those first two issues have
23 been resolved to your satisfaction and understanding of
24 the law.

25 THE COURT: I am comfortable with that, if

1 you guys are. It's up to you two. I can tell you that
2 -- so that you guys know, I don't want -- I don't want
3 either one of you to feel like I've put you in a box of
4 -- in this respect. I think the stop and the seizure
5 was fine.

6 I think where I'm at is does it shock the
7 conscience? That's where I'm at right off the bat. I
8 mean, I could go through and give you guys a ruling,
9 but that's where I'm at. If you want to write, you can
10 write.

11 This is just one of those deals where I'm not
12 going to -- usually I'll pressure you on the issue of
13 briefs because I don't think I need them. I'm not
14 trying to be funny, but this is why I'm so hesitant
15 about it. Okay?

16 This is my bottom line of why I'm so hesitant
17 in this case. I believe that this case might be beyond
18 the criminal realm and go civil. I'm just saying. The
19 case might. So I'm not trying to do anything -- not
20 that I think I would from ruling from the bench. I'm
21 not trying to do anything here in which that ruling or
22 whatever gives one person an unfair advantage or gives
23 another person an advantage.

24 I don't know that area well enough of what
25 happens from my decision. I have no idea what happens

1 from what I say. I mean I just don't know. I mean you
2 guys might know. You know, you might know better just
3 being in the City, and Mr. Edlund, you might know from
4 just your practice.

5 I have no idea the significance of anything
6 that I do here, as far as that's concerned. That's why
7 I'm so hesitant because I just have no idea what
8 happens.

9 MR. EDLUND: And Judge, I'd prefer to write.
10 I'd just prefer to articulate each issue, and I can try
11 to be brief, given your understanding of what I
12 understand the Court's position to be.

13 THE COURT: That's fine.

14 MR. EDLUND: But I'd prefer at least the
15 opportunity to make those issues known, anyway, so I
16 can have that full record.

17 THE COURT: Okay. That's fine with me. So
18 that probably puts you towards the end of July,
19 beginning of August, right? And then so, three weeks
20 to get the transcript and then two weeks from there to
21 respond.

22 MR. EDLUND: That's fine.

23 THE COURT: And how much time do you want to
24 respond, Mr. Blum?

25 MR. BLUM: If I can avoid ordering a

1 transcript, I'd like to do that, but I don't think that
2 I can make that determination until I see Mr. Edlund's
3 memo or motion, so if I could have as much time,
4 perhaps a couple weeks and then another --

5 THE COURT: Won't they give you the -- don't
6 they print out a copy and charge you the copy price?
7 Isn't that how it goes? You guys know better than I
8 do.

9 MR. EDLUND: That's been my experience.

10 THE COURT: I don't think it's another three
11 weeks.

12 MR. BLUM: Okay.

13 THE COURT: I don't think Mr. Edlund, from
14 when I had a court reporter, I don't believe Mr. Edlund
15 can give you his copy of the transcript in that
16 respect. I'm not saying that that's what you're
17 asking.

18 But I know if you contact the court reporter,
19 I think she just makes a copy of the transcript and
20 gives it to you. Not that -- I don't think it will
21 take three weeks. That's all I'm saying. I don't
22 think your request will take three weeks.

23 MR. BLUM: Then if I could ask three weeks to
24 respond.

25 THE COURT: Yes. If it is -- yup, then I'll

1 expect that you will contact us.

2 So Mr. Edlund, July 31st, right? And then --

3 THE CLERK: Yeah. Actually, the Court
4 reporter just e-mailed and said yeah, they just charge
5 you for the copy.

6 MR. BLUM: All right.

7 THE COURT: And so then that puts you -- that
8 puts you August 21st. What do you think? September
9 11th? I will not be on this calendar on September
10 11th.

11 I will -- does that date -- will you guys
12 check out a date right around there to see if it works
13 for you guys. I'm just trying to think -- what is the
14 best place for you to appear for the orders? You guys
15 want to --

16 Are you on the trial calendar that week?

17 MR. BLUM: Let's see, Your Honor. That week,
18 I'll be in afternoon pretrials all week, but I'll
19 certainly -- if Your Honor feels it's sufficient to
20 deliver your order to both of us and I'll just get a
21 trial date, that's fine.

22 THE COURT: So what do you look like
23 September 12th? Because you're going to be in
24 pretrials, right, on the 12th?

25 MR. BLUM: That's right. All week long

1 starting the 8th of September, I'm in afternoon
2 pretrials.

3 MR. EDLUND: Okay. I could be available.

4 THE COURT: So how about the afternoon of
5 September 12th? We're going to schedule -- I'm going
6 to schedule it on that date at 1:30, okay? Just hear
7 me out. Because it's going to go to the pretrial
8 calendar.

9 You're going to get my orders by e-mail -- so
10 you make sure we have your e-mail -- by September 11th
11 so then you guys, by the time September 12th at 1:30,
12 you should already kind of have an idea of what you
13 want to do. You know what I'm saying?

14 MR. EDLUND: Uh-huh.

15 THE COURT: Whether you say, hey, I want a
16 trial date or, hey, I ruled in the defense favor and
17 the case is dismissed and you want to appeal, whatever
18 that is, you guys will know at 1:30. So you're not
19 going to get my order at 1:30 and then decide. So
20 you'll have it the day before.

21 MR. BLUM: Thank you, Judge.

22 THE COURT: And that way you'll know. And
23 you guys might talk or e-mail and I'm sure you're in
24 touch with your client. You might say, you know what,
25 we need a trial date or, you know what? Let's not

1 appear and let's set it on for me to figure out if I'm
2 going to appeal.

3 Whatever it is, you'll have a little bit of
4 time to figure it out. Is that fine?

5 MR. EDLUND: That's fine.

6 THE COURT: So, sir, we're going to give you
7 a hearing notice for September 12 at 1:30. It's not
8 going to be in this courtroom. It will be in a
9 different courtroom, okay? But make sure you're in
10 touch with your lawyer on that day so you'll know
11 what's happening. He might get it rescheduled or
12 something, okay?

13 THE DEFENDANT: Okay.

14 * * *

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CERTIFICATION

I, Dawn M. Torrini, Official Court Reporter in Hennepin County District Court, certify that I did transcribe the foregoing monitored proceeding;

That I did on this date transcribe said recording into a typewritten transcript; that said transcript is a true, accurate and complete copy of said recording, to the best of my ability.

Dated: June 30, 2015

/s/ Dawn M. Torrini

DAWN M. TORRINI
OFFICIAL COURT REPORTER

Minneapolis Police Department

In-Service 2005-2006

Use of Force

Master Lesson Plan

Table of Contents

Lesson Plans

- Expandable Batons
- Weapon Retention / Disarming
- Chemical Aerosols / Agents

References

Instructor List

Power Point Presentations

- In-Service 2005-2006
- Use of Force - Human Factors
- Force Continuums
- Expandable Batons
- Use of Force – Issues
- Use of Force – Reporting
- Hobbie Review - RIPP Hobbie – MRT
- Chemical Aerosols/ Agents
- Weapon Retention / Disarming

Use of Force 05-06

Instructors for Practical Exercise Portion

Oct 17, 18	Sauvageau / Westermeyer Anderson
Oct 24, 25	Sauvageau / Westermeyer Anderson
Oct 31, Nov 1	Sauvageau / Westermeyer
Nov 7, 8	Sauvageau / Westermeyer Anderson
Nov 14, 15	Sauvageau / Westermeyer
Nov 28	Sauvageau / Westermeyer Schumer
Nov 29	Sauvageau / Westermeyer Anderson
Dec 5	Sauvageau / Westermeyer Schumer / Anderson
Dec 6	Sauvageau / Westermeyer
Dec 12	Sauvageau / Westermeyer Schumer
Dec 13	Sauvageau / Westermeyer
Jan 2	Westermeyer / Kitzerow Walker / Adams Palmer (ASP)
Jan 3	Westermeyer / Kitzerow Walker / Adams Kurth
Jan 9	Sauvageau / Westermeyer Gross / Schumer
Jan 10	Sauvageau / Westermeyer Anderson / Barnes

Jan 17	Sauvageau / Westermeyer Lehner / Schumer
Jan 18	Anderson / Sackette Sauvageau / Westermeyer Grahn / Anderson Sackette
Jan 23	Sauvageau / Westermeyer Barnes
Jan 24	Barnes / Schumer Kurth / Anderson
Jan 30	Sauvageau / Westermeyer Lehner / Schumer
Jan 31	Sauvageau / Westermeyer Anderson
Feb 6, 7	Sauvageau / Westermeyer
Feb 13	Westermeyer / Durand (ASP) Walker / Grahn Adams
Feb 14	Sauvageau / Westermeyer Adams / Walker Grahn
Feb 21, 22	Gentz / Sackette Westermeyer / Anderson
Mar 6, 7	Westermeyer / Anderson Walker / Gentz

<u>Instructor</u>	<u>Days</u>
Darah Westermeyer	33
Todd Sauvageau	26
Brian W Anderson	16
Marvin Schumer	7
James Walker	6
Gregory Gentz	4
Joseph Adams	4
June Sackette	4

<u>Instructor</u>	<u>Days</u>
Michael Grahn	3
Derrick Barnes	3
Todd Kurth	2
Brandon Kitzerow	2
Blayne Lehner	2
Todd Gross	1
William Palmer (ASP)	1
Mark Durand (ASP)	1

INFORMED CONSENT FORM

**CITY OF MINNEAPOLIS
OFFICE OF THE CITY ATTORNEY
ROOM 210, CITY HALL
350 SOUTH FIFTH STREET
MINNEAPOLIS, MN 55402-2453
(612) 673 - 2010**

The following named individual has filed a civil lawsuit against the City of Minneapolis.

Last Name (please print): Garcia

First Name (please print): Luis

Middle (full) (please print): Daniel

Maiden, Alias or Former (please print): Luis Daniel Garcia-Pineda

Date of Birth: 6/8/1995 Sex (M or F)
Month/Day/Year

Social Security Number: (Optional) n/a

I authorize the Minnesota Bureau of Criminal Apprehension to disclose all criminal history record information maintained by this agency to the City of Minneapolis - Office of the City Attorney, or a designated representative for the purpose of Civil Litigation.

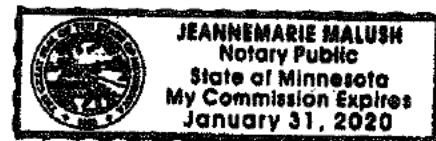
The expiration of this authorization shall be for a period no longer than one year from the date of my signature.

Subscribed and sworn to before me this 14th day of March, 2014

Jeanne Marie Malush
Notary Public
My Commission expires:

Luis G
Signature of the Subject of the Records

3/14/16
Date



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St. Paul, MN55106**

Re: *Luis Daniel Garcia v. Blayne Lehner & City of Minneapolis*
USDC District of Minnesota Case No. 15-CV-03214

STATE OF MINNESOTA)
) ss AFFIDAVIT OF SERVICE BY MAIL
COUNTY OF HENNEPIN)

Nanci A. Schmidt, of the City of Minneapolis, County of Hennepin, State of Minnesota, being duly sworn on oath, deposes and states that on the 23rd day of March, 2016, she served the annexed:


- Plaintiff's Answers to Interrogatories of the Defendant, City of Minneapolis (Set I)
- Plaintiff's Responses to Requests for Production of Documents of Defendant City of Minneapolis (Set I)
- Document Production Bates Garcia 000250-000268
- Signed Authorization

upon:

Sarah C.S. McLaren, Esq.
Office of the City Attorney
City Hall, Room 210
350 South 5th Street
Minneapolis, MN 55415

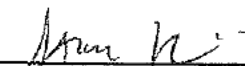
Joseph A. Kelly, Esq.
Kelly & Lemmons, P.A.
223 Little Canada Road East, Suite 200
Little Canada, MN 55117

by mailing to said attorney(s), at the last known address, true and correct copies thereof, postage prepaid, at Minneapolis, MN.



Nanci A. Schmidt

Subscribed and sworn to before me
23rd day of March, 2016.



Notary Public





Department of Civil Rights
 350 South 5th Street - Room 239
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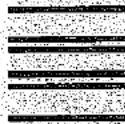


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**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Luis Daniel Garcia,

Case No: 15-cv-3214 (SRN/HB)

Plaintiff,

v.

**ORDER AMENDING
PROTECTIVE ORDER
[DOC. NO. 13]**

Blayne Lehner, in his individual capacity as
an officer of the City of Minneapolis, and
the City of Minneapolis,

Defendants.

Pursuant to the Stipulation to Amend Protective Order [Doc. No. 18], entered into by the parties, seeking to amend the previous Protective Order entered by this Court on October 9, 2015 [Doc. No. 13]; **IT IS HEREBY ORDERED** that Paragraph 1 of the October 9, 2015 Protective Order is amended to add a new subparagraph (d) as follows:

1. (d) The City of Minneapolis may make available all documents, materials and testimony in the matter of City of Minneapolis, Petitioner v. Blayne Lehner, Respondent (OAH 84-6010-32810).

In all other respects the terms of the Protective Order remain unchanged.

Dated: December 21, 2015

s/Hildy Bowbeer
HILDY BOWBEER
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Luis Daniel Garcia,

Case No: 15-cv-3214 (SRN/HB)

Plaintiff,

v.

**ORDER AMENDING
PROTECTIVE ORDER
[DOC. NO. 13]**

Blayne Lehner, in his individual capacity as
an officer of the City of Minneapolis, and
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1. (d) The City of Minneapolis may make available all documents, materials and testimony in the matter of City of Minneapolis, Petitioner v. Blayne Lehner, Respondent (OAH 84-6010-32810).

In all other respects the terms of the Protective Order remain unchanged.

Dated: December 21, 2015

s/Hildy Bowbeer
HILDY BOWBEER
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Luis Daniel Garcia,

Plaintiff,

Case No. 15-CV-03214

v.

Blayne Lehner, in his individual capacity
as an officer of the City of Minneapolis,
and the City of Minneapolis,

Defendants.

**PLAINTIFF'S RESPONSES TO
REQUESTS FOR PRODUCTION OF
DOCUMENTS OF DEFENDANT,
CITY OF MINNEAPOLIS (SET I)**

TO: DEFENDANTS ABOVE-NAMED AND THEIR ATTORNEYS OF RECORD:

Plaintiffs provide the following Response to Request for Production of Documents of Defendant:

1. Legible copies of all statements which concern the facts and circumstances of the incident giving rise to this litigation, the claims in this litigation, or damages claimed as a result thereof:

2. RESPONSE: Plaintiff objects to this request on the basis that it is overbroad, vague and unduly burdensome. Subject to and without waiving said objection, Defendant is referred to documents previously provided with his Rule 26(a)(1) Initial Disclosures. Discovery is ongoing.

3. Legible copies of all documents, photographs, reports, diagrams, physical evidence, or other things, of whatever kind, which concern or relate to the allegations in the complaint. This request includes notes, diaries, emails, voicemails, tweets, chats, instant messages, text messages, comments, or any other type of recorded communication.

RESPONSE: Plaintiff objects to this request on the basis that it is overbroad, vague and unduly burdensome. Subject to and without waiving said objection, Defendant is referred to documents previously provided with his Rule 26(a)(1) Initial Disclosures. Discovery is ongoing.

4. Legible copies of all medical requests, reports, summaries or other writings or charts which in any way relate to the injuries or damages alleged to be a result of the

allegations in the Complaint.

RESPONSE: Defendant is referred to documents previously provided with his Rule 26(a)(1) Initial Disclosures as supplemented herewith. Discovery is ongoing.

5. All correspondence and other documents evidencing or reflecting any communication between Plaintiff and any third party relating to the allegations in the Complaint.

RESPONSE: Plaintiff objects to this request on the basis that it is overbroad, vague and unduly burdensome, and seeks information that is protected by the attorney-client privilege. Subject to and without waiving said objection, see attached Facebook post. Discovery is ongoing.

6. All correspondence and other documents evidencing or reflecting any communications between and/or among the parties to this action.

RESPONSE: Plaintiff objects to this request on the basis that it is overbroad, vague and unduly burdensome. Subject to and without waiving said objection, Plaintiff is unaware of any such documents. Discovery is ongoing.

7. All photographs and/or video recordings taken by Plaintiff or others related to the events described in the Complaint.

RESPONSE: Defendant is referred to Plaintiff's Rule 26(a)(1) Initial Disclosures. Discovery is ongoing.

8. Legible copies of each and every document, item or thing you intend to seek to introduce as an exhibit at trial.

RESPONSE: Plaintiff objects to this request on the basis that it is premature. Exhibits will be disclosed in accordance with this Court's Scheduling Order. Discovery is ongoing.

9. Legible copies of each and every document identified, referenced, used, consulted, or relied upon to answer Defendants' Interrogatories to Plaintiff.

10. RESPONSE: Defendant is referred to Plaintiff's Rule 26(a)(1) Initial Disclosures. Discovery is ongoing.

11. Legible copies of all of Plaintiff's state and federal tax returns from 2011 to the present.

RESPONSE: Plaintiff objects to this request on the grounds that it is overbroad as to time and irrelevant, and therefore is not reasonably calculated to lead to the discovery of admissible evidence. Subject to said objections, Plaintiff will provide Defendant with the appropriate authorizations.

12. Any notes you have from the incident that forms the basis of this lawsuit.

RESPONSE: Plaintiff objects to this request on the basis that it is overbroad, vague and unduly burdensome. Subject to and without waiving said objection, Plaintiff is unaware of any such documents. Discovery is ongoing.

13. Signed original authorizations to obtain records from each and every employer identified in your Answers to Interrogatories. Please photocopy the "Authorization for Release of Personnel and Wage Data" provided to you based on the number of employers identified in your Answers to Interrogatories and have Plaintiff sign a separate release for each of her employers.

RESPONSE: Plaintiff objects to this request on the grounds that it is overbroad and unduly burdensome and irrelevant and therefore is not reasonably calculated to the discovery of admissible evidence.

13. Signed original authorizations to obtain records from the Internal Revenue Service and the Minnesota Department of Revenue, Minnesota Bureau of Criminal Apprehension (signature must be notarized), and the Hennepin County Adult Detention Center. These authorizations are provided to you with these requests.

RESPONSE: Plaintiff objects to this request on the grounds that it is overbroad and unduly burdensome and irrelevant and therefore is not reasonably calculated to the discovery of admissible evidence. Plaintiff has never been confined by the Hennepin County Adult Detention Center. See signed BCA Authorization attached.

Dated: 3-23-16

By

PRITZKER OLSEN, P.A.


Eric Hageman (#258180)
Lindsay/Lien Rinholen (#397560)
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lindsay@pritzkerlaw.com

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Luis Daniel Garcia,

Plaintiff,

Civil No. 15-3214 (SRN/HB)

v.

PROTECTIVE ORDER

Blayne Lehner, in his individual capacity
as an officer of the City of Minneapolis,
and the City of Minneapolis,

Defendants.

Pursuant to the Stipulation for Protective Order (ECF No. 12), entered into by the parties, seeking an order designating that certain information and documents may be disclosed only in designated ways,

IT IS HEREBY ORDERED that the Stipulation (ECF No. 12) is **ADOPTED**, as amended in paragraph 13 below, and confidential information shall be disclosed only in the following ways:

1. Defendant City of Minneapolis will make the following documents available to the Plaintiff's attorneys for inspection and copying:
 - a. Minneapolis Police Department Personnel files, excluding home addresses, home telephone numbers, personal physical identification data, drivers' license numbers, personal financial data, medical and psychological data, and Social Security numbers;

- b. Minneapolis Police Department Internal Affairs records;
- c. Minneapolis Civilian Review Authority and Office of Police Conduct Review records; and

2. Plaintiff will make his medical records, including mental health records, available to Defendants' counsel, either through signed medical releases or for inspection and copying.

3. The parties stipulate and agree to the production of these documents on the following terms and conditions:

- a. The documents to be produced in response to this Order shall be considered "Confidential Materials" under the terms of the Stipulation and Order, and this Stipulation and Order shall govern the examination and use of such documents. The parties shall also have the right to further designate other documents or portions of documents as "Confidential." Disclosure of "Confidential" documents or information shall be limited to "qualified persons" as defined in subparagraph (d) below, not including the parties themselves.
- b. Confidential Materials and information derived therefrom shall be disclosed to and used by only "Qualified Persons," as defined in subparagraph d. below. The Confidential Materials shall not be disclosed to the Plaintiff or to any other person unless and until otherwise agreed by Defendants or by the Court hearing the action.

It is expressly understood that the Plaintiff may not use Confidential Materials, or information derived from Confidential Materials, for any purpose or advantage other than the above-captioned litigation.

- c. If counsel for the parties wish to use or inquire about Confidential Materials or information derived therefrom at any deposition, the portion of the deposition transcript that relates to the Confidential Materials or information derived therefrom may be designated as “Confidential,” and, if so designated, the portion of the deposition transcript so designated shall be treated as Confidential Materials subject to the provisions hereof.
- d. Confidential Materials (including portions of deposition transcripts that are designated as “Confidential”) or information derived therefrom may be disclosed or made available by counsel for the parties only to “Qualified Persons” as defined herein. “Qualified Persons” are:
 - i. The Court (subject to the provisions of subparagraph f);
 - ii. Counsel to the parties to the action and the paralegal, clerical, secretarial staff employed by such counsel and expert witnesses and their staff retained by the parties;
 - iii. Court reporters employed in connection with any deposition in the action;
 - iv. elected officials and management-level employees of the City of Minneapolis; and,
 - v. Any other person who the parties agree to in writing.

- e. Confidential Materials or information derived therefrom shall not be disclosed by any Qualified Person to any other person or persons, except as provided in subparagraph g herein.
- f. If Confidential Materials (including portions of deposition transcripts) or information derived therefrom are to be included in any papers to be filed in the Court, such papers shall be labeled “Confidential,” filed under seal, and kept under seal until further order of the Court.
- g. If a party files documents containing Confidential information with the Court, such filings shall be in compliance with the Electronic Case Filing Procedures for the District of Minnesota and the Court’s governing pretrial scheduling order addressing the service and delivery of “Confidential” materials on a party opponent and the Court. The parties understand that designation by a party, including a third party, of a document as “Confidential” pursuant to this Protective Order cannot be used as the sole basis for filing the document under seal in connection with a nondispositive, dispositive or trial-related motion. Only those documents and portions of a party’s submission (including those portions of affidavits, exhibits and memorandum of law) which otherwise meet the requirements of protection from public filing (e.g. a statute, rule or regulation prohibits their disclosure; they are protected under the attorney-

client privilege or work product doctrine; or they meet the standards for protection articulated in F.R.C.P. Rule 26(c)(1)(G)) shall be filed under seal. If the party submitting a document produced and designated as “Confidential” by another party in support or opposition to a motion believes that any such document should not be filed under seal, then sufficiently in advance of the submission, the party shall request the party designating the document as “Confidential” to permit the document to be publically filed, and the designating party shall respond to the request within two business days of the request (a) by indicating whether the designating party agrees or objects to the public filing of the document, and (b) for any objection, by explaining why the document meets the requirements of protection from public filing. If the party designating the document as “Confidential” objects to the public filing of any document, then the document shall be filed under seal, and at the same time as it is filed, the party filing the document under seal must notify in writing the party who designated the document as “Confidential” and the Court hearing the motion for which the sealed document is being submitted of the dispute regarding the filing of the document under seal, and at the hearing these parties shall address with the Court whether the document should or should not remain sealed. The party asserting that the document should be

filed under seal shall have the burden of proving that the document shall remain under seal.

h. Nothing contained in the Stipulation and Order shall preclude a party from showing any Confidential Materials or disclosing information derived therefrom to any third party witnesses, either during a deposition or a trial, provided that:

- i. If such disclosure is at a deposition, only Qualified Persons may be present, except for counsel for the witness;
- ii. The actual or potential witness may not be given a copy of any Confidential Materials to take with him or her; and,
- iii. The actual or potential witness shall be provided a copy of this Stipulation and Order and advised that it is applicable to him or her. Such actual or potential witness and his or her attorney shall be bound by subparagraph b of the Stipulation and Order requiring that Confidential Materials be held in confidence, and shall not disclose the Confidential Materials or any information derived from them to anyone who is not a Qualified Person within the meaning of this Stipulation and Order.

4. In the event that any Confidential Materials or information derived therefrom are used in court proceedings herein, such documents or information shall not lose their confidential status through such use.

5. Nothing herein shall be construed to affect in any way any party's right to object to the admissibility of any document, testimony, or other evidence at trial.

6. If a Party receives a subpoena or other court process that arguably calls for the production of Confidential Materials, that Party shall give the Producing Party at least ten (10) days' notice before producing any such Confidential Materials.

7. Upon termination of this litigation, counsel shall return all Confidential Materials and copies thereof to the Producing Party. No Confidential Materials, or information derived from them, may be used for any other purpose other than for the above-captioned litigation.

8. The designation of any document, information, or thing as Confidential under this Order is for purposes of this Protective Order only, and shall not be used for the purpose of interpretation of other legal or substantive issues raised in this litigation apart from the application of this Order. Nothing in this Protective Order shall render private documents or data that is public pursuant to Minn. Stat. Chapter 13.

9. In connection with any motion filed with this Court, only those portions of a party's submission (e.g., memorandum of law, affidavit, and exhibits) which meet the requirements for treatment of protection from public filing (e.g., because they are subject to the attorney-client privilege or work product doctrine, or meet the standards articulated by Fed. R. Civ. P. 26(c)(1)(G)), shall be filed under seal. Designation of material as Confidential or protected by any party pursuant to a protective order as the sole basis for filing the material under seal shall not satisfy this requirement.

10. With respect to any submission filed with the Court which is sealed and posted on ECF with a placeholder, the sealed submission shall be sent electronically or

hand delivered to all parties and hand delivered to the Court contemporaneously with the documents being posted on ECF.

11. Any party may apply to the Court for a modification of the Protective Order, and nothing in the Protective Order shall be construed to prevent a party from seeking such further provisions enhancing or limiting confidentiality as may be appropriate.

12. No action taken in accordance with the Protective Order shall be construed as a waiver of any claim or defense in the action or of any position as to discoverability or admissibility of evidence.

13. The obligations imposed by the Protective Order shall survive the termination of this action. Following that 60-day period, the Clerk of Court may destroy all "Confidential" materials.

14. Plaintiff's counsel shall not use information provided pursuant to this Protective Order to solicit business for himself, or others.

Dated: October 9, 2015

s/ Hildy Bowbeer
HILDY BOWBEER
United States Magistrate Judge

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Luis Daniel Garcia,

Civil File No. 15-cv-03214 (SRN/HB)

Plaintiff,

v.

DEFENDANT CITY OF
MINNEAPOLIS' RESPONSES TO
PLAINTIFF'S REQUESTS FOR
PRODUCTION OF DOCUMENTS

Blayne Lehner, in his individual
capacity as an officer of the
City of Minneapolis, and the City of
Minneapolis,

Defendants.

Defendant City of Minneapolis, by and through its attorneys identified
below, for its Responses to Plaintiff's First Set of Requests for Production of
Documents, states as follows:

GENERAL OBJECTIONS

1. Defendant responds to these Document Requests to the best of its
current knowledge, based upon reasonable search and inquiry. Supplemental
responses will be served as required under the Federal Rules of Civil Procedure.

2. Defendant makes these responses subject to the reservation of its
rights to object to the introduction into evidence, in this or any other action, of
any of the information contained or produced hereunder on any ground,
including, but not limited to, relevance and/or hearsay.

3. Defendant will not, in response to these Documents Requests, produce any documents or divulge any information that is privileged (including the attorney-client privilege), constitutes attorney work product, or is otherwise immune from discovery because the information was prepared in anticipation of litigation, or is privileged from production for any other reason. Defendants do not intend by supplying any information hereunder to waive any claims of privilege or work product protection. If documents or other information are divulged for which any claim of privilege or work product protection is applicable, such production shall be deemed inadvertent, and not a waiver of the claim of privilege or attorney work product.

4. Defendant objects to the Document Requests to the extent they purport to impose obligations beyond those imposed by the Federal Rules of Civil Procedure and other rules of court.

5. Defendant objects to the Document Requests to the extent they call for the disclosure of information in violation of the Minnesota Government Data Practices Act.

RESPONSES AND SPECIFIC OBJECTIONS

1. Any and all documents regarding or otherwise related to the investigation conducted by the Minneapolis Police Department (MPD) or any other entity or person regarding the incident that occurred on December 29, 2013,

which is the subject of this lawsuit. This requires includes, but is not limited to: statements and/or interviews of witnesses, the defendant officer, the Plaintiff, any police officers or other persons; any chronologies; police reports; investigation reports of police or any prosecutors; supplements; correspondence; electronic communications; memoranda; notes; photographs of the Plaintiff; photographs of the Defendant; photographs of the scene; videotapes; sketches; diagrams; blueprints; maps; results of scientific tests; and any other documents relating to the investigation.

RESPONSE: See documents labeled Response to Request No. 1 and video recordings produced in response to Request No. 16.

2. The complete personnel file maintained by the MPD regarding Defendant Lehner, including, but not limited to: evaluation reports; psychological testing; screening materials; hiring and selection materials; background investigation; training and education; promotion materials and testing results; references; off duty work permit applications; use of force reports; performance evaluations; and complaints.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, Defendant is producing Officer Lehner's personnel file as Confidential Materials pursuant to

the Protective Order issued by the Court [Doc. No. 13]. Defendant will not produce the portions of this file that are excluded from discovery under Paragraph 1.a of the Protective Order. See documents labeled Response to Request No. 2.

3. Any and all documents regarding or otherwise related to any improper conduct on behalf of Defendant Lehner. This request includes, but is not limited to: any and all complaints from the general public regarding Defendant Lehner; any and all administrative complaints or notices to the MPD or City of Minneapolis ("the City") for improper police conduct or violation of police regulations; any documents regarding any civil lawsuits filed against the Defendant officer; and any other separate files on or regarding Defendant Lehner.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, Defendant is producing documents as "Confidential Materials" pursuant to the Protective Order issued by the Court [Doc. No. 13]. See documents labeled Response to Request No. 3.

4. All performance evaluations and any other similar documents concerning Defendant Lehner, from the date of his appointment as an MPD officer to the present.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, see documents labeled Response to Request No. 2.

5. Transcripts and audio versions of dispatch and/or radio messages for all law enforcement officers involved in the December 29, 2013, incident, in any manner, including, but not limited to, Defendant Lehner.

RESPONSE: See documents labeled Response to Request No. 1.

6. The entire policy and procedure manual for the MPD in effect on December 29, 2013.

RESPONSE: See documents labeled Response to Request No. 6.

7. Any and all materials orders, policies, protocols, directives, reports, memoranda, script, regulations, and summaries issued by the MPD concerning the standards in effect on December 29, 2013, which are to be used in determining (1) when the use of force on the part of a law enforcement officer is legal and justified; (2) the amount of force which is constitutionally proper;

and/or (3) the reporting of the use of force and/or injury to arrestees/suspects, including, but not limited to, the following:

- a. all such materials used in the training of MPD officers (policies, protocols, course outlines, books, manuals, brochures, films, filmstrips, tape recordings, and other audio-visual materials, etc.) both when Defendant Lehner was in training and present; and
- b. all such materials issued at any time to active duty officers (policies, protocols, orders, memoranda, brochures, leaflets, script, etc.) from the date of Defendant Lehner's hire to present.

RESPONSE: Defendant objects to this request as overly broad and unduly burdensome. Subject to said objection, see documents labeled Response to Request No. 7. Discovery is continuing.

8. Any and all MPD Internal Affairs Division files (complete), Civilian Review Authority files or any other files regarding investigations of potential misconduct regarding Defendant Lehner.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, Defendant is producing documents as "Confidential Materials" pursuant to the Protective

Order issued by the Court [Doc. No. 13]. See documents labeled Response to Request No. 3.

9. All use of force reports generated by Defendant Lehner or use of force reports referencing Defendant Lehner from 2005 to the present date.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Defendant objects to this request as overly broad and unduly burdensome to the extent it seeks records generated over a ten year period. Subject to said objections, Defendant is producing use of force reports from January 1, 2008 to the present. Such documents are produced as "Confidential Materials" pursuant to the Protective Order issued by the Court [Doc. No. 13]. See documents labeled Response to Request No. 9.

10. All activity logs for Defendant Lehner for the time period from December 25, 2013, to January 2, 2014.

RESPONSE: See documents labeled Response to Request No. 10.

11. All reports, supplements, statements and/or narratives made by any MPD officer referencing the incident that is the subject matter of this lawsuit.

RESPONSE: See documents labeled Response to Request No. 1.

12. All documents sufficient to identify the names or identities of the MPD officers present at the time of the incident, including, but not limited to, a

roster of officers on patrol at the time of the incident that is the subject of this lawsuit.

RESPONSE: Defendant objects to this request as overly broad and unduly burdensome to the extent it seeks the identity of all officers on patrol in the City of Minneapolis at the time of the relevant incident. Defendant will produce only the identities of officers involved in the incident at issue. See documents labeled Response to Request No. 1.

13. All documents referring to or relating in any way to injuries or deaths of individuals who have been arrested, seized, or assaulted by Defendant Lehner, whether or not such arrests were made in the course of their employment with the MPD.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, see documents labeled Response to Request No. 3 and Response to Request No. 9. Such documents are produced as "Confidential Materials" pursuant to the Protective Order issued by the Court [Doc. No. 13].

14. A complete list of law enforcement related training received by Defendant Lehner from the date of his hiring by the MPD.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, Defendant is producing Officer Lehner's personnel file as Confidential Materials pursuant to the Protective Order issued by the Court [Doc. No. 13]. Defendant will not produce the portions of this file that are excluded from discovery under Paragraph 1.a of the Protective Order. See documents labeled Response to Request No. 2.

15. All timesheets or pay records for Defendant Lehner for the time period of December 1, 2013, to January 1, 2014.

RESPONSE: See documents labeled Response to Request No. 15.

16. All photographs and videotapes taken of the scene of the incident by any agency, entity, or person involved in investigating the December 29, 2013, incident that is the subject of this lawsuit.

RESPONSE: See video recordings produced herewith.

17. All photographs and videotapes taken of Plaintiff and/or Defendant Lehner after the incident by any agency, entity, or person involved in investigating the December 29, 2013, incident that is the subject of this lawsuit.

RESPONSE: None. Discovery is continuing.

18. All emails (to or from any City email account) and/or text messages (to or from any City issued devices) that Defendant Lehner sent or received from December 29, 2013, until January 1, 2014.

RESPONSE: Defendant objects to this request as requesting documents not within its possession, custody or control and as not reasonably accessible because of undue burden or cost. Defendant Lehner has no City-issued telephone. City emails from that time period are not reasonably accessible.

19. A list of all phone calls Defendant Lehner made on his personal and/or City issued cellular phone from December 29, 2013 until January 1, 2014. For each phone call listed, identify the person or entity called.

RESPONSE: Defendant objects to this request as requesting documents not within its possession, custody or control. Defendant Lehner has no City-issued telephone.

20. All documents regarding or otherwise related to training MPD officers have received in the past 10 years on the use of a "kick push" maneuver or similar techniques.

RESPONSE: Defendant is not aware of any maneuver called a "kick push" maneuver. See MPD policies and training records produced as documents labeled Response to Request No. 6 and Response to Request No. 7.

21. All documents regarding or otherwise related to training MPD officers have received in the past 10 years on handling incidents involving individuals without identification or who fail to provide identification.

RESPONSE: See MPD policies and training records produced as documents labeled Response to Request No. 6 and Response to Request No. 7.

22. All documents regarding or otherwise related to training MPD officers have received in the past 10 years on handling incidents involving individuals under the age of 21 suspected to be under the influence of alcohol.

RESPONSE: See MPD policies and training records produced as documents labeled Response to Request No. 6 and Response to Request No. 7.

23. All documents regarding or otherwise related to training MPD officers have received in the past 10 years on handling incidents involving handcuffed arrestees.

RESPONSE: See MPD policies and training records produced as documents labeled Response to Request No. 6 and Response to Request No. 7.

24. All documents regarding or otherwise related to training MPD officers have received in the past 10 years on handling incidents involving the use of squad car recording devices.

RESPONSE: See MPD policies and training records produced as documents labeled Response to Request No. 6, Response to Request No. 7, and Response to Request No. 24.

25. All documents regarding or otherwise related to any incidents in which an individual was injured as a result of force used by defendant Lehner.

RESPONSE: Defendant objects to this request as not reasonably calculated to lead to the discovery of admissible evidence and as calling for private data under Minn. Stat. § 13.43. Subject to said objections, see documents labeled Response to Request No. 3 and Response to Request No. 9. Such documents are produced as "Confidential Materials" pursuant to the Protective Order issued by the Court [Doc. No. 13].

26. All documents related to the video camera(s) in the squad car(s) that responded to the incident on December 29, 2013, and an opportunity to inspect the video camera and original video, which may have captured the events relevant hereto.

RESPONSE: Defendant objects to this request in that it exceeds the number of requests permitted under the Pretrial Scheduling Order (Doc. 15.) Defendant objects to this request as vague as it is unclear which video camera and original video is requested.

27. All documents or materials from the last five years referencing police treatment of individuals based on race or national origin by MPD and/or MPD officers, including any research or statistical analysis that breaks down any type of police interaction(s) by race or national origin.

RESPONSE: Defendant objects to this request in that it exceeds the number of requests permitted under the Pretrial Scheduling Order (Doc. 15.). Defendant further objects to this request as not reasonably calculated to lead to the discovery of admissible evidence.

28. Any and all documents, including statements, transcripts of testimony, electronic communications or other materials from or pertaining to any administrative or legal proceedings determining or resolving the City of Minneapolis's obligations to defend and indemnify defendant Lehner in this lawsuit.

RESPONSE: Defendant objects to this request in that it exceeds the number of requests permitted under the Pretrial Scheduling Order (Doc. 15.). Defendant objects this request to the extent it requests documents that the administrative law judge has ordered be kept confidential.

29. All documents, materials and information relied upon by the City of Minneapolis in making the determination that "Defendant Lehner was not acting

in the course or scope of his employment during the incident that gives rise to this lawsuit.”

RESPONSE: Defendant objects to this request in that it exceeds the number of requests permitted under the Pretrial Scheduling Order (Doc. 15.). Defendant objects this request to the extent it requests documents that the administrative law judge has ordered be kept confidential.

30. All documents, materials and information relied upon by the City of Minneapolis in making the determination that Defendant Lehner’s actions on December 29, 2013 “were not related to his duties as a Minneapolis Police Officer”

RESPONSE: Defendant objects to this request in that it exceeds the number of requests permitted under the Pretrial Scheduling Order (Doc. 15.). Defendant objects this request to the extent it requests documents that the administrative law judge has ordered be kept confidential.

31. All documents regarding or otherwise related to the subject matter of Plaintiff’s Complaint that have not been provided in response to the foregoing requests.

RESPONSE: Defendant objects to this request in that it exceeds the number of requests permitted under the Pretrial Scheduling Order (Doc. 15.).

Dated: December 15, 2015

SUSAN L. SEGAL
City Attorney
By

s/ Sarah McLaren

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*Attorneys for Defendant City of
Minneapolis*

MINNEAPOLIS POLICE DEPARTMENT
ROOM 1, 2 CITY HALL
MINNEAPOLIS, MINNESOTA 55415

81

NR

ZIP 55422
02 1W
0001401

\$ 002.45

MAR 08 2017



*Return to
Sender & Bad Address*

553 4E 2
RETURN TO SENDER
INSUFFICIENT ADDRESS
UNABLE TO FORWARD
2083N072141-02659
C: 55415131699
ST. PAUL, MN 55119
-- Pineda
Box Ave.

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Luis Daniel Garcia Pineda
 3916 16th Ave. S. Apt 2
 Minneapolis, MN 55407

2. Article Number
 (Transfer from service label)

7014 1620 0000 2305 0964

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
Luis Garcia Pineda
- B. Received by (Printed Name)
 C. Date of Delivery
- D. Is delivery address different from item 1? Yes
 If YES, enter delivery address below: No

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes No

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Fritzer Olsen P.A.
 45 South Seventh St
 Plaza VII suite 2950
 Minneapolis, MN 55402

2. Article Number
 (Transfer from service label)

7014 1620 0000 2305 0957

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

- A. Signature
Eric Haugen
- B. Received by (Printed Name)
 C. Date of Delivery
- D. Is delivery address different from item 1? Yes No
 If YES, enter delivery address below:

3. Service Type
 Certified Mail Express Mail
 Registered Return Receipt for Merchandise
 Insured Mail C.O.D.

4. Restricted Delivery? (Extra Fee) Yes No

WARM UP (10 Minutes) Gets ups or some anaerobic version to elevate the heart rate. Stress not quitting and learning being calm under stress.

Stretch (10 Minutes)

Break (3 Minute water Break)

DRILLING

- 1) Forward Rolls X 4 lengths
- 2) Backwards Roll X 2 lengths
- 3) Backwards Roll w/ leg flare out X 2 lengths

Break (30 Sec water break)

- 1) Technical Falls w/ sit ups to technical stand up position X 6 or more (in place)
- 2) Technical Standup Explanation X 4 (in place)
- 3) Fall → Scoot (X2) staying on right side only X 2 lengths
- 4) Fall → Scoot (X2) alternating sides X 2 lengths

Break (30 Sec water break)

- 1) Shrimp (right side) X 2 lengths
- 2) Shrimp (alternating) X 2 lengths
- 3) Shrimp w/ backdoor escape X 2 lengths

Break (3 minute water break)

Body Structure

- 1) Push and Pull Demonstration and explanation. Switch partners X 3
- 2) Movement laying on back w/ straight kick (switch partners X3)
- 3) Movement on back with Up kick (switch partners X 3) add in previous kick
- 4) Movement on Back with technical standup (switch partners X 3) add all 2 kicks

Break (30 Sec water break)

Athletic Stance

- 1) Explanation and demonstration
- 2) Switch partners and make immediate quick changes to Recruits body posture X 3 partners
- 3) Throw from Athletic stance- Demonstration and explanation. Throw X 3 switching partners
- 4) Choke from behind demonstration (Athletic stance). Choke throw X 3 switching partners

Break (30 Sec water break)

Punch Cover Clinch (PCC)

- 1) Demonstration and Explanation
- 2) Punch Cover Clinch X 3 switching partners
- 3) PCC with hip throw X 3 switching partners
- 4) PCC with foot hook X 3 switching partners

Explanation and have all recruits demo heel down and toes up prior to partnering

- 5) PCC with hip drop X 3 switching partners

Break (30 Sec water break)

Side Control

- 1) Explanation and demonstration
- 2) Demo escapes if Side control is done incorrectly (Roll, under hook escape, elbow to hip)
- 3) Side Control X 3 switching partners
- 4) Side Control to full Mount Explanation X 3 switching partners
- 5) Side Control to Full Mount hand placement X 3 switching partners
- 6) Side Control to Full Mount with hands on chest, hands on hips (Demo escapes) X 3 switching partners
- 7) Side Control to Full Mount w/ Chest, hips, turn in (RT/LT), grab gun (RT/LT)
- 8) Side Control to Full Mount w/ all the above to suspect rolling

Demonstrate neck restraint from full mount.

Break (30 sec water break)

13.82 - Law Enforcement

Review and MPD Instructor input.

Clean mats. Roll mats.

Dismissed.

Base Striking

QUESTION—per policy, when can strikes be used (Active resistance/Active Aggression)

Do what you need to do but be ready to answer why strike was delivered to given location for the specified number of times

If not followed up immediately by another strike, be prepped for another

Any force used, what is end goal? CONTROL

Force used defend self, others and “in effecting a lawful arrest” (609.06 (1)(1)(a))

ex. person encroaches safety zone/personal space

ex. person placing hands in pockets w/ o/ indicators

ex. person yelling loudly (discon-obstruct-incite?)

STANCE

Athletic---Widened Base---Balance---Relaxed

ex. feet together/feet shoulder/Athletic (have a partner push)

MOVEMENT

Shuffle Step (4 directions)

Diagonal Step (emphasize getting off line, and ability to flank/counter/deflect)

On balls of feet

POWER

Starts from Feet (energy transfers up)

ex. throw a punch

-feet together only snap at elbow

-feet shoulder-width and use shoulder

-fighting stance, rotate feet SQUASH THE BUG/PUT OUT CIG

ex. when a baseball is thrown OR golfer swings club

PUNCH

*Incorporate above fundamentals

Straight (Jab)

quickest/straight line/rotation of wrist =acceleration=more power

Cross

natural follow-up use momentum from snap of jab and return

Hook

Open Hand/Slap

13.82 - Law Enforcement

**1-8

PUSH

don't over-extend/stay athletic/like throwing a basketball

ELBOWS

front and rear

**1-8

KNEE

NOT high knees but stepping through the object/transfer energy
(counter-pressure so blow is absorbed...clasp, clench, clothes)

Hip-flexors

Targets: common peroneal/mid-section

NOTE: Don't give them your leg, watch out for takedown attempt

NOTE: Watch over-extension and balance

FOOT JAB/FRONT THRUST KICK

*Good to maintain distance from someone

Directed at pelvis/thigh area = sit down motion

Hip-flexors used/push off, do not sit it there

NOTE: Don't give them your leg, watch out for takedown attempt

NOTE: Mindful, stomach is forgiving, can absorb you

NOTE: Chest is really high, giving leg

NOTE: Watch over-extension and balance

SIDE KICK

Common Peroneal

can stun muscle, prepare for follow-up

Leg sweep

ex. push pull and kick at outer part of lower leg or inner

CQB

CAN all be done with a tool/weapon in hand

Unit: Pct 5 Dogwatch

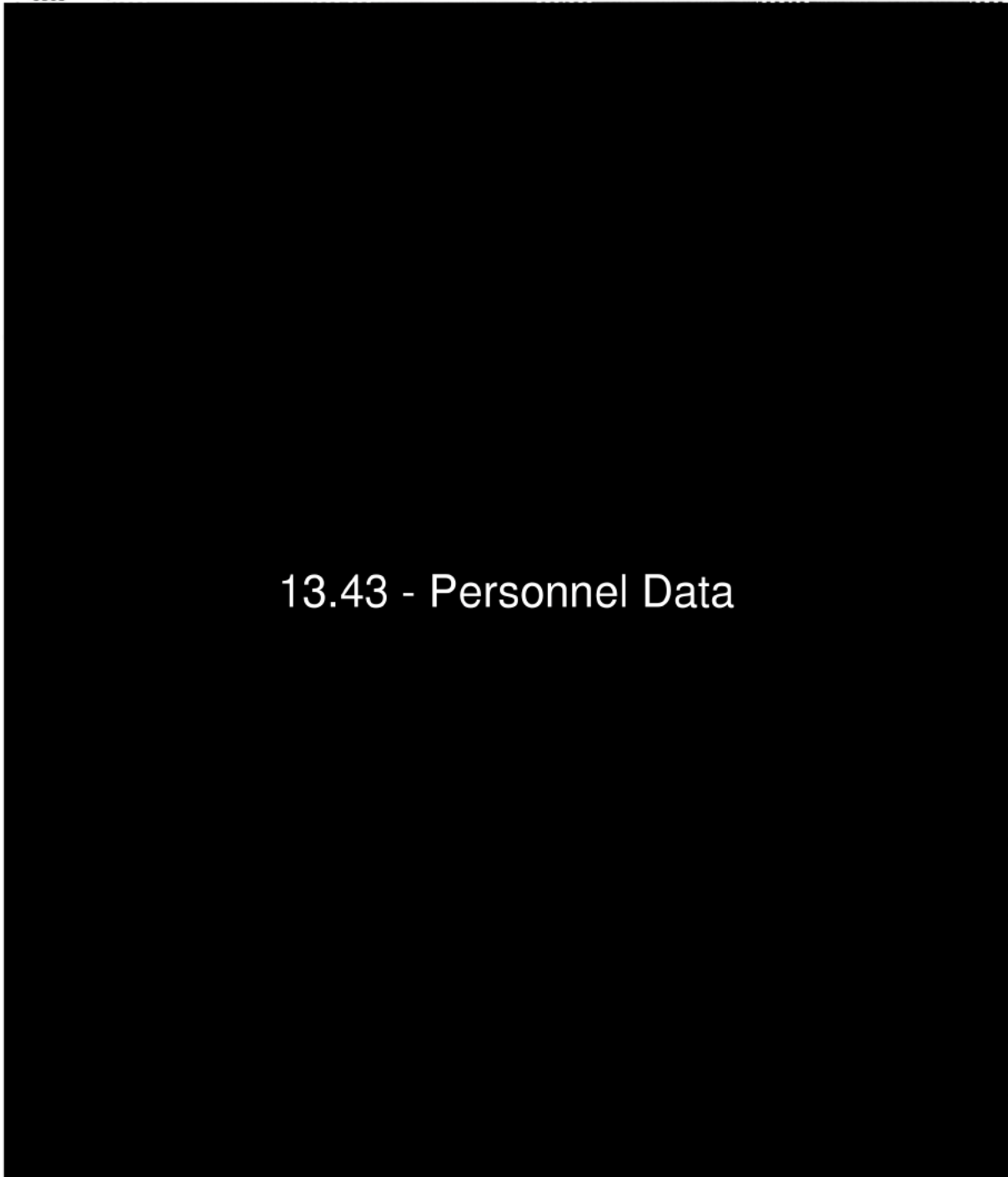
Shift: All

Pay Period Date: 12/15/2013 - 01/11/2014

Schedule Type: Working

Name	Sun 12/15	Mon 16	Tue 17	Wed 18	Thu 19	Fri 20	Sat 21	Sun 22	Mon 23	Tue 24	Wed 25	Thu 26	Fri 27	Sat 28	Sun 29	Mon 30	Tue 31	Wed 1/1	Thu 2	Fri 3	Sat 4	Sun 5	Mon 6	Tue 7	Wed 8	Thu 9	Fri 10	Sat 11	Days Off Left	Name
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Pct 5 Dogwatch
1915-0515
5503



13.43 - Personnel Data

- 0 Leaf, Constance
- 0 Gangnon, Phillip
- 0 Radke, Kurt
- 0 Altonen, Richard
- 0 Geere, Michael
- 0 Staufenberg, John
- 0 Trangsrud, John
- 0 Barnard, Bowen
- 0 Bauer, Benjamin
- 0 Lukes, Marcus
- 0 Wuorinen, Steve
- 0 Lehner, Blayne
- 0 Misgen, Daniel
- 0 Kelley, Christopher
- 0 Malloy, G
- 0 Landmesser, Karina
- 0 Hwang, Nicholas
- 0 Woods, Shawn
- 0 Goltart Jr, James
- 0 Davis, Jordan
- 0 Foster, Jeremy
- 0 Kiritschenko, Jason
- 0 Kortus, Lindsey
- 0 Peterson, Jeffrey
- 0 Crabb, Brian
- 0 Joseph, Kyle