

Investigative Summary

Complaint Number: 17-11716
Investigator: Sergeant Timothy P. Eck
Officer (s): Officer Andrew Reed, Badge #5915
Case Type: Preliminary
Date of Incident: May 29, 2017
Complaint Filed: May 30, 2017

CASE OVERVIEW

This case was reassigned to me on August 30, 2017 after the transfer of the original investigator, Sgt. Sauvageau, was promoted and reassigned. The complainant in this case, Davin Ward, found himself walking in the area of a felony vehicle stop being conducted by MPD Officers near a gas station in downtown Minneapolis on May 29, 2017. Ward, who was not a subject of the felony stop, was approached and detained. During the course of his detention, Ward alleged that he sustained a chipped front tooth and had the barrel of a "shotgun" pressed against his head. [REDACTED]

13.43 - Personnel Data

ALLEGATIONS

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Allegation 2: It is alleged that Officer Reed's use of force may not have been reasonable in light of the facts and circumstances known to him at the time the force was used. **5-301.01 USE OF FORCE**

Allegation 3: As a certified rifle operator, it is alleged that Officer Reed used his rifle in an unsafe manner when he held the complainant's head to the ground with the muzzle of said rifle. **5-410 RIFLES (IV) (E,F)**

13.43 - Personnel Data

Allegation 5: It is alleged that Officer Reed did not conduct himself in an ethical and professional manner during his interaction with the complainant. **5-102 CODE OF ETHICS**

13.43 - Personnel Data

CASE INVESTIGATION

This investigation was initiated by way of a handwritten complaint form dated May 30, 2017, and submitted by the complainant, Davin Ward (herein Ward). The case was initially assigned for investigation on June 26, 2017 and then reassigned to me on August 30, 2017.

MINNEAPOLIS POLICE DEPARTMENT RECORDS

Office of Police Conduct Review Form

The original complaint form was handwritten by the complainant, Ward.

MPD CAPRS Reports

There are two CAPRS cases associated with this incident, MP 17-195880 & MP 17-196022.

Under MP 17-195880, on May 29, 2017 at approximately 0015 hours, Minneapolis Police Officers were dispatched to 700 Lowry Avenue NE on a person with a gun call. A caller reported that a person in a white Cadillac Escalade pointed a gun at another person at this location. When officers arrived, the vehicle was gone. Officers were unable to locate a victim of the gun pointing. The reporting party provided a description of the suspects and vehicle. A CAPRS report was completed and officer safety information was disseminated.

At approximately 0500 hours on the same date, Minneapolis Police Officers see the above described suspect vehicle near 601 5th Street N and initiated a felony stop. While conducting this felony stop, the complainant walked into the officer's background and became involved in this situation. The complainant, Ward herein, was subsequently detained and, ultimately, arrested for PC Narcotics as a result of his contact with officers. Ward alleged that he sustained a chipped tooth while being arrested by the officers. It was determined that Ward was not connected to the subjects of the

felony stop; he was released from jail without being charged with a crime. This is documented in MP 17-196022.

In his statement, Officer Reed articulated how Ward's action of walking towards their high-risk felony stop may have distracted officers and created officer safety concerns among those on the scene. Officer Reed described how he believed the use of his rifle to control Ward's head was necessary at the time.

Officer Grabosky documented in her supplement that Ward admitted that his tooth was chipped prior to this incident.

During an in-custody interview with Sergeant Christie Nelson of the MPD Narcotics Unit, Ward once again advised that his tooth had been chipped prior to his contact with police related to this incident.

Body-Worn Cameras

There are several BWC files related to this incident. The recording of Officer Beman has the vantage point to view Officer Reed's approach to Ward and also how Officer Reed **13.43 - Personnel Data** used his rifle to apparently push Ward's head to towards the ground while he was being handcuffed. Officer Reed's BWC also captures more of the verbal interaction between the officers and Ward.

The BWC recording of Officer Grabosky shows the further interaction between the officers and Ward. Officer Grabosky asked Ward about any injuries, including the condition of his tooth. After apparently misunderstanding the question several times, Ward told Grabosky that his tooth was chipped prior to any contact with police on this date.

Interview of Complainant Davin Ward

The telephone number that Ward provided on the Police Conduct Complaint Form is incorrect or has since been deactivated.

Interview of Officer Andrew Reed

On June 18th, 2018, I interviewed Officer Reed in the MPD Internal Affairs Unit, also present was MPD Federation Representative, Officer Cory Fitch.

Officer Reed's account of his involvement in this incident is consistent with his non-public narrative documented in CAPRS. Officer Reed perceived the complainant Ward to be a potential threat as he entered the area of a high-risk felony vehicle stop. Officer Reed advised that he believed Ward was not being fully compliant with other officers as they

attempted to detain him and used the barrel of his rifle to hold Ward's head to the ground.¹ Officer Reed further explained that he felt he needed to help detain Ward while maintaining "positive control"² of his rifle and avoid slinging the rifle (letting the rifle swing freely on an attached cord on the side of his body) and allowing the possibility of someone else to gain control of the weapon while he used his hands to help control the subject. Officer Reed told me that he did not formally receive training in using the rifle in this manner, nor has he ever been advised *not* to use the rifle in this manner.

Officer Reed contends that he did not use the rifle in a striking manner and "pushed down with only enough force to keep him from lifting his head and shoulders up off the ground. I did not put my full weight on it".³ Officer Reed does not believe this technique could have at all contributed to Ward's chipped tooth. Officer Reed advised that he did use any other type of force on Ward during their interaction.

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Complainant Ward told officers that he chipped his tooth when he was brought to the ground by officers. Officer Reed immediately inspected the alleged injury and believed that discoloration of the tooth indicated that the damage likely occurred before their encounter. Nonetheless, Officer Reed contacted a supervisor for a force review. With his body-worn camera activated, Officer Reed returned to the scene of Ward's detention and searched for a tooth fragment, nothing was found. Ward later admitted to officers at the scene and to the in-custody investigator that this indeed was a previous injury. The responding supervisor was cancelled.

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¹ Also documented in MPD CAPRS 17-196022

² Interview of Officer Reed, page 3, line 29

³ Interview of Officer Reed, page 3, line 36

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Officer Reed is confident in his training and abilities and stated he “formulated my decisions based on my extensive base of knowledge and what I believe to be my expertise in operating that weapon system and the best-case judgement also based on my training and experience as being both a police officer and running a carbine (rifle) for seven years with Savage Police Department and as well as running a rifle for seven years in the US Army”.⁴ Officer Reed is a US Army veteran, he served 8 years active duty and one tour in Iraq. He advised he was a Primary Marksmanship Instructor for the M4 rifle⁵ in the US Army and he also certified as an armorer⁶ for AR-15 type rifles. See Officer Reed’s other experiences and qualifications as he listed them in his interview, pages 8-9.

DISCUSSION

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⁴ Interview of Officer Reed, page 8, line 24

⁵ This is the same type of rifle related to this incident

⁶ Armorers are specially trained to assemble, disassemble, and service specific weapons.

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It is alleged that Officer Andrew Reed's use of force may not have been reasonable in light of the facts and circumstances known by him at the time.

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

5-300 Use of Force

5-301 PURPOSE (10/16/02) (08/17/07) (07/28/16)

- A. Sanctity of life and the protection of the public shall be the cornerstones of the MPD's use of force policy.**
- B. The purpose of this chapter is to provide all sworn MPD employees with clear and consistent policies and procedures regarding the use of force while engaged in the discharge of their official duties. (Note: MPD Training Unit Lesson Plans – Use of Force, are used as a reference throughout this chapter.)**

5-301.01 POLICY (10/16/02) (08/17/07)

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.

In his CAPRS statement, Officer Reed articulated how Ward's actions of walking towards their high-risk felony stop scene created officer safety concerns for the officers on scene. The force applied in this incident is the sole act of holding Ward's head to the ground with the barrel of his rifle. Complainant Ward ultimately admitted to officers on the scene and the investigator assigned to investigate his arrest that the police did not cause his chipped tooth and that it was a prior injury.

It is alleged that Officer Reed used his rifle in an unsafe manner when he held the complainant's head to the ground with the muzzle of said rifle.

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

5-410 RIFLES

IV. PROCEDURE / REGULATIONS

E. Deployment of Colt M-4, Colt M-16 A-1 or S&W M&P 15X rifles. (08/01/11) (09/04/12)

- 1. Rifles may be deployed in the following situations:**
 - a. When a suspect is out of range for a shotgun or handgun to be effective.**
 - b. Suspects are reasonably believed to be wearing protective body armor.**
 - c. Situations that an officer reasonably believes to meet active shooter criteria.**
 - d. When the unique features of the Colt M-4, Colt M-16 A-1 or S&W M&P 15X rifles provide a tactical advantage.
(08/01/11) (09/04/12)**
- 2. Colt M-4, Colt M-16 A-1 or S&W M&P 15X rifles should not be used or brought into buildings. (08/01/11) (09/04/12)**
 - a. Notwithstanding the above, it may be necessary to use a rifle in a building if the call involves an active shooter, a suspect wearing protective body armor or other serious situations.**
 - b. Officers should be aware that serious damage may occur to their hearing or the hearing of others in close proximity to the area if a rifle is fired in a building.**
 - c. Officers should be aware of the area behind their**

intended target if they need to fire their rifles in an urban area.

3. When officers respond to a call where MPD policy requires that a CAPRS report be completed, officers shall document the deployment or use of the Colt M-4, Colt M-16 A-1 or S&W M&P 15X rifle in their statement. (08/01/11) (09/04/12)

F. A certified Colt M-4, Colt M-16 A-1 or S&W M&P 15X rifle operator who has used his or her rifle in violation of this policy or in an unsafe manner may be removed from the Rifle Program. (08/01/11) (09/04/12)

Officer Reed initially deployed his department issued M4 rifle to assist with a high risk vehicle stop involving potentially armed suspects involved in a gun pointing incident earlier in his shift.

Once the suspect vehicle was deemed safe, Officer Reed and other officers moved down the street to address a male walking towards their scene, later identified as complainant Ward. Ward was taken to the ground by two officers and was being handcuffed when Officer Reed used the barrel of his rifle to hold Ward's head to the ground.

Officer Reed stated in his CAPRS report *"Once Ward was on the ground in a prone position, I could see that he was lifting his head and shoulders off the ground and he was loudly saying "are you serious?" and "I'm going to work." Ward was lifting his head up and not keeping flat to the ground, and it appeared that when he was lifting his head, he was starting to lift his body off the ground. Because I had a rifle in both hands, I could not assist with pinning him to the ground using body weight. I believed that Ward was still a threat to officers, as he had not been searched for weapons. Ward's tone of voice was loud and sounded agitated. I pointed the muzzle of my rifle at Ward's head to provide cover while they searched him for weapons. At one point, the rifle muzzle was in contact with Ward's head as he continued to lift his head off the ground. I did this to prevent him from lifting his head up. At no point did I use the muzzle to strike Ward."*⁸

Officer Reed's statement to Internal Affairs is consistent with the above narrative.

The MPD Rifle Policy does not specifically address the use of the M4 rifle in this particular manner.

⁸ CAPRS statement of Officer Reed, MP 17-196022

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It is alleged that Officer Reed did not conduct himself in an ethical and professional manner during his interaction with the complainant.

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

5-102 CODE OF ETHICS (08/01/91)

All sworn and civilian members of the department shall conduct themselves in a professional and ethical manner at all times and not engage in any on or off-duty conduct that would tarnish or offend the ethical standards of the department. Employees shall abide by the City's Ethics in Government Policy, Chapter 15. (05/23/07)

Officer Reed pressed the muzzle of his M4 rifle to the head of a subject who face-down on the ground and being handcuffed by other officers. It is not unreasonable to suggest that a citizen seeing this situation unfold may have reason for concern and possibly question the professionalism and ethical standards of the officer or police department.

Officer Reed documented the use of his rifle in such a manner in his CAPRS statement. In his interview, Officer Reed believed it was necessary to use this technique to ensure control of Ward's head and torso.

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CLOSING

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2. Did Officer Reed violate the MPD's Use of Force policy while assisting with the arrest of complainant Ward?
 - a. Ward initially alleged Officer Reed used the barrel of his rifle to push his face into the pavement causing him to sustain a cracked tooth.
 - b. Several BWC angles of the arrest show Officer Reed's rifle barrel in contact with Ward's head. There is no evidence to show that Officer Reed pushed Ward's head into the pavement.
 - c. Officer Reed's documentation on how he used the rifle to hold Ward's head down appears to be consistent with BWC footage.
 - d. Ward later told Officer Grabowsky on the scene that his tooth was chipped prior to any contact with MPD. Based on this information, the MPD Use of Force Review protocol was not initiated.
 - e. Ward later told the assigned case investigator, Sgt. Christie Nelson, that his tooth was chipped on a prior date, not by MPD.

3. Did Officer Reed violate the MPD's Rifle Policy when he used the barrel of his rifle to hold Ward's head to the ground while he was being handcuffed?
 - a. Officer Reed was one of five MPD officers involved in the arrest of complainant Ward. Two officers brought Ward to the ground and held him, one officer was handcuffing, and two other officers were standing nearby.
 - b. Was it necessary for Officer Reed to use his rifle in this manner?
 - c. Officer Reed perceived Ward to be a potential threat to the safety of nearby officers.
 - d. Officer Reed documents the use of his rifle in such a manner in his CAPRS supplement.
 - e. MPD Policy does not specifically address the use of the rifle in this manner.

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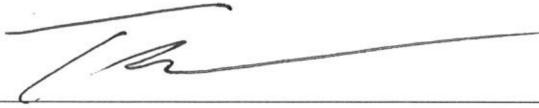
5. Did Officer Reed violate the MPD's Code of Ethics?
 - a. Was it professional and/or ethical of Officer Reed to use the muzzle of his rifle hold complainant's head to the ground while he was being handcuffed?
 - i. How does it look in the public eye?
 - ii. Was it necessary?
 - iii. Was it effective?

13.43 - Personnel Data

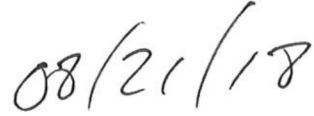
13.43 - Personnel Data

7. Officer Reed is confident in his abilities to safely handle a patrol rifle and stands by his actions related to this incident. Officer Reed has had extensive training in weapons handling from the US Army and his previous employer, the Savage Police Department.

I confirm that my summary of this case is true to the best of my knowledge.



Investigator:



Date

NOTICE OF DISCIPLINE

July 1, 2020

Officer Andrew Reed
Pct. 4 Middlewatch
Minneapolis Police Department

RE: OPCR Case 17-11716
Notice of Suspension (200 hours suspension without pay)

Officer Reed,

The finding for OPCR Case #17-11716 is as follows:

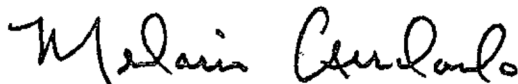
Policy Number	Sub-Section	Policy Description	Category	Disposition
13.43 - Personnel Data				
5-301.01		Use of Force	D	Merit
5-410	(IV)(E)(F)	Rifles	D	Merit
13.43 - Personnel Data				
5-102		Code of Ethics	D	Merit
13.43 - Personnel Data				

As discipline for this incident you are suspended for 200 hours without pay.

This case will remain in OPCR files per the record retention guidelines mandated by State Law.

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

Sincerely,




Medaria Arradondo
Chief of Police

By: Michael Kjos, Assistant Chief of Police
Henry Halvorson, Deputy Chief, Professional Standards Bureau

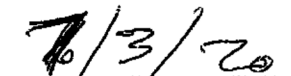
NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Andrew Reed, acknowledge that I have received my Notice of Discipline for OPCR Case #17-11716.



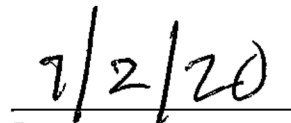
Officer Andrew Reed



Date of Receipt



Inspector Kelvin Pulphus



Date

CC: OPCR Case File
Inspector Pulphus
Payroll
Human Resources