

NOTICE OF DISCIPLINE

July 2, 2020

Officer Jeffrey Seidl
Health & Wellness
Minneapolis Police Department

RE: OPCR Case Number 17-23070
Notice of Written Reprimand

Officer Seidl,

The finding for OPCR Case #17-23070 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-313.01		Use of Chemical Agents	B	<u>Merit</u>

As discipline for this incident, you will receive this Letter of Reprimand.

This case will remain in the 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,

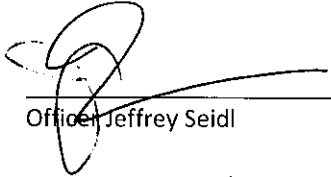

Medaria Arradondo
Chief of Police

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

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Jeffrey Seidl, acknowledge that I have received my Notice of Discipline for OPCR Case #17-23070.



Officer Jeffrey Seidl

8/3/20

Date of receipt



Assistant Chief Michael Kjos

7/27/2020

Date

CC: Personnel
Assistant Chief Kjos
OPCR

INVESTIGATIVE REPORT

Complaint Number: 17-23070

Investigator: Liisa M Hill

Officer (s): Noukue Cha

Case Type: Administrative

Date of Incident: October 04, 2017

Complaint Filed: December 22, 2017

CASE OVERVIEW

It is alleged that Officer Noukue Cha deployed a chemical agent to the face of a suspect, per instructions from another officer.

ALLEGATIONS

Allegation 1: *Officer Noukue Cha violated Minneapolis Police Department Policy and Procedure when he deployed his chemical agent to prevent a suspect from ingesting narcotics. MPD P&P § 5-313.01 – USE OF CHEMICAL AGENTS – POST EXPOSURE*

CASE INVESTIGATION

I. Statement of Officer Noukue Cha

On October 2, 2018, Officer Cha was interviewed by Investigator Liisa M. Hill. Officer Cha stated he and his partner Officer Dykstra were on patrol and proceeded to assist in a traffic stop. While at the traffic stop, Officer Cha assisted in searching one of the individuals and found drug paraphernalia on the individual. The individual gave Officer Cha a partial name and was mumbling and complaining of being sick. Officer Dykstra and Officer Seidl asked Officer Cha if he had checked the individual's mouth to which Officer Cha responded he had not. The individual was then taken out of the squad. Officers Dykstra and Seidl proceeded to physically struggle and yell at the individual (known as Christian Byrd) to spit out what he had in his mouth. When Mr. Byrd refused to spit out the contents of his mouth, Officer Cha was instructed by Officer Seidl to use his chemical agent on Mr. Byrd. Officer Cha stated he sprayed one short burst of chemical agent in the face of Mr. Byrd.

Mr. Byrd then spit out the contents of his mouth which was a small plastic bag containing a white substance. Officer Cha was asked if he was aware of MPD Policy 5-313.01, prohibiting the use of chemical agents to prevent the swallowing of narcotics. Officer Cha answered that he vaguely remembered the policy, and that he thinks it had been taught at the Police Academy. Officer Cha was asked if he thought about the policy before deploying the chemical agent to the face of Mr. Byrd. Officer Cha stated he deployed the chemical agent because Officer Seidl told him to do so. Officer Cha added that Officer Seidl is a well-seasoned officer and he has worked with him on previous occasions. Officer Cha stated Officer Seidl has twenty years on him, "he asked me to and at that, in the heat of the moment, I thought it was the right thing to do".¹ At the end of the interview Officer Cha stated "I was very excited. It was my first time. I didn't know what to really, you know, to feel like or to I mean being in the heat of it, you know, Officer Seidl asked me to, he said, "Give him some mace." And I did. And so, thinking back now I would have done it differently, you know, you would've just stand up and say, "Hey, this is not my policy. We need to do it in a different way." Um, but I acknowledge that I did something wrong and that it will be, you know, different down the road and hopefully from, I'm, this, this going on forward that policy violations even though if a superior or a seasoned officer that hopefully I will stop and say, "Hey, we've got to do differently. This is wrong." or, you know, something to that point."²

II. Review of Officer Cha's Body Worn Camera Video

After a review of Officer Cha's body worn camera video it shows Officer Cha did deploy his chemical agent at the request of Officer Seidl. Officer Cha's Use of Force Video shows at Video Mark 2.24, Officer Seidl tells Officer Cha to "give him some mace" which Officer Cha does.

DISCUSSION

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

5-313.01 USE OF CHEMICAL AGENTS – POST EXPOSURE TREATMENT/MEDICAL AID

Post exposure treatment (Medical Aid) for a person that has been exposed to the chemical agent shall include one or more of the following:

- Removing the affected person from the area of exposure.
- Exposing the affected person to fresh air.
- Rinsing the eyes/skin of the affected person with cool water (if available).
- Render medical aid consistent with training and request EMS response for evaluation at anytime if necessary

Sworn employees shall keep a person exposed to the chemical agent under close observation until they are released to medical or other law enforcement personnel. An officer who has used a chemical agent shall inform individuals accepting custody that it was used on the person.

Use of chemical agents to prevent the swallowing of narcotics is prohibited.

A CAPRS report shall be completed when chemical agents are used.

¹ Statement of Officer Cha, page 4, paragraph 45

² Statement of Officer Cha, page 6, paragraph 40-45

During Officer Cha's interview, Officer Cha admitted that he deployed his chemical agent in the face of the suspect to get the suspect to spit out suspected narcotics contained in his mouth. This is also substantiated with the video from Officer Cha's body worn camera.

CLOSING

1. Did Officer Cha violate Minneapolis Police Department Policy and Procedure, when he deployed his chemical agent on a suspect who was suspected of concealing narcotics in his mouth?

Minneapolis Police Department Policy states: Use of chemical agents to prevent the swallowing of narcotics is prohibited. Officer Cha admitted that he deployed his chemical agent to make the suspect spit out the contents of his mouth at the direction of a senior officer.

I confirm that the information I provided in this case is true to the best of my knowledge.



Investigator: Liisa M Hill

December 07, 2018

Date:

**CITY OF MINNEAPOLIS
OFFICE OF POLICE CONDUCT REVIEW**

COMPLAINT INFORMATION					
Case Number	Precinct	CCN	Date of Incident	Time	Preference
17-23070	3	17-381666	October 04, 2017	10:27 AM	No Preference
Location of Incident		City/State/Zip		Date of Complaint	
28thST		Minneapolis 55407		October 05, 2017	
Complainant Name (Last, First, Middle Initial)			Sex	Race	DOB
Joint Supervisors					
Home Address		City/State/Zip		Primary Telephone	
JURISDICTION			CATEGORY		
OPCR Ord. § 172.20(8)			VIOLATION OF THE P&P MANUAL		
BADGE/NAME			ALLEGED POLICY VIOLATIONS		
0239; Seidl, Jeffrey			MPD P&P § 5-313.01 - USE OF CHEMICAL AGENTS - POST EXPOSURE 13.43 - Personnel Data		
ALLEGATION SUMMARY					
It is alleged that that an officer failed to upload a force review in which a suspect sustained a bloody mouth 13.43 - Personnel Data It is also alleged that an officer deployed a chemical agent to prevent a suspect from ingesting narcotics.					
SUPERVISOR ASSESSMENT					
INQUIRY (INTAKE - COMPLAINT FILED) <input type="checkbox"/>			3401 <input type="checkbox"/> Draft <input checked="" type="checkbox"/> Final approved		
MEDIATION <input type="checkbox"/> Refer to Mediation			DISMISS <input type="checkbox"/> Reckoning Period Expired		
COACHING <input type="checkbox"/> Refer to Precinct			<input type="checkbox"/> No Basis		
INVESTIGATIONS <input type="checkbox"/> Preliminary Investigation			<input type="checkbox"/> Failure to State a Claim		
<input type="checkbox"/> Civilian Investigator: _____			<input type="checkbox"/> Failure to Cooperate		
<input type="checkbox"/> Sworn Investigator: _____			<input type="checkbox"/> Exceptionally Cleared		
<input checked="" type="checkbox"/> Admin Investigation: Investigator Hill			<input type="checkbox"/> Lack of Jurisdiction		
FINAL APPROVED INVESTIGATIVE REPORT <input checked="" type="checkbox"/> Refer to Panel			<input type="checkbox"/> Withdrawn		
IAU Supervisor <i>Lt. [Signature]</i>			<input type="checkbox"/> Duplicate		
Director - Office of Police Conduct Review <i>[Signature]</i>			<input type="checkbox"/> Refer to Dispatch		
			<input type="checkbox"/> Refer to EIS		
			<input type="checkbox"/> Refer to: _____		
				Date	2/5/2019
				Date	2/5/19

INVESTIGATIVE REPORT

Complaint Number: 17-23070

Investigator: Liisa M Hill

Officer (s): Jeffery Seidl

Case Type: Administrative

Date of Incident: October 04, 2017

Complaint Filed: December 22, 2017

CASE OVERVIEW

It is alleged that Officer Jeffery Seidl instructed another officer to deploy a chemical agent to the face of a suspect to prevent that suspect from ingesting suspected narcotics. **13.43 - Personnel Data**

ALLEGATIONS

Allegation 1: *Officer Jeffery Seidl violated Minneapolis Police Department Policy and Procedure when he instructed another Officer to deploy his chemical agent to prevent a suspect from ingesting narcotics.*
MPD P&P § 5-313.01 – USE OF CHEMICAL AGENTS – POST EXPOSURE

13.43 - Personnel Data

CASE INVESTIGATION

I. Statement of Officer Jeffery Seidl

On December 27, 2018, Officer Seidl was interviewed by Investigator Liisa M. Hill. Officer Seidl stated he was on patrol working by himself in squad 310. As he was traveling southbound of 16th Avenue, he noticed a Black vehicle pull in front of his squad car. The vehicle windows were tinted and it did not have a license plate nor did it display a temporary permit. Officer Seidl then began to follow the vehicle.

The vehicle pulled ahead of Officer Seidl's vehicle and proceeded through several stop signs. Officer Seidl stated he believed the vehicle was trying to evade him, therefore he called for backup and proceeded to conduct a traffic stop on the vehicle.

Officer Seidl approached the passenger rear of the vehicle and opened the door to find three (3) individuals inside the vehicle and a heavy odor of Marijuana. The driver and front passenger were taken out of the vehicle and escorted to another squad car. The backseat passenger later identified as Christian Byrd was taken out of the back seat. In the rear seating area of the vehicle in plain view were small plastic baggies and a box of very small, 3 4-inch glass vases with roses in them, usually sold at convenience stores. Officer Seidl explained, people that use crack and meth, break off one of the ends of the pipe, and use the glass tube as a pipe. Officer Seidl stated that another officer reported that while escorting one of the occupants from the vehicle, two clear baggies containing suspected marijuana had fallen to the ground outside their vehicle while being escorted to another squad car. Byrd was then searched and a glass pipe was discovered on him. Byrd was placed in Officer's Cha and Dykstra MPD vehicle.

Officer Cha then proceeded in attempting to identify Byrd. Byrd gave difference variations of his name, mixing his first middle and last names, making it difficult for identification. Officer Seidl stated when he heard the name Christian, he told Officer Cha to remove Byrd from the MPD vehicle, and search him again. Officer Seidl stated he remembered an incident the previous month with Byrd hiding crack cocaine in his mouth. Byrd was taken to the front of the MPD vehicle and searched again. Officer Seidl told Officer Cha and Dykstra to pay attention to Byrd's mouth, where it is common for individuals to store the drugs in their mouth to evade detection. It was determined that Byrd did have what was observed to be a plastic bag with a white substance. Officer's Seidl and Dykstra told Byrd to spit out the contents of his mouth which he refused. Officer Seidl stated Byrd then started to chew the contents and plastic bag. Officer Seidl stated there was no reason to chew something that's small enough to swallow so he determined it must have been larger than just one rock of crack cocaine which is very small, smaller than a small piece of gum and easy to swallow. Officer Seidl stated he thought it was a safety issue if Byrd was allowed to swallow that much crack cocaine. Officer Seidl then told Officer Cha to use his chemical agent on Byrd in order to extract the plastic bag from his mouth. Officer Seidl stated he felt that Byrd would not be able to chew and swallow that amount of substance without choking and the Officers would then have to perform life saving measures, that is why he told Officer Cha to deploy his chemical agent towards Byrd.

Officer Seidl was asked if he was wearing his assigned Body Worn Camera that day to which Officer Seidl stated he was. Officer Seidl stated he thought he activated his camera at the beginning of the call and deactivated after the incident. Officer Seidl was told that no video exists from his BWC for that incident. Officer Seidl stated he would have uploaded his BWC right after the completion of the incident. However, Officer Seidl stated he does not remember whether or not he uploaded any video.

13.43 - Personnel Data

Officer Seidl reiterated that he is aware of the MPD Policy prohibiting the use of chemical agents to prevent the swallowing of narcotics. Officer Seidl stated he believed this was a lifesaving incident.

Officer Seidl added, during Byrd's sentencing, Judge Bartolomei determined that the cocaine was lawfully retrieved, and it was not a Fourth Amendment violation to use the mace to force Byrd to spit out the

cocaine. Investigator Hill informed Officer Seidl that Judge Bartolomei's ruling with regards to a 4th Amendment violation had no direct bearing on Minneapolis Police Departments Policies and Procedures. The Minneapolis Police Department's Business Technology Unit(BTU) verified that Body Worn Camera training consists of a 1-2-hour block of instruction for its Officers. BTU also stated that when the Officer is downloading their BWC Video, which should be at the end of the incident, the Officer is aware whether his BWC was in fact turned on and video of the incident was loaded into MPD evidence.com.

II. Review of Officer Cha's Body Worn Camera Video

After a review of Officer Cha's body worn camera video it shows Officer Cha did deploy his chemical agent at the request of Officer Seidl. Officer Cha's Use of Force Video shows at Video Mark 2.24, Officer Seidl tells Officer Cha to "give him some mace" which Officer Cha does.

III. Review of Minneapolis Police Department Video Records

No video record from evidence.com could be found for Officer Seidl's Body Worn Camera regarding the October 4, 2017 incident.

DISCUSSION

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

5-313.01 USE OF CHEMICAL AGENTS – POST EXPOSURE TREATMENT/MEDICAL AID

Post exposure treatment (Medical Aid) for a person that has been exposed to the chemical agent shall include one or more of the following:

- Removing the affected person from the area of exposure.
- Exposing the affected person to fresh air.
- Rinsing the eyes/skin of the affected person with cool water (if available).
- Render medical aid consistent with training and request EMS response for evaluation at any time if necessary

Sworn employees shall keep a person exposed to the chemical agent under close observation until they are released to medical or other law enforcement personnel. An officer who has used a chemical agent shall inform individuals accepting custody that it was used on the person.

Use of chemical agents to prevent the swallowing of narcotics is prohibited.

A CAPRS report shall be completed when chemical agents are used.

Officer Seidl admits he requested Officer Cha to deploy his chemical agent towards Byrd to prevent Byrd from swallowing the narcotics. Officer Seidl stated he did so as a life saving measure.

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

13.43 - Personnel Data

13.43 - Personnel Data

CLOSING

1. Did Officer Seidl violate Minneapolis Police Department Policy when he instructed another officer to deploy his chemical agent in the face of a suspect to prevent the swallowing of suspected narcotics?

Officer Seidl admitted he instructed Officer Cha to deploy his chemical agent towards Byrd to force Byrd to spit out the contents of his mouth which was believed to be crack cocaine. This is also substantiated by Officer Cha's BWC. Officer Seidl maintains the deployment of chemical agent was a lifesaving measure due to the amount of drugs which would have been ingested.

13.43 - Personnel Data

I confirm that the information I provided in this case is true to the best of my knowledge.



Investigator: Liisa M Hill

January 22, 2019

Date: