

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

COMPLAINT INFORMATION					
Case Number	Precinct	CCN	Date of Incident	Time	Preference
17-23299	2	17-483665; 17-295626	December 24, 2017	02:07 AM	Civilian Investigation
Location of Incident		City/State/Zip		Date of Complaint	
1029 Marshall ST		Minneapolis 55413		December 26, 2017	
Complainant Name (Last, First, Middle Initial)			Sex	Race	DOB
McDonough, Luke			M	C	██████ 1988
Home Address		City/State/Zip		Primary Telephone	
████████████████████		Los Angeles, CA 99029		██████████████████	
JURISDICTION		CATEGORY			
OPCR Ord. § 172.20(8)		VIOLATION OF THE P&P MANUAL			
BADGE/NAME		ALLEGED POLICY VIOLATIONS			
7243; Toles, Clifton		MPD P&P § 5-102.01 - Code of Ethics			
ALLEGATION SUMMARY					
Complainant alleges that a MPD officer assaulted her son without cause, resulting in a "brain bleed, badly bruised skull, fractured nose and fractured cheek."					
SUPERVISOR ASSESSMENT					
INQUIRY (INTAKE - COMPLAINT FILED) <input type="checkbox"/> MEDIATION <input type="checkbox"/> Refer to Mediation COACHING <input type="checkbox"/> Refer to Precinct INVESTIGATIONS <input type="checkbox"/> Preliminary Investigation <input type="checkbox"/> Civilian Investigator: _____ <input type="checkbox"/> Sworn Investigator: _____ <input checked="" type="checkbox"/> Admin Investigation: Investigator Hill			3401 <input type="checkbox"/> Draft <input type="checkbox"/> Final approved DISMISS <input type="checkbox"/> Reckoning Period Expired <input type="checkbox"/> No Basis <input type="checkbox"/> Failure to State a Claim <input type="checkbox"/> Failure to Cooperate <input type="checkbox"/> Exceptionally Cleared <input type="checkbox"/> Lack of Jurisdiction <input type="checkbox"/> Withdrawn <input type="checkbox"/> Duplicate <input type="checkbox"/> Refer to Dispatch <input type="checkbox"/> Refer to EIS <input type="checkbox"/> Refer to: _____		
FINAL APPROVED INVESTIGATIVE REPORT <input type="checkbox"/> Refer to Panel					
IAU Supervisor				Date	
Director - Office of Police Conduct Review				Date	

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

INVESTIGATIVE REPORT

Complaint Number: 17-23299

Investigator: Liisa M Hill

Officer (s): Clifton Toles

Case Type: Administrative

Date of Incident: December 24, 2017

Complaint Filed: December 27, 2017

CASE OVERVIEW

Complainant alleges, a man who claimed to be a Minneapolis police officer and a 1029 bar bouncer forcibly removed him from the 1029 bar without cause.

ALLEGATIONS

Allegation 1: Officer Clifton Toles violated Minnesota Law Enforcement Ethics when he allegedly assaulted an individual at the 1029 Bar. **MPD P&P § 5-102.01 – MINNESOTA LAW ENFORCEMENT CODE OF ETHICS.**

CASE INVESTIGATION

I. Statement of Luke McDonough- Complainant

On March 23, 2018, Lucas (Luke) Mc Donough was interviewed via conference call at his attorney's office in Woodbury, Minnesota. Mc Donough stated he and some friends had gone to the 1029 bar on the evening of December 24th. Mc Donough began conversing with three women at the bar. One of the women was from California, which is where Mc Donough presently resides. Mc Donough stated an unknown man aggressively approached. Mc Donough stated he did not remember what the man said, but he responded, and stated that the man must not have liked what he said and proceed to shout at him that he was a Minneapolis Police Officer, which Mc Donough interpreted as trying to intimidate him. The man who identified himself as a Minneapolis Police Officer then pointed in the direction of the bar bouncer seated by one of the exits. The bouncer nodded, then the Police Officer put Mc Donough in a choke hold and proceeded to throw him out of the bar. Mc Donough stated "he threw me outside. I

didn't fall over but, ah, I was spinning and I thought I was getting attacked so I, I felt like I needed to defend myself but, ah, that's the last thing I remember"¹.

McDonough stated he does not remember the woman's name or how long they talked, but does remember that she was not upset during their conversation. McDonough was asked why he felt intimidated by the officer, and he responded the officer was physically bigger than him, and was very close to him, about 6 inches away, all of which made him feel intimidated. McDonough was asked if the officer yelled, swore or said anything which could have been intimidating to which McDonough answered, No. Investigator Hill stated. "So, you're talking to the woman. He (Officer Toles) comes up. You feel that he's being aggressive. Was there any other ind... you know, for him to just then all the sudden put you in a basically a choke hold, there wasn't anything that, that precipitated that? No argument? No, you know, words exchanged? Anything?"² McDonough stated, "Not that I recall. No".³ McDonough added the officer did not give him any reason as to why he was being thrown out of the bar, and McDonough only remembers being thrown out of the bar and waking up in an ambulance. McDonough stated he does not know if he swung at the officer nor if the officer Hit him.

McDonough stated he had been drinking vodka and soda before entering the 1029 bar, but stated he only had a total of three drinks throughout the night. He did not drink at the 1029 bar that evening. McDonough acknowledges he had a few drinks, but felt in control of himself. McDonough stated he is still dealing with the effects of his injuries from that evening.

II. Statement of Officer Clifton Toles

On June 21, 2018, Officer Toles stated he arrived at the 1029 Bar at approximately 11:30 pm. [REDACTED] When he was a beat officer in the 2nd precinct, he got to know the local business and established a relationship with them. He stated the bar has called him numerous times to remove disorderly or drunk patrons. That night he was there just like any other patron. The bar was very crowded and Officer Toles stated he stood by the pull tab and popcorn stand. Officer Toles stated he ordered a beer, and had drunk about half of it when a young lady and her fiancé approached him. The couple stated she was being harassed and groped by a guy at the bar. Seeing that the fiancé was getting upset, Officer Toles told them that the male was probably drunk and to just stay away from him. A few minutes later, Adrian, a member of the 1029 Bar staff came over to Officer Toles and told him a guy was groping women and asked if he could intervene. Officer Toles told Adrian that he was off-duty, but would keep an eye on the individual and if he needed to talk to him he would.

At about 1:30 am, right before closing time, Officer Toles name was called out by a female named Dana, whom he had seen at the bar before and who was known to be friends with some of the 1029 bar staff. Dana was with the same male who the young lady and her fiancé had complained about to Officer Toles and whom Adrian had identified as the male who was groping women. Dana then introduced the male to Officer Toles describing him as being from Hollywood (Luke McDonough). Officer Toles stated he extended his hand out to introduce himself and shake Mc Donough' s hand. McDonough immediately said, "fuck you, I don't care."⁴

¹ Statement of Luke McDonough, page 1 paragraph 50-55

² Luke McDonough transcript, page 3, paragraph 40

³ Statement of Luke McDonough, page 3, paragraph 40

⁴ Statement of Officer Toles, page 3, paragraph 30

Officer Toles stated he responded to Mc Donough by saying, “dude”, Dana is just trying to introduce us. Mc Donough again told Officer Toles “fuck you” and tapped Officer Toles on the chest with his fingers. Officer Toles responded “We don't need to do this, you know. All she's tryin' to do is introduce us.”⁵ Officer Toles continued asking McDonough, “What is your name? and” I thought I could just talk him down because I knew what was, at that point, I knew what was goin' on. I knew this was the guy. I saw him in actions with the young couple earlier.”⁶ Officer Toles continued to converse with McDonough, and told him that his name was Cliff. Officer Toles stated that McDonough had his beer bottle in his hand and appeared to be extremely agitated and aggressive. Officer Toles stated his back was against the bar at that time, therefore, he could not get a reasonable distance from McDonough. McDonough stepped towards Officer Toles again and said, “I don't give a fuck who you are,”⁷ and tapped Officer Toles in the chest again. Officer Toles immediately called for the bar staff.

After the second tap to his chest, Officer Toles told McDonough that he was a Minneapolis Police Officer, and warned McDonough not to put his hands on him again. Officer Toles told McDonough, “I need you to calm down. He got extremely agitated after that. McDonough stated “I don't give a fuck. I don't give a fuck.” Holdin' his beer bottle and, at that point, I believed that he was either gonna hit me with the bottle or try to fight me”⁸. Officer Toles added that McDonough was extremely intoxicated, and was slurring his words in his interaction with him.

Officer Toles stated he tried to employ an arm bar on McDonough to gain control of him, which was unsuccessful. One of the bar employees, Mike, came to assist Officer Toles and was also unsuccessful in gaining control of McDonough. At that point Officer Toles engages a headlock/chokehold on McDonough and escorted him outside. Officer Toles told McDonough that he had enough to drink and should go home. After releasing McDonough, Officer Toles stated there was a crack in the pavement and his foot slipped. As he looked down, Officer Toles heard someone yell “watchout”, and he felt a hand graze his face. He immediately lifted his arm to block any other possible blow, and with the other arm engaged a punch which hit McDonough and knocked him to the ground.

Officer Toles told the bar staff to call 911, and make sure McDonough received Medical attention. Officer Toles made sure that McDonough was sitting upright and talking before leaving the scene. The friends of McDonough had come outside of the bar and tried to physically engage Officer Toles. The bar staff interceded and told Officer Toles to just leave.

Officer Toles stated he got into his vehicle and left the bar. He pulled into the library parking lot a short distance away and proceed to call his supervisors, Sergeant Darrin Waletzki and Sergeant Anna Hedberg to advise them of the incident.

A short time later while Officer Toles was at his residence, he received a call from one of the responding Officers to the bar incident. Officer Toles asked if he needed to go to the precinct and make a statement. Officer Toles was told that he could give his statement the next morning.

⁵ Statement of Officer Toles, page3, paragraph 35

⁶ Statement of Officer Toles, page3, paragraph 35

⁷ Statement of Officer Toles, page3, paragraph 40

⁸ Statement of Officer Toles, page3, paragraph 44-50

The Following interviews were conducted by Sergeant Jake Peterson of the St Paul Police Department. The Minneapolis Police Department requested the St Paul Police Department to investigate the allegations of assault by a Minneapolis Police Department Officer. The following are summaries of the interviews taken of the 1029 Bar patrons present during the incident.

Jessica [REDACTED]: Jessica contends that she was visiting the Twin Cities and decided to go out with some friends and have some drinks at a bar. While getting ready to leave, Jessica claims that a stranger—who she later identifies as “Luke”—came up to her and her friend Gina and began “chatting with [them].” After this, Jessica claims that her friend Dana approached her and the group, followed by another “guy,” who was not a part of the conversation. However, Jessica states that Luke told mentioned something to the effect of “this guy over here” in reference to the other male as a general comment. Jessica contends that the other male—identified as “[REDACTED] guy”—got “offended for some reason...addressed this other guy and...said he was with the police...knew the people [at the bar].” Next, Jessica claims that the self-identified officer put Luke into a headlock and told security to get the guy out; Jessica is not entirely sure if she saw the headlock, only that she saw him being pulled out of the bar. Jessica also claims that Luke was not doing anything prior to the incident and that he did not appear to be “belligerent” drunk. Jessica also claims that their discussion centered mostly on their opinions regarding Hollywood, California but was not disrespectful. Jessica claims that she did not see the fight but saw Luke disoriented outside. Jessica claims that she had 4 beers and a shot at the bar, and admits to being “drunk.”

Breanna [REDACTED] interview: Breanna claims that she only heard about the incident but didn’t see anything. She also asserts that she is a waitress at the bar. Investigator claims that he was told that Ms. [REDACTED] works that area. Ms. [REDACTED] claims that she didn’t see any commotion, only security guards go out the door—one she identifies as Mike. Ms. [REDACTED] asserts that she doesn’t know a “Cliff.”

Dakota [REDACTED] interview: Mr. [REDACTED] claims that he was working security the night of the incident at the side door. Mr. [REDACTED] claims that another security guard, Steve [REDACTED], motioned to Mr. [REDACTED] that help was needed. Mr. [REDACTED] claims that he went outside and around the building to get to the other side in order to assist; when he eventually turned the corner, he saw a kid on the ground. Mr. [REDACTED] contends that he was told by Mr. [REDACTED] that there “some sort of altercation.” Mr. [REDACTED] also states that Mr. [REDACTED] asked him to look after the person on the floor. At the same time, Mr. [REDACTED] claims that Mr. [REDACTED] went inside of the bar and asked everyone to leave.

Nicole [REDACTED]: Was working the bar in section 2, by the kitchen; on other side of bar where incident took place. Claims she didn’t see anything, only noticed “chaos” by bar close, by the door. Nicole claims that she only saw the aftermath. Nicole states that the “person” was taken out by the door “kitty corner” to the “pull tabs.” She asserts that she didn’t see anyone escorted out or notice anyone causing any problems. She also claims that she doesn’t remember anyone intoxicated, such as in “bumping” into people, etc.

Chessie [REDACTED]: Chessie claims that she works in pull tabs and only saw the “man being escorted out” of the building. Chessie asserts that a “[REDACTED] gentleman” is the one who escorted the person. Chessie claims that the person’s name is “Cliff” and that “Cliff was literally walking him out.” She contends that she didn’t know anything about how everything transpired. Chessie stated that Cliff had the “other guy” in a headlock, and that he was “struggling” with Cliff and “talking smack.” Chessie asserts that the other guy seemed “out of line...cussing at Cliff” and trying to “turn...fight with him.” Chessie states that she does not know what happened once they went outside but heard that the other guy had issues with other people, walking into them. Chessie claims that there were “wall to wall” people. Chessie claims that the other guy was “obnoxiously drunk and bumping into people” long before the incident. She also asserts that he was “beyond drunk.” Chessie also claims that she warned the bouncer about the other guy.

She also contends that there was an argument, but she was not able to discern what was happening as there were other people around.

Comparison of Officer Toles' statement to OPCR, his statement to St Paul Police and statements of other witnesses to the 1029 Bar incident (according to St Paul Police and Minneapolis Police Investigations) on December 24, 2017.

Interview at OPCR, June 21, 2018 : Toles states a female and her Fiancé approach Toles and informs him a man is harassing and groping her. The man is later identified as Lucas McDonough.

Toles states that Adrian (1029 Bartender) told him a guy is groping and harassing girls. Asks him if he could intervene.

A female named Dana introduces Toles to Lucas McDonough.

Toles states McDonough is holding a Beer bottle and is aggressive. Pokes Toles in the chest with his finger. Conversation gets heated. Toles motions to one of the bouncers to assist him (Mike [REDACTED]).

Toles states after the altercation outside, he tells Mike to call an Ambulance. He is told by Mike [REDACTED] to leave, because friends of McDonough are gathering and appear to be confrontational.

Toles states he leaves and calls Sergeants Waletzki (leaves message) and Hedberg.

Interview with St Paul Police, January 26, 2018: Toles states a female and her Fiancé approach Toles and informs him a man is harassing and groping her. The man is later identified as Lucas McDonough.

Toles states McDonough is holding a glass and is aggressive.

Interview of Mike [REDACTED] and Adrian [REDACTED] by Minneapolis Police, Sergeant Abdulkadir, the night of the incident: Note, when Officers arrive, in the background are a number of individuals (Identified as friends of Lucas McDonough) they appear to be angry and somewhat confrontational. [REDACTED] and [REDACTED] state that a number of girls had been complaining of a man being drunk (the man was identified as Lucas McDonough) Both McDonough and Toles could be heard yelling at each other. When McDonough and Toles were outside, McDonough swung at Toles before Toles landed 1 punch and McDonough went down and hit his head on the pavement [REDACTED] states he had heard that McDonough was causing problems earlier in the evening and was aggressive.

[REDACTED] states that Toles left the scene. He did not say that Toles wanted an Ambulance called, nor did he make mention of McDonough's friends wanting to fight Toles (as Toles stated in his interview with OPCR)

Officer Moua(MPD) interviews McDonough at the scene. McDonough states he had been drinking all day and does not remember anything that happened that evening.

Officer Johnson(MPD) interviews Dana [REDACTED] and Jessica [REDACTED]. They state McDonough was really drunk and probably did not understand his verbal encounter with Toles. They added that McDonough was not being disrespectful to them, just flirting. [REDACTED] admits to being drunk.

An unidentified witness states Toles took McDonough out of the Bar unnecessarily.

Jeanna [REDACTED] stated Toles was "hitting on" her friend Jessica when they were with McDonough. She stated she thinks Toles thought McDonough was being inappropriate. Toles calls security to take McDonough outside. Says that Toles was aggressive and grabs McDonough by the neck and takes him outside.

Dakota [REDACTED], Bouncer, stated he heard McDonough was harassing girls and causing problems inside the bar. Did not see the altercation.

Steve [REDACTED] (McDonough's Friend) [REDACTED] states that the girls around McDonough that night told him, McDonough was hitting on some girls and that Toles didn't like it and put McDonough in a headlock. McDonough was intoxicated and had been drinking steadily for 4-5 hours. [REDACTED] stated he has never seen McDonough fight, but, he can sometimes "mouthoff".

Chessie [REDACTED] (pull tabs girl) States she heard yelling in the area where Toles and McDonough were standing. Saw Toles put his arm around the neck of McDonough and walk him outside. McDonough was cussing at Toles and appeared to try and turn around and physically engage Toles. Stated McDonough was totally and completely drunk. She had told one of the bouncers earlier to watch McDonough, since he was so drunk.

Rick [REDACTED] (On Duty Manager) stated he heard McDonough was causing problems with a number of tables in the bar. Stated Toles and Mike [REDACTED] "guided" McDonough out of the bar. He said that Mike had told Toles to leave because he was a little heated. [REDACTED] stated Toles does not cause any problems and occasionally helps out at the bar with problem patrons. [REDACTED] stated that [REDACTED] was told by a number of bar patrons that McDonough was grabbing people and being disrespectful.

DISCUSSION

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

MPD P&P § 5-102.01 – MINNESOTA LAW ENFORCEMENT CODE OF ETHICS: *"As a Minnesota Law Enforcement Officer, my fundamental duty is to serve mankind; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.*

I will keep my private life unsullied as an example to all; maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both by personal and official life, I will be exemplary in obeying the laws of the land and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept ever secret unless revelation is necessary in the performance of my duty.

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

I recognize the badge of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of the police service. I will constantly strive to achieve these objectives and ideals, dedicating myself before God to my chosen profession...law enforcement."

Complainant Luke McDonough stated he had been drinking on the evening of the incident in question but did not feel he was drunk or incapacitated. However, when asked questions regarding the events of

December 23rd, McDonough states he does not remember any specific details, nor does he remember how exactly he was injured. Many of the witnesses interviewed by Sergeant Peterson of the St Paul Police Department could not remember specific details, had conflicting statements, or stated that they were drunk. The Medical Report from Hennepin County Medical Center states, McDonough was very intoxicated and gave multiple versions of the events that night (Reference HCMC Medical Report pages 4,5,7,8 and Trauma Discharge Summary, page 47). Officer Toles stated he was approached by a bar patron and told that McDonough was harassing women. When Officer Toles approached McDonough, Officer Toles stated McDonough became argumentative, threatening, and was clearly intoxicated. Officer Toles forcibly took McDonough to the exit of the Bar, and told McDonough to go home. McDonough then attempted to punch Officer Toles, which Officer Toles avoided and in turn proceeded to punch McDonough which knocked him to the ground.

CLOSING

1. Did Officer Toles violate the Minnesota Law Enforcement Code of Ethics when he allegedly assaulted the Complainant?

Officer Toles stated he was asked to intervene into incidents of harassment towards women at the 1029 Bar. Officer Toles stated the Complainant, Luke McDonough was intoxicated and became argumentative and threatening. Officer Toles and a 1029 Bar employee forcibly removed McDonough from the Bar, and told him to go home. McDonough then tried to physically assault Officer Toles. After the incident, Officer Toles immediately notified his Supervisors.

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



Investigator: Liisa M Hill

November 27, 2018

Date:

NOTICE (Settlement Agreement)

April 6, 2022

Officer Clifton Toles
Pct. 4 Daywatch
Minneapolis Police Department

RE: OPCR #17-23299

Clifton Toles,

As a result of the Settlement Agreement #20-17, the disposition for OPCR Case #17-23299 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-102.01		Code of Ethics	D	Sustained

The discipline [REDACTED] one Category D violation; 270 hours unpaid suspension.

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 more severe disciplinary action up to and including discharge.

Sincerely,



Troy Schoenberger
Deputy Chief, Professional Standards Bureau

CC: Personnel file
OPCR

**IN RE:
THE MATTER OF**

THE CITY OF MINNEAPOLIS
(Minneapolis Police Department)

and

**Settlement Agreement
(Union Grievance # 20-17)**

**POLICE OFFICERS' FEDERATION
OF MINNEAPOLIS**
(Clifton Toles, Grievant)

This Settlement Agreement ("Agreement") is made and entered into by and between the City of Minneapolis ("City"), the Police Officers' Federation of Minneapolis ("Federation") and Officer Clifton Toles, Badge No. 7243 ("Grievant").

RECITALS

A. The City and the Federation are parties to a collective bargaining agreement ("Labor Agreement") that governs the relationship between them.

B. The Grievant is employed by the City in its Police Department ("MPD").

C. The Federation is the Grievant's sole and exclusive certified bargaining representative.

D. [REDACTED]

E. The Federation grieved [REDACTED] Grievance #20-17, citing violation of Section 12.01 of the Labor Agreement.

F. [REDACTED]

G. The Interim Chief of Police has the full authority of the City Council to resolve the grievance.

H. The Federation and the City wish to resolve this matter amicably and without resort to arbitration.

NOW THEREFORE, the City and the Federation agree as follows:

AGREEMENT

1. The Federation shall withdraw Grievance # 20-17, with prejudice, subject to conditions listed in paragraph 5.

2. The City shall [REDACTED] requiring Grievant to serve 270 hours of an unpaid suspension.

3. [REDACTED]

4. The Federation, as an entity and on behalf of its members individually, agrees that this Settlement Agreement shall not be used in any arbitration or proceeding, except to enforce the terms of this Settlement Agreement. The Federation, its bargaining unit members and the grievant are bound by this Agreement as if they had entered into it individually.

5. The City and the Federation agree that this Agreement is without prejudice or precedent to any future matter involving any City employee, other than the Grievant; and, that this Agreement shall be of no value as evidence, and shall not be submitted or received as evidence, in any arbitration, hearing, trial, appeal or other proceeding involving any City employee, other than the Grievant.

ACCEPTED AND AGREED TO:

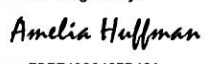
FOR THE FEDERATION:



Sherral Schmidt
President, Police Officer's Federation

Date: 3/29/2022 @ 1109

FOR THE CITY OF MINNEAPOLIS

DocuSigned by:


Amelia Huffman
Interim Chief of Police

Date: 3/28/2022