

Investigative Summary

Complaint Number: 19-00593
Investigator: Sergeant Anne Moryc
Officer(s): Ellen Jensen Badge #3276
Case Type: Administrative
Date of Incident: January 3, 2019
Complaint Filed: January 11, 2019

CASE OVERVIEW

On January 3, 2019 Officer Ellen Jensen and 13.43 - Personnel Data were assigned to marked squad 510 with Officer Jensen driving and 13.43 as the passenger. They were responding to assist other officers on a Property Damage Accident at 1908 Hennepin Ave S. (19-002749) when the squad car had an accident hitting a passenger vehicle, then a light pole at 22nd/Lyndale Ave S. The accident resulted in property damage and injuries. At issue is Officer Jensen's driving conduct.

ALLEGATIONS

Allegation: It is alleged Officer Jensen did not exercise due caution and due consideration for the safety of the public while operating a police vehicle, 7-403 Vehicles-Emergency Response.

CASE INVESTIGATION

Accident Review Committee Memo

This case was initiated after a referral from the MPD Accident Review Committee, which per MPD Policy and Procedure reviews all MPD involved motor vehicle crashes. The Accident Review Committee submitted a memo to the Internal Affairs Unit, which included a short summary of the incident, a finding that the accident was preventable, that there was a probable violation of MPD Policy and Procedure, and a recommendation of referral to IAU for investigation. The Accident Review Committee notes a possible violation of 7-403 VEHICLES – EMERGENCY RESPONSE for Officer Ellen Jensen. ¹

¹ Accident Review Committee Memo

Review of MPD CAPRS Report 19-002789

The PIMS general offense report 19-002789 was authored by Officer Charles Beise and was approved by Lt. Darah Westermeyer. It was titled SQAUDA. The report included supplements from Lt. Westermeyer, Sergeant Will, Sergeant Ryan Johnson, Sgt. Patrick Windus, Officer Maisano, Officer Rasmussen, Officer Jensen, 13.43 Officer Beise and Officer Truong. It listed the offense time as January 3, 2019 at 18:49 hours and location of 22th ST West and Lyndale Ave South. The police report detailed the squad accident and the factors surrounding it.

Review of Lt. Westermeyer's Supplement

Lt. Westermeyer did not witness the accident. Lt. Westermeyer reported that he assisted with traffic direction.²

Review of Sergeant Will's Supplement

Sergeant Will's regular assignment is a Sergeant in the Traffic Investigation Unit. Sergeant Will responded to the scene of Squad 510's accident, which per MPD Policy and Procedure a Traffic Investigation Squad and Supervisor should be sent to the accident scene. Once on scene, Sergeant Will spoke with Sergeant Ryan Johnson about the squad accident and was informed that Officer Jensen 13.43 - Personnel Data had been transported to Hennepin County Medical Center.³

Sergeant Will reported learning from Sergeant Ryan Johnson that squad 510 had been travelling northbound in the southbound lanes of Lyndale Ave S. As the squad approached 22nd ST West, a Lexus (MN 2CX518), in the left northbound lane, made a westbound (left) turn onto 22nd ST West. The Lexus was struck by squad 510 and pushed into Hum's Liquor Store located at the northwest corner of the intersection. After the squad hit the Lexus, it hit a utility pole.

Sergeant Will completed the accident report and took pictures of the scene. He noted the road surface was wet, but did not have standing water. He also observed a video from Hum's Liquor Store. Sergeant Will viewed the video and notes "Squad 510 attempting to drive around the congested traffic, NB on Lyndale Ave S in the SB lanes and the Lexus making the left turn. In the video, I can see the squad veering to the left in an attempt to avoid striking the Lexus."⁴

Review of Sgt. Ryan Johnson's Supplement

Sgt. Johnson reported that he made notifications. Sgt. Johnson did not witness the accident.⁵

² GO# 19-002789

³ GO# 19-002789

⁴ GO# 19-002789

⁵ GO# 19-002789

Review of Sgt. P. Windus' Supplements

Sgt. Windus responded to the accident scene after the accident. He advised in his supplement that he turned off the squad car's MVR saving it as a significant event. Using the BOSCH EDR/CDR tool, he imaged the RCM (Restraint Control Module).⁶

Sgt. Windus noted airbag deployment, vehicle locations as well as notifications to the watch commander and crime lab.

In Sgt. Windus' second supplement, he makes contact with Hum's Liquors, the owner/driver of the Lexus and releases a hold from the vehicle which had been towed to the impound lot. Sgt. Windus also noted that the driver (Mark Schmidt) of the Lexus was looking for hearing aids that belonged to a passenger in the Lexus. He requested the hold be removed to access the vehicle.⁷

Review of Officer Maisano's Supplement

Officer Maisano did not witness the accident, but did assist in boarding up the damaged business and traffic control.⁸

Review of Officer Rasmussen's Supplement

Officer Rasmussen advised that he canvassed the area for video and took photos inside the liquor store. Officer Rasmussen did not witness the accident.⁹

Review of Officer Ellen Jensen's Supplement and Statement to Internal Affairs

Officer Jensen stated in her report supplement for GO 19-002789 that she could hear "distressed screaming in the background" of what she knew to be an FTO car. She continues to note that they were travelling CODE 3 with lights and sirens activated. She stated that she observed brake lights from vehicles in northbound lanes of traffic and "these vehicles appeared to be stationary."¹⁰

Officer Jensen continued to describe the event as: "As I was driving NB as described in previous paragraph on the 2200 block of Lyndale, I observed a silver vehicle, later found to be MN2CX518, beginning to turn WB from the western most NB lane at 22 ST West. This was right into my path of travel to cross through the intersection. I hit my brake pedal and began to turn WB onto 22nd ST W. as I had observed no traffic on this street other than parked vehicles."¹¹

When asked if Officer Jensen thought that her speeds throughout the incident were safe she replied "Yes, Ma'am. I felt like I was in control of the vehicle."¹²

⁶ GO# 19-002789

⁷ GO# 19-002789

⁸ GO# 19-002789

⁹ GO# 19-002789

¹⁰ GO# 19-002789

¹¹ GO# 19-002789

¹² Officer Jensen Statement

Officer Jensen advised that she was aware of her surroundings and that she exercised due caution.¹³ When asked if in hindsight, would the accident have been preventable, Officer Jensen agreed that it could have been prevented if she used a lower speed.¹⁴

Review of 13.43 - Personnel Data Supplement and Statement to Internal Affairs

13.43 stated in his report supplement that they were driving Code 3 (emergency driving).¹⁵ 13.43 indicated in his report supplement that he "could see that there was not any traffic coming southbound on Lyndale Ave S. When we approached the intersection the first car in the west northbound lane turned westbound in front of us."¹⁶ 13.43 also stated that he could feel the squad car slowing down as it approached the intersection.

13.43 stated to the Internal Affairs investigator that he felt his partner (Officer Jensen) was in control of the vehicle.¹⁷

Review of Officer Beise's Supplement

Officer Beise did not witness the accident, but responded to assist. Upon arrival, he assisted by looking for witnesses.¹⁸

Officer Beise stated that he spoke to a witness, Kayla Quinn who advised that she witnessed the collision. Quinn was on the southwest corner of 22nd Ave South and Lyndale Ave South.¹⁹ Quinn reported that she saw lights and heard sirens from the squad. Quinn stated, "as the police squad moved to go around MN 2CX518, MN 2CX518 made a left turn in front of the police squad."²⁰

Review of Officer Truong's Supplement

Officer Truong did not witness the accident, but responded to assist. Upon arrival, he assisted by looking for witnesses.²¹ Officer Truong stated that he spoke to a witness, Erica Trangren, who advised that she witnessed the collision from 708 22 ST West, Caffetto.²²

Trangren reported that she saw lights and heard sirens from the squad. Trangren stated that she saw the police squad northbound on Lyndale Ave South. Trangren advised Officer Truong that MN 2CX518 was westbound on 22nd ST West towards Lyndale Ave South and turned right (directly) onto Lyndale Ave South in front to the squad car.²³

¹³ Officer Jensen Statement

¹⁴ Officer Jensen Statement

¹⁵ GO #19-002789

¹⁶ GO #19-002789

¹⁷ 13.43 Statement

¹⁸ GO #19-002789

¹⁹ GO #19-002789

²⁰ GO #19-002789

²¹ GO #19-002789

²² GO #19-002789

²³ GO #19-002789

Review of Minnesota State Accident Report 19-002789

Sergeant Will completed the Minnesota State Accident Report. In this report, it is documented that the road surface at the intersection of 22nd ST W and Lyndale Ave S was wet and lit by street lights. The narrative noted the squad was travelling northbound in the southbound lanes. The Lexus involved was in the left-hand land of Northbound Lyndale Ave S and made a left turn to westbound 22nd ST W. The squad struck the vehicle which pushed in into the side of a building on the northwest corner of the intersection. The squad then struck a utility pole on the northwest corner of the intersection.²⁴

Review of Crash Data Retrieval (CDR)

The Crash Data Retrieval system is the “black box of a vehicle.” Its purpose is to collect data after a recorded event, most often a crash. A complete file was recorded from P#76854 (Squad 510) of the squad accident on 01/03/2019. Officer Windus, who is an Event Data Recorder/Crash Data Recorder Technician and Analyst, imaged the recorder on 01/13/2019.²⁵

The analysis for Squad 510, P#76854 is as follows:

SPEED DATA COLLECTED FROM EDR/CDR:

DATA INDICATES THAT 5 SECONDS BEFORE AIR-BAG DEPLOYMNET – VEHICLE WAS TRAVELLING AT 67.90MPH, ACCELERATOR PEDAL AT 0.0% OF FULL, ZERO BRAKING AND ENGINE RPM AT 2,252²⁶

Pre-Crash Data -5 to 0 sec

| Time (sec) | Speed, Vehicle Indicated (MPH [km/h]) | Speed, Vehicle Indicated, Quality Factor | Accelerator Pedal, % Full | Accelerator Pedal, % Full, Quality Factor | Service Brake, On/Off | Service brake, Quality Factor | Engine RPM | ABS Activity (Engaged, Non-Engaged) |
|------------|---------------------------------------|------------------------------------------|---------------------------|-------------------------------------------|-----------------------|-------------------------------|------------|-------------------------------------|
| - 5.0 | 67.9 [109] | OK | 0.0 | OK | Off | OK | 2,252 | Non-engaged |
| - 4.5 | 67.2 [108] | OK | 0.0 | OK | On | OK | 2,230 | Non-engaged |
| - 4.0 | 66.3 [107] | OK | 0.0 | OK | On | OK | 2,204 | Non-engaged |
| - 3.5 | 40.6 [65] | OK | 0.0 | OK | On | OK | 2,166 | Non-engaged |
| - 3.0 | 36.0 [58] | OK | 0.0 | OK | Off | OK | 2,138 | Non-engaged |
| - 2.5 | 33.4 [54] | OK | 0.0 | OK | Off | OK | 2,116 | Non-engaged |
| - 2.0 | 30.8 [50] | OK | 0.0 | OK | On | OK | 2,024 | Non-engaged |
| - 1.5 | 29.7 [48] | OK | 0.0 | OK | On | OK | 1,534 | Engaged |
| - 1.0 | 21.7 [35] | OK | 0.0 | OK | On | OK | 1,376 | Engaged |
| - 0.5 | 22.6 [36] | OK | 0.0 | OK | On | OK | 1,334 | Engaged |
| 0.0 | 20.8 [33] | OK | 0.0 | OK | On | OK | 1,502 | Engaged |

DISCUSSION

²⁴ Accident Report

²⁵ Go #19-002789

²⁶ Crash Data Retrieval

The allegation deals with Vehicle Emergency Response.

7-403 VEHICLES-EMERGENCY RESPONSE

Only police vehicles with lights and sirens are authorized for emergency response. All MPD officers shall use red lights and sirens in a continuous manner for any emergency driving. Officers responding to a Code 3 emergency shall exercise caution and due consideration for the safety of the public. Although Minn. Stat. §169.03 and 169.17 exempts officers from traffic statutes, the use of red lights and siren does not exempt officers from the need for caution nor does it exempt them from criminal or civil liability. Officers driving low profile, unmarked, motorcycles, or other MPD vehicles should be particularly aware of the less visible nature of the emergency equipment in/on the vehicle and should use extra caution.

Officers are advised that circumventing light rail intersection crossing arms is a very dangerous practice. Officers going around the light rail crossing arms when they are down causes the light rail train operator to emergency brake the light rail car. When the light rail car is emergency braked, it causes passengers to be ejected from their seats and thrown to the floor, which could cause serious injury or death. Due to these risks, officers are prohibited from going around the light rail crossing arms when they are down at an intersection.

The MPD Policy and Procedure Emergency Driving definition states Emergency driving occurs whenever an officer intentionally drives in excess of the speed limit or in violation of any traffic control device. Emergency driving is authorized only when reasonably necessary in the performance of official duties. The squad accident occurred on a residential street, with a speed limit of 30 MPH.²⁷ When Emergency Driving an officer has to intentionally drive in excess of the speed limit. Officer Jensen exceeded 30 MPH.²⁸

Officer Jensen stated in her statement to Internal Affairs that she was using due caution and was emergency driving. Officer Jensen advised that the squad incident that they were responding to was an FTO (Field Training Officer) car which asked for assistance. Officer Jensen stated that she could hear "sounds of distress and yelling in the background."²⁹ Officer Jensen also stated they had been on scene with the vehicle requesting assistance earlier and the suspect from that incident did not want police to respond.³⁰ Officer Jensen felt there was an urgency to respond.³¹

Officer Jensen stated that the roads were illuminated by street and holiday lights and the road conditions were fine. She also stated that they had not encountered ice that day.³²

²⁷ Accident Report

²⁸ Crash Data Retrieval

²⁹ Officer Jensen Statement

³⁰ Officer Jensen Statement

³¹ Officer Jensen Statement

³² Officer Jensen Statement

13.43 stated that he heard "loud screaming in the background (from the radio)...which sounded like they were possibly in a physical altercation..." 13.43 further said that he was concerned the suspect had returned to the call.³³

13.43 advised that he felt his partner used a safe speed during the call considering the incident in which they were going. 13.43 advised he used the spotlight en route to the call and felt that no policies were violated during this event.

The overwhelming majority of vehicles yielded to the squad's lights and siren during the response to the call. MN 2CX518 was stopped at the intersection, with its left turn signal activated. The other vehicles in the intersection all stopped as well and most pulled to the curb indicating that they were yielding to the emergency vehicle. A passenger of MN 2CX518 had hearing aids, which could imply that the siren may not have been heard, by one or more of its occupants.³⁴

The speed limit is 30 MPH. Officer Jensen was travelling at 67.9 MPH at 5 seconds prior to the crash and 20.8 MPH at impact.³⁵

CLOSING

When making a determination on the allegations, there are two key issues to consider:

1. Whether Officer Jensen was engaged in emergency driving.

- Officer Jensen believed that she was in control of the vehicle while responding.³⁶
- Officer Jensen and 13.43 both stated that they were emergency driving.³⁷
- The squads lights and siren were continually activated.
- Emergency Driving occurs whenever an officer intentionally drives in excess of the speed limit or in violation of any traffic control device.

³³ 13.43 Statement

³⁴ GO #19-002789

³⁵ Crash Data Retrieval

³⁶ Officer Jensen Statement

³⁷ Officer Jensen Statement/ 13.43 Statement

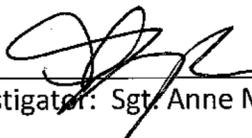
- Pre-Crash Data of Speeds:

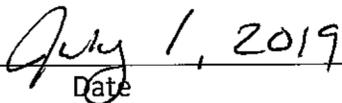
| Time (sec) | Speed, Vehicle Indicated (MPH [km/h]) |
|------------|---------------------------------------|
| - 5.0 | 67.9 [109] |
| - 4.5 | 67.2 [108] |
| - 4.0 | 66.3 [107] |
| - 3.5 | 40.6 [65] |
| - 3.0 | 36.0 [58] |
| - 2.5 | 33.4 [54] |
| - 2.0 | 30.8 [50] |
| - 1.5 | 29.7 [48] |
| - 1.0 | 21.7 [35] |
| - 0.5 | 22.6 [36] |
| 0.0 | 20.8 [33] |

2. Whether Officer Jensen exercised caution and due consideration for the safety of the public while operating a police vehicle.

- Officer Jensen stated she was exercising caution and due consideration for the safety of the public.
- **13.43** stated that Officer Jensen was exercising caution and due consideration for the safety of the public.³⁸
- Most vehicles on the roadway yielded to the squad car as it drove in Code 3 response.
- At least one of the occupants of the Lexus wore hearing aids.
- MN 2CX518 was stopped (brake lights activated) like the other vehicles which had yielded to the squad car. It did have its left turn signal activated.
- Officer Jensen considered driving northbound in the southbound lane and traffic when she chose her route of response.
- Posted speed limits at the accident location are 30 MPH

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


Investigator: Sgt. Anne Moryc


Date

NOTICE OF DISCIPLINE

June 18, 2020

Officer Ellen Jensen
Precinct 3 Middlewatch
Minneapolis Police Department

RE: OPCR Case 19-00593
Notice of Suspension (20 hours suspension without pay)

Officer Jensen,

The finding for OPCR Case #19-00593 is as follows:

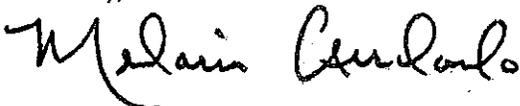
| <u>Policy Number</u> | <u>Sub-Section</u> | <u>Policy Description</u> | <u>Category</u> | <u>Disposition</u> |
|----------------------|--------------------|------------------------------|-----------------|--------------------|
| 7-403 | | Vehicle – Emergency Response | B | Merit |

As discipline for this incident you are suspended for 20 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,



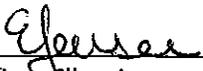
Medaria Arradondo
Chief of Police

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

NOTICE OF RECEIPT

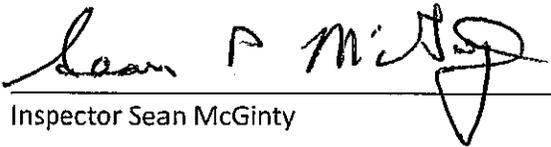
Acknowledgement of receipt:

I, Ellen Jensen, acknowledge that I have received my Notice of Discipline for OPCR Case #19-00593.



Officer Ellen Jensen

6/25/2020
Date of Receipt



Inspector Sean McGinty

6/25/2020
Date

CC: OPCR Case File
Inspector McGinty
Payroll
Human Resources