

## INVESTIGATIVE REPORT

**Complaint Number:** 17-18625

**Investigator:** Stephen J McKean

**Officer (s):** Luke Eckert  
Joshua Domek

**Case Type:** Administrative Investigation

**Date of Incident:** October 05, 2017

**Complaint Filed:** October 10, 2017

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### **CASE OVERVIEW**

On May 30, 2016, at about 03:40 hours, officers from the 3<sup>rd</sup> Precinct responded to a domestic assault/abuse call at 2929 Chicago Ave S. Former Officer Christopher Reiter, Officers Luke Eckert, Joshua Domek, and Ryan Carrero were among the officers who were assigned to respond to this call. Mohamed Osman was arrested in that incident for assaulting a woman with whom he had a relationship. During the arrest, Officer Domek and former Officer Reiter used force upon Mr. Osman. Because of his actions and the type of force used, former Officer Reiter was later charged, tried, and convicted of assault against Mr. Osman.

During opening statements in the trial of former Officer Reiter, the defense counsel, Robert Fowler, alleged that the woman who was assaulted told Mr. Reiter that Mr. Osman carried a knife. Mr. Fowler called Officer Eckert as a defense witness. Mr. Fowler introduced evidence, in the form of testimony from Officer Eckert, alleging that Mr. Osman possessed a knife at the time of his arrest to justify the force used by Christopher Reiter. Officer Eckert testified that he searched Mr. Osman incident to the arrest and retrieved a knife from his trousers pocket.

This investigation was opened due to Officer Eckert's trial testimony since no knife was property inventoried in the CAPRS report created to document the domestic abuse incident. None of the officers present during this incident, including Officer Eckert, documented the presence or alleged presence of a knife in their supplemental reports. During a related OPCR Administrative Investigation into the use of force by Christopher Reiter and Officer Domek, each of the officers present denied any suggestion that Mr. Osman possessed a knife or any other weapon.

## **POLICY**

1. MPD Policy & Procedure Manual § 5-101.01 TRUTHFULNESS (01/26/05) (11/15/13)
2. MPD Policy & Procedure Manual § 10-401 RESPONSIBILITY FOR INVENTORY OF PROPERTY AND EVIDENCE (12/14/07)
3. MPD Policy & Procedure Manual § 10-401.1 PROPERTY AND EVIDENCE ACQUIRED OR TEMPORARILY STORED AT PRECINCTS (12/14/07)
4. MPD Policy & Procedure Manual § 4-602 REPORT WRITING (07/26/02) (08/01/08)

## **ALLEGATIONS**

**Allegation 1:** On October 5, 2017, Officer Eckert testified in court during the trial of former police officer Christopher Reiter. It is alleged that Officer Eckert offered testimony to actions and events occurring on 05/30/2016, that were contrary to statements he previously offered during an internal administrative investigation of former officer Reiter.

**Allegation 2:** Officer Eckert testified in court that he discovered a knife in the possession of an arrested person and that he immediately handed the knife over to Officer Joshua Domek. Officer Domek then placed that item of property on the roof of the arrestee's automobile. Officers are responsible for ensuring all items obtained as a result of a felony arrest, whether evidentiary or non-evidentiary, are inventoried in the Property and Evidence Unit prior to the end of their shift. It is alleged that Officer Eckert and Officer Domek each failed to ensure that this was accomplished.

**Allegation 3:** Per policy, all principal and relevant information available to an officer at the time of his/her report shall be included in that report. It is alleged that Officer Eckert failed to document in his CAPRS report the finding of this property, surrendering the property to Officer Domek, and the identity or description of said property. There is no record of a knife or any other property having been found on the arrestee, inventoried, and/or placed into the Property and Evidence Unit by either Officer Eckert or Officer Domek.

## **CASE INVESTIGATION**

This investigation was opened on October 17, 2017, as an "Inquiry", following the jury trial of former Officer Christopher Reiter. Mr. Reiter was convicted of Assault – 3<sup>rd</sup> Degree – Substantial Bodily Harm<sup>1</sup> for kicking Mohamed Osman in the face as Mr. Osman was being taken into custody.<sup>2</sup> During the trial, Mr. Reiter offered, as his justification for the use of force, that Mr. Osman was in possession of a knife at the time he was being arrested. Substantial debate alleging the existence of a knife came during the testimony by Officer Luke Eckert.<sup>3</sup> Additional testimony regarding a knife allegedly possessed by Mr. Osman came from former Officer Reiter, himself. Their testimony appeared to be contrary to their own previous statements and reports about this incident.<sup>4</sup>

Mr. Osman was rendered momentarily unconscious by the force used against him while he was being arrested following a domestic assault against his female companion. He was taken to Hennepin County Medical Center for medical treatment. Following Mr. Osman's arrest, internal (OPCR) and criminal investigations were conducted to examine the force used by former Officer Reiter and Officer Joshua

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<sup>1</sup> Register of Actions, Case No. 27-CR-17-6475

<sup>2</sup> MPD CAPRS Case Report CCN #16-193282

<sup>3</sup> Transcript of testimony of Officer Luke Eckert

<sup>4</sup> Transcribed Statement of Officer Luke Eckert (IAU Case #16-10025); Transcribed Statement of Officer Christopher Reiter (IAU Case #16-10025); MPD CAPRS Case Report CCN #16-193282, Supplement 2 and 4

Domek. Each of the officers at the scene where the arrest occurred were interviewed by Sgt. Matt McLean (IAU) during the internal investigation. Each officer was asked specifically if they had any knowledge that Mr. Osman possessed any weapons at the time of his arrest. Each officer interviewed, including Officers Eckert and Reiter, replied that they had no knowledge of any weapons in his possession.

Officer Eckert was the first officer designated as a focus of this investigation. To understand his testimony and to make any comparison to his previous statement and to his supplement report, a transcript of his testimony was required. Once the transcript was received from the court reporter, it was forwarded by Commander Chiodo of the Internal Affairs Unit to the Case Investigator on November 7, 2017. The remainder of the transcript was still being prepared by the court reporter and was not received by the Case Investigator until January 12, 2018.

The CAPRS report<sup>5</sup> and all supplement reports for the incident involving the arrest of Mr. Osman were collected, along with the supervisor's force review. All officer statements made during the internal administrative investigation of Officers Reiter and Domek were also obtained and reviewed.<sup>6</sup> The surveillance video from 2929 Chicago Ave S, which was referred to extensively during the internal administrative investigation and jury trial, was obtained. Each of these documents and the video were reviewed and compared to one another.

During the jury trial, Mr. Reiter's defense attorney, Robert Fowler, focused upon a specific portion of the surveillance video while questioning Officer Eckert. This section of video depicts the scene after the use of force by Officers Reiter and Domek and the arrest of Mr. Osman was completed. Mr. Osman is on the ground, handcuffed, and Officer Eckert appears to conduct a search of Mr. Osman. Officer Eckert appears to take something out of Mr. Osman's right side trousers pocket and hand that object over to Officer Domek. Officer Domek then placed that object on the roof of Mr. Osman's automobile. The object in question can be seen on the roof of the vehicle; however, due to the size of the object and the distance from the camera, that item cannot be identified in the video. No one handled that item again from that point to the end of the recording. In response to Mr. Fowler's questions, Officer Eckert testified that the object he removed from Mr. Osman's pocket and handed to Officer Domek was a knife. Officer Domek was not called as a witness during Mr. Reiter's trial.

Mr. Mohamed Osman was interviewed in the Civil Rights Department pursuant to this investigation on December 13, 2017. At the time of his interview, he was accompanied by his attorney, Carson J. Heefner.

Officer Ryan Carrero was interviewed in the Civil Rights Department pursuant to this investigation on March 12, 2018. Officer Joshua Domek was interviewed in the Civil Rights Department pursuant to this investigation on March 13, 2018. Officer Luke Eckert was interviewed in the Civil Rights Department pursuant to this investigation on March 14, 2018. Each officer was represented by Lt. Bob Kroll, Minneapolis Police Federation.

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<sup>5</sup> MPD CAPRS Case Report CCN #16-193282

<sup>6</sup> OPCR File #16-10025

## **DISCUSSION**

### ***Allegation 1:***

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

#### **5-101.01 TRUTHFULNESS (01/26/05) (11/15/13)**

The integrity of police service is based on truthfulness. Officers shall not willfully or knowingly make an untruthful statement, verbally or written, or knowingly omit pertinent information pertaining to his/her official duty as a Minneapolis Police Officer.

MPD employees shall not willfully or knowingly make an untruthful statement or knowingly omit pertinent information in the presence of any supervisor, intended for the information of any supervisor, or before any court or hearing. Officers shall not make any false statements to justify a criminal or traffic charge or seek to unlawfully influence the outcome of any investigation. (12/14/07)

These requirements apply to any report, whether verbal or written, concerning official MPD business including, but not limited to, written reports, transmissions to MECC and officers via radio, telephone, pager, e-mail or MDC.

MPD employees are obligated under this policy to respond fully and truthfully to questions about any action taken that relates to the employee's employment or position regardless of whether such information is requested during a formal investigation or during the daily course of business. (12/14/07)

On May 30, 2016, at approximately 04:30 hours, Officer Domek and Officer Eckert were assigned to respond to 2929 Chicago Ave S., on a "Domestic Abuse In Progress" call.<sup>7</sup> The two officers were working together on that date, assigned to Squad 311, and assigned to assist Squad 313, Officer Christopher Reiter. This incident is documented in CAPRS Case Report CCN 16-193282.

#### **Officer Luke Eckert:**

Officer Eckert completed a supplement report to the above referenced CAPRS report<sup>8</sup> to document and discuss his actions and observations during this incident. The following is an excerpt copied from his report which pertains to his interaction with Mr. Osman. This is the complete text from Officer Eckert regarding his involvement with Mr. Osman:

*"...As I got outside, I observed the vehicle stopped near a crosswalk with a squad behind it. I observed OSMAN to be the driver, matching the suspect I observed on AHMED's cell phone.*

*I drew my service weapon and took cover behind a light post near the vehicle and gave loud verbal commands for OSMAN to exit the vehicle. At this time several Officers were on scene to assist. OSMAN exited the driver side of the vehicle and assisting Officer's took him into custody.*

*OSMAN required medical attention and EMS was called to the scene. My partner rode with OSMAN to Hennepin County Medical Center in an ambulance.*

*I identified all security personnel for the Midtown Exchange building before going to the hospital to meet my partner.*

***END of Supplement 2"***<sup>9</sup>

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<sup>7</sup> VisiNet Incident Detail Report #16-193282

<sup>8</sup> MPD CAPRS Case Report CCN #16-193282, Supplement number 2

<sup>9</sup> Ibid., Supplement number 2, Line 3 of Paragraph 4 through the end of supplement 2

Officer Eckert was called as a witness in the administrative investigation focused on the force used by Officers Reiter and Domek during Mr. Osman's arrest. He appeared for an interview with Sgt. Matt McLean on June 6, 2016, seven (7) days following the incident. Prior to being questioned by Sgt. McLean, Officer Eckert signed a Data Practices Advisory (Tennessee Warning), which was witnessed by Lt. Bob Kroll.<sup>10</sup> Sgt. McLean also read a Garrity Warning to Officer Eckert before questioning, ordering Officer Eckert to give a complete and truthful statement.<sup>11</sup>

Early in the interview, Sgt. McLean questioned Officer Eckert about the presence of or discussions about the presence of any type of weaponry. These are the questions asked and answers provided on this topic:

*“Q: OK. Did you talk to Officer Reiter about what he found out about the call?”*

*A: Uh, not directly just what he had aired over the radio.*

*Q: All right. Did the female or was there any, um, mention of any weapons either that you got from the female, from Officer Domek, from Officer Reiter, or ... ?*

*A: Not that I recall, sir.*

*Q: OK. So, there was no mention of any weapons?*

*A: No, sir.”<sup>12</sup>*

Sgt. McLean did not ask any additional questions concerning the presence of weapons related to the arrest of Mr. Osman. He did, however, ask the following questions:

*“Q: OK. Is there, uh, any ... are there any facts concerning this incident that you have knowledge of, but you haven't disclosed?”*

*A: No, sir.*

*Q: Is there anything else you would like to add to this statement that I haven't asked you concerning this incident?”*

*A: No, sir.”<sup>13</sup>*

On October 5, 2017, Officer Eckert was called as a defense witness in the jury trial of former Officer Reiter.<sup>14</sup> He was questioned by Mr. Reiter's attorney, Robert Fowler. Officer Eckert described the incident from his arrival through the use of force against Mr. Osman. Mr. Fowler focused several questions around a surveillance video that captured the incident and asked Officer Eckert to identify certain officers who were visible in the video and to describe their actions.<sup>15</sup>

Once Mr. Fowler was through asking questions about Mr. Osman's arrest, he asked Officer Eckert about officer safety precautions prior to transporting suspects.<sup>16</sup> The direct examination of Officer Eckert continued with a query about a pat search or search incident to the arrest. Mr. Fowler then directed the court to play the segment of the surveillance video, which was described earlier in this report.<sup>17</sup>

Officer Eckert testified that he located a knife in the right front pants pocket of Mr. Osman. During direct examination, however, Officer Eckert could not describe the knife nor could he say if it was a fixed blade

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<sup>10</sup> Transcribed Statement of Officer Luke Eckert (IAU Case #16-10025), Page 2

<sup>11</sup> Ibid., Page 1, Lines 20 through 42

<sup>12</sup> Ibid., Page 3, Lines 11 through 19

<sup>13</sup> Ibid., Page 15, Line 40 through Page 16, Line 4

<sup>14</sup> Transcript of Proceedings, Fourth Judicial District File 27-CR-16-6475, Volume III, Page 295 - 334

<sup>15</sup> Ibid., Pages 295 - 302

<sup>16</sup> Ibid., Page 302, Line 19

<sup>17</sup> Ibid., Page 303, Line 2

or folding knife.<sup>18</sup> He was then asked to whom he gave the knife and he replied that he handed it to Officer Domek, who placed it on the roof of Mr. Osman's car. He was also asked if he knew if Officer Domek ever documented the knife in his reports and he said he did not know that.

Mr. Fowler asked Officer Eckert if he could "explain for the jury what chain of custody is". Officer Eckert replied:

*"Yes. Chain of custody is basically whoever was in last possession of a piece of evidence documents said evidence."*<sup>19</sup>

\*See footnote <sup>20</sup>

Mr. Fowler asked Officer Eckert if he, himself, documented that he searched Mr. Osman and he said he did not. When asked to explain why, Officer Eckert stated:

*"I responded to this call as an assisting officer. During the search incident to arrest, I had no knowledge that the suspect was possibly armed with a knife or any weapon for that matter, and I had no knowledge that said knife had any evidentiary value to the case."*<sup>21</sup>

Mr. Fowler inquired as to whether Officer Eckert had seen the surveillance video to its conclusion prior to any of his other opportunities to provide statements on this incident. Officer Eckert said that the interviewers had just focused on the use of force portion. He had not previously been asked about searching Mr. Osman incident to arrest.<sup>22</sup> It was after seeing that portion of the video during a meeting with a private investigator hired by Mr. Fowler that he recalled conducting the search and finding the knife in his pocket.

During cross examination by the prosecuting attorney, Daniel Allard, Assistant Hennepin County Attorney, Officer Eckert confirmed that there had been no information issued about Mr. Osman being armed prior to their engagement with him.<sup>23</sup>

Also at issue during cross examination by Mr. Allard was the lack of documentation in any report, supplemental report, or prior statement suggesting that Mr. Osman possessed a knife at the time of his arrest. Officer Eckert stated that he had no information prior to the search that Mr. Osman had a knife. Mr. Allard asked if he deemed this important enough to put in his report. Officer Eckert replied:

*"Based on the fact that I didn't document it, I obviously didn't."*<sup>24</sup>

Officer Domek was questioned at length, by both the defense counsel and the Assistant County Attorney about the knife and why it was not documented in any report. Officer Eckert consistently stated that the object he retrieved from Mr. Osman's pocket was a knife. Mr. Fowler asked:

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<sup>18</sup> Ibid., Page 304, Lines 1-4

<sup>19</sup> Ibid. Page 305, Lines 2-4

<sup>20</sup> The MPD Policy and Procedure Manual does not define "Chain of Custody"; however, Wikipedia, the Free Encyclopedia, offers a definition, pertaining to the handling of evidence: ([https://en.wikipedia.org/wiki/Chain\\_of\\_custody](https://en.wikipedia.org/wiki/Chain_of_custody)) "**Chain of custody (CoC)**, in legal contexts, refers to the chronological documentation or [paper trail](#) that records the sequence of custody, control, transfer, analysis, and disposition of physical or electronic [evidence](#)..."

*"The chain of custody requires that from the moment the evidence is collected, every transfer of evidence from person to person be documented and that it be provable that nobody else could have accessed that evidence. It is best to keep the number of transfers as low as possible."*

<sup>21</sup> Transcript of Proceedings, Fourth Judicial District File 27-CR-16-6475, Volume III, Page 305, Lines 17-22

<sup>22</sup> Ibid., Pages 306 - 307

<sup>23</sup> Ibid., Page 310

<sup>24</sup> Ibid., Page 317, Line 8

*“Q: Are you changing your story to try to help Officer Reiter?”*

*A: No.”*<sup>25</sup>

Officer Eckert provided a statement to the Office of Police Conduct Review on March 14, 2018. He was represented by Lt. Robert Kroll, Minneapolis Police Federation.

Officer Eckert confirmed that he responded to 2929 Chicago Ave S on May 30, 2016, to assist a domestic violence call. He also confirmed that he completed a supplement to the CAPRS report that documented that incident.<sup>26</sup>

Officer Eckert was asked to describe what occurred when he searched Mr. Osman:

*“After, um, the force was used and Mr. Osman was taken into custody, um, he was knocked unconscious, EMS was called to the scene, um, I conducted a search, um, on Mr. Osman prior to the ambulance arrival. Um, and during that search I located a pocket knife in his right front pocket.”*<sup>27</sup>

*“I immediately handed it to Officer Domek, my partner, and then he immediately put it on top of the suspect’s vehicle that he had arrived in.”*<sup>28</sup>

Officer Eckert was questioned about his responses to questions posed by Sgt. McLean during the administrative investigation into the use of force. In that interview, Officer Eckert was asked if there was any mention of any weapons during that incident and he replied, “No, sir.” The question posed to Officer Eckert in this interview was why he didn’t mention to Sgt. McLean that he found a knife on Mr. Osman when he searched him incident to the arrest. Officer Eckert replied:

*“The, the fact that the knife is discovered after Mr. Osman is knocked unconscious on the pavement in handcuffs. It’s pretty clear that the knife has no relevance to the use of force. Whether Reiter says it is or it isn’t, if, if he, if a lady, if the victim says, “Be careful. He has a knife.” and then I run outside and use deadly force based on that and I’m justifying my deadly force based on the fact that, you know, his whole defense is he, this guy’s armed with a knife, he’s engaging officers with a knife, and then he doesn’t document it or, you know, involve that with his use of force with a supervisor on scene, doesn’t mention anything about it. I mean, that clearly shows the irrelevance of the, of the knife.*

*So, if I document, you know, “It should be noted this guy has a knife.” And Chris doesn’t say anything about it, am I still in, you know, why did you document that he had a knife if there’s no relevance to it ‘cause there’s no relevance to it. I mean, how, how are you gonna let another officer justify why you used deadly force. That should have been his number one priority goin’ out there. If he just kicked somebody because he thought he was engaging us with a knife, his partner knocks ‘em unconscious. There’s four of us out there. We can’t all render aid to the, Mr. Osman. That should have been his priority not to mention, you know, at least mention it to the, ah, on-duty supervisor he has to do a force review with let alone document it in his report. He never says a thing about it. This is an excuse that was, became an issue, you know, but only a few days before the trial. Somethin’ to throw at the wall to try and, you know, persuade a jury which clearly didn’t work and they made the correct decision. It’s, it’s not a relevant factor for his actions and stupidity. It’s. He doesn’t take responsibility for it as simple as that. The knife has no relevance.”*<sup>29</sup>

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<sup>25</sup> Ibid., 325, Lines 19-21

<sup>26</sup> MPD CAPRS Case Report CCN #16-193282, Page 8, Supplement number 2

<sup>27</sup> Transcribed Statement of Officer Luke Eckert (OPCR File 17-18625) Page 2, Lines 53-55

<sup>28</sup> Ibid., Page 3, Lines 21-22

<sup>29</sup> Ibid., Page 5, Line 42 to Page 6, Line 7

Officer Eckert was asked when the presence of a knife became an issue in the criminal case against former Officer Reiter. Officer Eckert stated it wasn't until his second meeting with Reiter's attorney and private investigator. He said he was then asked specifically if Mr. Osman had a knife. That was when he saw the entire video, which included officers' actions post use of force.

*"And obviously in the IA. I, the initial Internal Affairs, um, statement, I wasn't shown the entire, um, video, either, 'cause the question at hand was the use of force, so I watched the use of force portion of it and that was it."*<sup>30</sup>

Officer Eckert stated that his interpretation of questions posed to him during prior interviews about his knowledge of any weapons being present pertained to the scope of the use of force and the crimes committed by Mr. Osman. He added that the knife was not an element of the initial domestic assault or the use of force used by Christopher Reiter.<sup>31</sup>

Officer Eckert was questioned whether he was asked to lie in court about the existence of a knife. Officer Eckert replied, "No, sir." He was next asked if he did lie in court about the existence of a knife. He, again, replied, "No, sir."<sup>32</sup>

**Mohamed Abdi Osman:**

Mr. Osman was interviewed by Sgt. Matt McLean on June 2, 2016. There were no questions directed to Mr. Osman at that time about whether or not he possessed any weapons at the time of his arrest.

Mr. Osman was called to testify in the trial of former Officer Reiter on October 3, 2017. Assistant Hennepin County Attorney Allard questioned Mr. Osman about objects he had in his pockets at the time of his arrest. Mr. Osman's responses to the questions were stated through a Somali interpreter:

*Q: Do you recall what, if any, items you had in your pocket at the time that this incident occurred?*

*A: I did have my wallet.*

*Q: Any knife?*

*A: No. If – if I have a – what do you call, a knife, the police would saw it and it will include that I have in the police report."*<sup>33</sup>

During cross examination by Mr. Fowler, Mr. Osman was asked some additional questions about property he had in his possession:

*Q: You said that on the night of May 30<sup>th</sup>, 2016, you only had one item in your pocket?*

*A: Yes. I'm only aware of it having my driver's license and my wallet.*

*Q: Okay. When you were taken to the hospital, did you still have your wallet?*

*A: Nope. I didn't have any of it. I received after four days."*<sup>34</sup>

Mr. Fowler then began making a comparison between the shape of a knife and the shape of Mr. Osman's wallet, which he was asked to produce in court. Mr. Fowler then gave Mr. Osman his wallet back and said, "...So you claim that you did not have a knife on you on the night of May 30<sup>th</sup>, 2016?"<sup>35</sup>

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<sup>30</sup> Ibid., Page 6, Lines 38-40

<sup>31</sup> Ibid., Page 7, Lines 4-18

<sup>32</sup> Ibid., Page 8, Lines 4 and 7

<sup>33</sup> Transcript from jury trial of former officer Christopher Reiter; Vol I, (Case No. 27-CR-17-6475) Page 36, Lines 14-20

<sup>34</sup> Ibid., Page 40, Line 23 to Page 41, Line 5

<sup>35</sup> Ibid., Page 42, Line 10-12

Mr. Osman answered:

*“So, it would have been included on the police report...When police officers stop you, they search you, they ask for identification. If I had the knife in my possession, it would have been included in the police report. I’m the victim here. It has been quite some time. Why now? Why raise the question now?”*<sup>36</sup>

Assistant Hennepin County Attorney Allard asked one final question of Mr. Osman during redirect examination:

*“Q: Final question. At any point that night did you have a knife?”*

*A: No.”*<sup>37</sup>

Mr. Osman provided a statement to the Office of Police Conduct Review on December 13, 2017. He was accompanied by his personal attorney, Carson Heefner. During this interview, Mr. Osman stated that he only had a wallet in his possession at the time he was arrested.<sup>38</sup> He said that he spent four days in the hospital before being transferred to Hennepin County Jail. When he was released from jail, he was given back his wallet. Mr. Osman also said that he was given a property receipt, as well.<sup>39</sup>

At the conclusion of the interview, the Case Investigator discussed with Mr. Heefner obtaining a copy of the property receipt which Mr. Osman said he received upon his release from jail, which listed property returned to him. Mr. Osman said he did not currently have a copy of that document. Hennepin County Jail administration requires a release form signed by an arrested person to obtain copies of their jail records. Mr. Heefner was sent an email with a copy of the required release form attached, asking him to obtain Mr. Osman’s signature on the document so Office of Police Conduct Review could obtain those records, thus documenting the property returned to Mr. Osman.

Follow up emails were directed to Mr. Heefner on December 19, 2017, inquiring if Mr. Osman had signed the document. Mr. Heefner wrote back that he was still trying to contact Mr. Osman about this matter. A third follow up email was sent to Mr. Heefner on January 10, 2018 inquiring about the release form. No reply from Mr. Heefner was received regarding this inquiry. A signed release form was never received from Mr. Osman. No documentation is available to verify what property was returned to Mr. Osman upon his release from custody.

**Officer Ryan Carrero:**

Officer Ryan Carrero had also responded to 2929 Chicago Ave S to assist. He completed a supplemental report<sup>40</sup> to the CAPRS report which documents the incident. Officer Carrero wrote in his report that he located the vehicle driven by Mr. Osman and he relayed that information to the other squads on the call. Officer Carrero wrote the following description of events after notifying other officers that he located Mr. Osman:

*“Assisting officers immediately ran outside from 2929 Chicago Av S. and I immediately exited my vehicle to assist in apprehending the driver of the vehicle. The driver was apprehended and ID'd by MN DL as AP1/OSMAN. AP1/OSMAN's vehicle was blocking a crosswalk and illegally parked in the street facing southbound on the 2900 block of 10th Av S. AP1's vehicle was towed to Minneapolis Impound lot.*

*END of Supplement 1”*<sup>41</sup>

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<sup>36</sup> Ibid., Page 42, Line 15-21

<sup>37</sup> Ibid., Page 51, Lines 8-10

<sup>38</sup> Transcript of OPCR interview, Mohamed Osman, Page 2, Line 8

<sup>39</sup> Ibid., Page 5

<sup>40</sup> MPD CAPRS Case Report CCN #16-193282, Page 7, Supplement number 1

<sup>41</sup> Ibid., final paragraph

## 13.43 - Personnel Data

Officer Carrero was called to testify in former Officer Reiter's trial on October 4, 2017. Mr. Allard asked Officer Carrero, at any point in time, did he see Mr. Osman with a weapon and Officer Carrero replied that he did not. Mr. Allard also asked, "Did you ever see him with a knife?" Officer Carrero replied, "No."

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## 13.43 - Personnel Data

### Officer Joshua Domek:

Officer Domek completed a supplement report to CAPRS CCN #16-193282, as well (Supplement number 3). There are no allegations made in his report that Mr. Osman possessed any weapon at any time during this incident or during his arrest.

Officer Domek provided a statement on June 6, 2016, to Sgt. Matt McLean in the administrative investigation into the force used during Mr. Osman's arrest. Sgt. McLean made the following inquiry to Officer Domek:

*Q: OK. Did eventually you or your partner, um, speak with the female half of the call?*

*A: Eventually, um, yes, we did. Um ...*

*Q: OK.*

*A: Go ahead, sir.*

*Q: Did she at any time make any mention of any weapons used or possessed by the-, uh, by the suspect in the domestic assault?*

*A: Not that I recall, no."<sup>48</sup>*

Later in the interview, Sgt. McLean inquired:

*Q: OK. And I think we had established earlier that there wasn't any mention of any weapons. Correct?*

## 13.43 - Personnel Data

42  
43 Transcript of Proceedings, Fourth Judicial District File 27-CR-16-6475, Volume II, Page 123, Lines 4-14

## 13.43 - Personnel Data

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48 Transcribed Statement of Officer Joshua Domek (IAU Case #16-10025), Page 3, Lines 1-9

- A: *That's correct at the time of the assault. However, he had left the, the assault location and went to his own personal vehicle, um, who knows what he has in his car. I agree with you-*
- Q: *Yeah.*
- A: *-that when he got of the car I did not observe any weapons in his hands. I will agree with you on that.*
- Q: *OK.*
- A: *However, there's a time lapse there.*
- Q: *Yep, OK. So, he got out of the car. You could see his waistband. You could see his hands were in the air. And once his hands were down on the ground and he was on his knees, did he make any actions where he tried to access his waistband?*
- A: *No.”*<sup>49</sup>

Officer Domek was not called to testify in former Officer Reiter’s jury trial. However, Officer Domek provided a statement to the Office of Police Conduct Review on March 13, 2018. Regarding the search of Mr. Osman incident to his arrest by Officer Eckert and the passing of the property retrieved from Mr. Osman to him, Officer Domek said his only recall of the search was what he saw in the surveillance video footage. Officer Domek stated the following:

*“Um, I have no recollection of what the item was. It was a very, um, fluid and fast moving incident. Um, on the tail end of what we described or discussed before, um, after the arrest was made, my focus quickly switched to providing aid, ah, to Mr. Osman. Um, obviously, in the video, um, there’s some sort of a, a hand to hand, or there is a hand to hand and an object that’s passed, um, unfortunately, um, I don’t recall specifically what that object was.”*<sup>50</sup>

Officer Domek further stated that he was directed by Sgt. Rivard to accompany Mr. Osman to the hospital in the ambulance. He was not present when Mr. Osman’s vehicle was removed from the scene. He did not handle the item that he placed on the roof of the car again and had no independent information about its disposition.

### ***Allegation 2:***

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

#### **MPD Policy & Procedure Manual § 10-401 RESPONSIBILITY FOR INVENTORY OF PROPERTY AND EVIDENCE (12/14/07)**

##### **Definitions:**

- Property – any material object of value, however slight, tangible or intangible to which an owner has a legal right.
- Evidence – documentary or oral statements and material objects admissible as testimony in a court of law.

All MPD employees taking possession of property, whether evidentiary or non-evidentiary, shall place such property in the custody of the Property and Evidence Unit and complete the inventory prior to the end of their shift. The inventory shall include all evidence seized regardless of whether an arrest has been made. This includes sworn employees working off-duty employment. (04/01/93) (02/19/02) (12/14/07)

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<sup>49</sup> Ibid., Page 11, Lines 17-33

<sup>50</sup> Transcribed Statement of Officer Joshua Domek (OPCR File 17-18625) Page 2, Lines 24-28

Exceptions to this requirement:

- Property or evidence recovered by Crime Lab personnel, and
- Sworn MPD employees taking custody of evidence requiring immediate review, which has been obtained in a search warrant. In these instances, all items shall be property inventoried as soon as practical. It is strongly advised that all suspected narcotics, cash and firearms be inventoried prior to the end of the sworn MPD employee's shift. Until items are property inventoried, the investigator is responsible for assuring that the items recovered are securely stored and the chain-of-custody is maintained.

**MPD Policy & Procedure Manual § 10-401.1 PROPERTY AND EVIDENCE ACQUIRED OR TEMPORARILY STORED AT PRECINCTS (12/14/07)**

Only property held for safekeeping and items obtained as the result of misdemeanor arrests shall be inventoried in the temporary precinct lockers. Officers are responsible for ensuring all items obtained as a result of a felony arrest are inventoried in the Property and Evidence Unit prior to the end of their shift.

All video surveillance and digital media shall be property inventoried according to policy prior to the end of the officer's shift.

\*Under no circumstances shall firearms or narcotics be property inventoried in precinct lockers.

**Officer Luke Eckert:**

Officer Eckert testified during the trial that he searched Mr. Osman incident to arrest and discovered a knife in his right front trousers pocket. He also testified that he immediately handed that knife to Officer Domek, who placed it on top of Mr. Osman's car. These actions were captured on the surveillance video, which was described earlier in this report. As evidenced by the video, an object was placed on the car and this object remained on top of Mr. Osman's car until the end of the video recording. Although Officer Eckert testified that this object was a knife, he could not offer any description.<sup>51</sup>

During cross examination by Mr. Allard, he asked Officer Eckert if he was claiming that it was Officer Domek's responsibility to property inventory the knife. The following is the Q & A regarding this topic:

A *I am not claiming that, sir.*

Q *Whose responsibility was it then?*

A *There's no way of -- I -- whoever had -- whoever had chain of custody of the knife last; in this case, Officer Domek.*

Q *So you're saying it was Officer Domek's responsibility?*

A *Yes.*

Q *You just said it wasn't; now you're saying it is?*

A *Because I have no idea where the knife went after the video ended. As far as I could see, it was still on top of the vehicle.*

Q *So just leaving the knife out there is supposedly just leaving it on top the vehicle, correct?*

A *I don't know what happened to the knife.*<sup>52</sup>

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<sup>51</sup> It should be noted that the only property and/or evidence inventoried in CAPRS CCN #16-193282 consists of "Digital Photographic Evidence" and a "Video Disc / Surveillance"

<sup>52</sup> Transcript of Proceedings, Fourth Judicial District File 27-CR-16-6475, Volume III, Page 330, Lines 11-24

Officer Eckert provided a statement to the Office of Police Conduct Review on March 14, 2018. He repeated the account described in the paragraph above. He stated that it was a **pocket** knife he retrieved from Mr. Osman's pocket, but added that he had no specific details about what it looked like. Officer Eckert also said he had no idea what happened to the knife from that point forward.<sup>53</sup>

Officer Eckert was asked if he had any responsibility to know what happened to the knife or for having done something with it himself. He replied:

*"Had I known that it was relevant to the initial 9-1-1 call for service in regards to the domestic assault, why we were there, or, um, the use of force issued by former Officer Reiter, then I think I would have paid more attention to that knife. I just. There was no relevance of it to me at that time."*<sup>54</sup>

During his interview, Officer Eckert was asked if a knife was a piece of property that would normally accompany an injured arrested person to the hospital and he said it would not. He was then asked what is supposed to be done with personal property in that situation. He replied:

*"If it's, if I'm not able to secure it in his vehicle, it would be property inventoried as property or for safekeeping or as evidence if it's related to the incident."*<sup>55</sup>

Officer Eckert stated that Officer Domek was directed by Sgt. Rivard to accompany Mr. Osman to the hospital. Officer Eckert went back inside the apartment building with Sgt. Rivard where she reviewed the surveillance video and he identified the security personnel who were present during the incident. Officer Eckert said his squad car was parked on the other side of the building from where the arrest occurred. He went to his squad car, left the scene, and proceeded to the hospital to pick up Officer Domek.

Officer Eckert was asked to explain why the knife was not property inventoried. He stated that it *"simply was overlooked"*<sup>56</sup>:

*"Well, back to when I had mentioned before, as the assisting officer on scene there, you know, there's a lot, there's a lot goin' on. The guy's wife was just brutally assaulted and then deadly force was used okay? If, like I had mentioned, if the lady said, "Be careful. He has a knife." I don't know. I don't have the information. Chris is the one that has the information and he runs outside and uses deadly force based on that, um, what was, what that, what the female victim told him and then builds his whole defense around a knife yet he fails to document it or tell the on-duty supervisor and his reasing, reasoning for that in court is because he was fatigued and tired because he works dogwatch.*

*So, it's pretty obvious what their intentions there were was to sabotage me about the knife and then essentially blame it on me for it not being documented or property inventoried. How can I justify his? How can I be the one to justify what he did in my, in my report? And I thought I've explained that and I attempted to explain that to the prosecutor that it simply was overlooked. I, it, it has no relevance to me. Not at any time did he say anything about a knife and then he realizes what he did and it's, I mean, it's clear as day."*<sup>57</sup>

Officer Eckert added:

*"Yeah, I mean, you, you point out that obviously I'm the only one that seen that, is saying that, can confirm that this guy had a knife and the video clearly shows that I hand it to Officer Domek and then a hand, you know, it, um, goes on top of the car and from there I have no idea where it*

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<sup>53</sup> Transcribed Statement of Officer Luke Eckert (OPCR File 17-18625) Page 3, Line 37 and Page 4, Line 51

<sup>54</sup> Ibid. Page 3, lines 42-44

<sup>55</sup> Ibid. Page 4, lines 8-9

<sup>56</sup> Ibid., Page 8, Line 23

<sup>57</sup> Ibid., Page 8, Lines 11-25

goes. As far as the [INAUDIBLE: 32:25] that we explained earlier, it's chain of custody and responsibility for documentation, it, it could have been me, Domek or because we don't see where the knife goes on top of the, after it's on top of the vehicle...Carrero, um, there's, Officer Carrero was the one that towed the vehicle. It, it could have fallen on any one of us." <sup>58</sup>

Officer Eckert stated that he finds knives on people frequently and it's not a crime to possess one. He added that he gives them back most of the time, as long as they aren't under arrest or being transported.<sup>59</sup> Mr. Osman was in custody and he was being transported in this matter.

#### **Officer Joshua Domek:**

Again, Officer Domek was not called as a witness in the Reiter trial. In his interview with Office of Police Conduct Review, he was asked to explain what occurred beyond what was captured in the surveillance video that was made available by security. He stated that he assumed the role to render aid to Mr. Osman pending the arrival of EMS personnel. He continued to remain with Mr. Osman once EMS arrived as Mr. Osman was an arrestee and the medic was by himself.

Officer Domek acknowledged that he took possession of the property removed from Mr. Osman's pocket and immediately put it on the roof of Mr. Osman's car. When asked who would be responsible for securing that property, he said that it depends:

*"Um, if you look at it from the team aspect, um, on these complex calls, um, such as this, we have a couple separate scenes whether it's the scene with Mr. Osman, whether it's the inside scene, um, we're gonna work in concert as a group. So, we're gonna break it down and, um, whether it's delegated, um, or, um, you know, we work together most of us on a nightly basis when we work, um, where everybody has their nitch. Um, so we usually can do it without verbalizing, "Okay, I'm doin' this." Everybody finds a job and if you don't find a job, you leave because there's other calls in the city.*

*Um, so, um, depending on what roles people took on scene, um, somebody's gonna take the car for the tow. Um, I did my part in going with Mr. Osman. Um, I'm not sure what Officer Eckert's role was prior to him coming down to HCMC with me where he picked me up. Um, and I would have to, um, um, assume for lack of a better term that Officer Reiter handled his call, um, on the inside of, of the Midtown Exchange.*

*Um, to give that, um, duty to, um, a single one of us definitively it could have been any of us, um, to be honest with you. Um, and, ah, you know it, um, obviously, there was, um, an oversight or, um, um, a breakdown in communication for those who were on scene, um, at the, the, um, end of this call." <sup>60</sup>*

#### **Allegation 3:**

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

##### **MPD Policy & Procedure Manual § 4-602 REPORT WRITING (07/26/02) (08/01/08)**

Specific reports are written for specific purposes. Offense reports detail the elements of the crime or incident. Arrest reports detail the elements of probable cause for the arrest. Statements are made by individual officers pertaining to what the specific officer observed or heard and what action the officer took. The officer's statement includes what the officer can testify to in court. Arrest reports, officer statements, and reports for seizures of personal property shall

<sup>58</sup> Ibid., Page 8, Lines 40-49

<sup>59</sup> Ibid., Page 8, Lines 29-30

<sup>60</sup>

include rationale and legal justification for the initial stop as well as justification for subsequent search/seizure. (08/01/08)

All police reports shall include the following:

- All principal and relevant data fields on the CAPRS report pertaining to the case at hand shall be completed.
- All principal and relevant individuals involved in the incident shall be listed in the case.  
\* This includes making a proper identification and documentation of all involved and/or associated individuals.
- A short public narrative statement describing the offense or incident. No names, addressees or anything that identifies a victim or witness shall be included in the public narrative.
- A probable cause statement in felony arrests.
- A description of the incident that occurred and documentation of the necessary elements related to the crime or basis for arrest.
- Documentation of reason(s) for an in-custody arrest versus issuance of a citation.
- A comprehensive individual statement in all felony arrests when an officer has information that is important to the case and in all other incidents where statements are required. (In critical incidents, this statement will generally be taken by an investigator in a question and answer format.)
- All principal and relevant information available to the officer at the time of the report shall be included in the report.

**Officer Luke Eckert:**

Officer Eckert has maintained that, when he searched Mr. Osman incident to arrest, he located a knife in his pocket. That information is not included in his supplement report, nor was the knife he said he found property inventoried. Officer Eckert stated that the knife *“has no relevance to me.”*<sup>61</sup> However, the issue of whether or not the item found in Mr. Osman’s pocket was, in fact, a knife was a widely argued issue in the trial of former Officer Reiter. An extensive amount of Officer Eckert’s court testimony was about an issue that was absent from his report. The policy above provides direction for the content of officers’ reports, including specific details about what an officer sees and hears, actions they take, and justifications for seizing personal property. Information regarding the seizure of any property from Mr. Osman, along with its description, is missing from Officer Eckert’s report.<sup>62</sup>

**Officer Joshua Domek:**

Officer Domek acknowledges that Officer Eckert handed something to him, which he immediately placed on top of Mr. Osman’s car; however, he stated that he does not recall what that object was. His report does not discuss this action or the property placed on the car. Officer Domek stated he had no recollection of what the item placed on the car was. He said that this was a *“very fluid and fast-moving incident”*<sup>63</sup> and he switched his focus on providing aid to Mr. Osman. He stated that Sgt. Rivard directed him to escort Mr. Osman to Hennepin County Medical Center in the ambulance and he did not know what happened to the property seized.

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<sup>61</sup> Transcribed Statement of Officer Luke Eckert (OPCR File 17-18625), Page 8, Line 19

<sup>62</sup> MPD CAPRS Case Report CCN #16-193282, Page 8, Supplement number 2

<sup>63</sup> Transcribed Statement of Officer Joshua Domek (OPCR File 17-18625), Page 2, Line 24

## **CLOSING**

### ***Allegation 1:***

1. When Mohamed Osman was arrested, Officer Domek and former Officer Reiter used force while taking him into custody. The force used by former Officer Reiter resulted in significant injuries to Mr. Osman. Office of Police Conduct Review conducted an administrative investigation into the use of force. Former Officer Reiter was also charged criminally with assaulting Mr. Osman,
2. During the administrative investigation, the officers present at the time of Mr. Osman's arrest, including Officer Eckert, each stated that there was no mention during the incident that Mr. Osman was armed with any weapons.
3. Officer Eckert testified during former Officer Reiter's criminal trial that he searched Mr. Osman incident to arrest and retrieved a knife from his right front pants pocket. He then handed that knife off to Officer Domek, who placed the knife on the roof of Mr. Osman's car.
4. Officer Eckert could not describe the knife and could not say whether it was a pocket knife or a fixed blade knife.
5. Officer Eckert's report does not contain any information about locating a knife on Mr. Osman and no knife was property inventoried in the CAPRS report.
6. A surveillance video captured the arrest and the events that followed. The object in question can be seen in the video on the roof of the car, but it is not identifiable.
7. Mr. Osman gave testimony in court, as well as in statements to the Office of Police Conduct Review, that the object in question was his wallet. He stated that a wallet was returned to him upon release from Hennepin County Jail. However, when requested by Office of Police Conduct Review, he failed to sign and return a release form that would have allowed Office of Police Conduct Review to obtain a copy of jail records that could have shown what property he did receive.
8. Officer Domek did not remember what was the object in question. He stated he only handled it one time, which was when Officer Eckert handed it to him and he placed it on the car.
9. Officer Carrero facilitated the impounding of Mr. Osman's car. While testifying in court, Officer Carrero said he didn't see Mr. Osman with a knife.

13.43 - Personnel Data

## 13.43 - Personnel Data

10. Officer Eckert maintained throughout his court testimony and his statement to the Office of Police Conduct Review that the object he found in Mr. Osman's pocket was a knife. Mr. Osman stated that he did not have a knife, only his wallet. Neither Officer Domek nor Officer Carrero could recall what was the object found in Mr. Osman's pocket.

### ***Allegation 2:***

1. In the surveillance video, Officer Eckert is seen searching Mr. Osman while he is handcuffed and seated on the street. Officer Eckert removed an object from Mr. Osman's right front pants pocket and handed that object off to Officer Domek. Officer Domek then placed that object on the roof of Mr. Osman's automobile immediately adjacent to the driver's door area.
2. The object can be seen on top of the vehicle in that same place until the end of the recording.
3. The CAPRS report for this incident does not include any information about the object that Officer Eckert removed from Mr. Osman's pocket.
4. Although the object is visible in the surveillance video, due to the limitations of the medium, the object is not identifiable.

5. This item of property, and the lack of documentation of said property, became a very significant issue in the criminal trial of former Officer Reiter.
6. Officers Eckert and Domek came into possession of a piece of property belonging to Mr. Osman. Mr. Osman was removed from the scene of this incident, both in custody and in need of medical treatment.
7. § 10-401 of the Policy and Procedure Manual refers to both evidence and property and it sets forth the responsibility for property inventory:  
*"All MPD employees taking possession of property, whether evidentiary or non-evidentiary, shall place such property in the custody of the Property and Evidence Unit and complete the inventory prior to the end of their shift."*
8. § 10-401.1 of the Policy and Procedure Manual also refers to property and evidence:  
*"Officers are responsible for ensuring all items obtained as a result of a felony arrest are inventoried in the Property and Evidence Unit prior to the end of their shift."*

**Allegation 3:**

1. Officer Eckert searched Mr. Osman incident to arrest and removed an item of personal property from his pants pocket. This item was handed to Officer Domek, who immediately placed the item on the roof of Mr. Osman's car. This action was not documented in either Officer Eckert's or Officer Domek's supplement reports.
2. Due to the lack of documentation, the description of the property is not recorded.
3. This piece of property became a widely argued issue in the trial of former Officer Reiter.
4. The fact that the property was not inventoried or documented in the CAPRS report was also discussed in the trial.
5. Officer Eckert testified in the trial that the item he removed from Mr. Osman's pocket was a knife; however, he could not recall what kind of knife it was or provide any description of it. Officer Eckert stated that the knife *"has no relevance to me."*
6. Officer Eckert testified that it was Officer Domek's responsibility to document it. He stated that he understood "Chain of Custody" to mean that the last person to handle evidence was the one responsible for documenting said evidence.
7. See footnote 20.
8. Officer Domek stated that the responsibility to inventory and document the property seized from Mr. Osman could have fallen on "any of us". He acknowledged that it was a breakdown in communication and an oversight that the property was not inventoried or documented.

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



Investigator: Stephen J McKean

05/01/2018

Date:

## **EVIDENCE**

### **1. Statements**

- a) Witness Mohamed Osman
- b) **13.43 - Personnel Data**
- c) Officer Joshua Domek
- d) Officer Luke Eckert

### **2. Records**

- a) MPD CAPRS Case Report CCN #16-193282
- b) MPD CAPRS Case Report With Force CCN #16-193282
- c) VisiNet Incident Detail Report #16-193282
- d) Transcribed Statement of Mohamed Osman (OPCR Case #16-10025)
- e) **13.43 - Personnel Data**
- f) Transcribed Statement of Officer Joshua Domek (OPCR Case #16-10025)
- g) Transcribed Statement of Officer Luke Eckert (OPCR Case #16-10025)
- h) **13.43 - Personnel Data**
- i) Transcript from jury trial of former officer Christopher Reiter; Vol I, Vol II, Vol III, Vol IV (Case No. 27-CR-17-6475)
- j) Register of Actions for Case No. 27-CR-17-6475 (Christopher Reiter)
- k) Register of Actions for Case No. 27-CR-16-14881 (Mohamed Osman)
- l) Star Tribune article dated 10/10/2017, regarding trial and verdict for former officer Christopher Reiter.

### **3. Media**

- a) Copy of surveillance video recorded to DVD disc
- b) (26) color photographic still images captured from surveillance video