



Police Department – Brian O’Hara, Chief of Police

350 S. Fifth St. - Room 130

Minneapolis, MN 55415

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TO: Oscar Macias, Badge #4319
CC: Office of Police Conduct Review
DATE: May 17, 2023
RE: Administrative Investigation Case #20-08247

CHIEF’S DECISION: 40-hour Suspension without Pay

This memo summarizes my approach and reasoning for my decision as Chief of Police that the listed policy violations by Officer Macias are sustained. The memo accompanies the enclosed Notice of Discipline and Suspension Form.

Summary of the Basis for Decision:

Allegation #1: 5-300 Use of Force

- On 5/31/2020 Officer Macias was assigned to SWAT, detailed to assist with crowd control on the I-35W bridge over the Mississippi River, after several days of major protests in Minneapolis following the murder of George Floyd. A large crowd had gathered on the bridge and dispersal orders were given. The scene had been chaotic at times, after a semi-truck entered the highway and nearly struck dozens of protestors, who then climbed onto the truck and pulled the driver out.
- As the Complainant was talking with a formation of officers that included Officer Macias, Officer Macias discharged his 40mm less-lethal launcher at the Complainant, striking him in the thigh. The Complainant was engaged in passive resistance or verbal non-compliance.
- In his interview with OPCR, Officer Macias stated, “after being given several instructions to clear the bridge, I took it as he was an agitator. Uh, and the reason that I hit him with the 40-mm marking round right in the main area, which is permitted for the 40mm’s, is to identify him later on if he needs to be arrested.”
- The Police Conduct Review Panel (PCRP) issued a unanimous recommendation of **Merit** to this allegation.
- I concur with the PCRP, that there is a preponderance of the evidence to support the allegation that Officer Macias used unnecessary and unreasonable force when discharging his 40mm less-lethal launcher, striking the Complainant in the thigh. This allegation is **Sustained**.

13.43

[Redacted content]

Allegation #3: 5-105 Use of Discretion

- Officer Macias approached the Complainant (after striking him with the 40mm marking round), took the Complainant's bicycle to him and said, "Just leave sir." The Complainant wouldn't leave so Officer Macias ordered him to lay on the ground so the Complainant could be arrested.
- Officer Macias then bent over, and stood back up, holding a cell phone in his hand. Officer Macias then turned toward the center median and raised the phone over the top of the median wall. BWC footage of officers on scene show Officer Macias dropping the Complainant's cell phone over the median wall.
- When Officer Macias returned to his squad car he stated, "I threw that dude's phone, phone down the bridge."
- The Police Conduct Review Panel (PCRP) issued a unanimous recommendation of **Merit** to this allegation.
- I concur with the PCRP that there is a preponderance of the evidence to support the allegation that Officer Macias failed to use appropriate discretion when he dropped the phone of the Complainant off the bridge. This allegation is **Sustained**.

The facts noted in the case investigation support the conclusion that Officer Macias violated Minneapolis Police Department Policies 5-300 Use of Force and 5-105 Use of Discretion.

As Chief of Police, I am responsible for providing clear expectations about behavior and conduct in all situations, not just when it is convenient. These expectations extend from myself to the command staff and all levels of the Minneapolis Police Department. My predecessors have also borne responsibility for setting expectations, and it is incumbent on every Chief to hold officers accountable for breaches of those expectations. Legitimacy and reputation are of critical importance to police officers. Officers carry a badge and gun and are called upon to make some of the hardest decisions possible. It takes countless actions to build a reservoir of trust, and only one action to completely drain. We cannot afford to lose legitimacy with the people we serve.

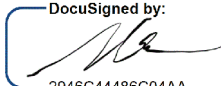
I hold officers of the Minneapolis Police Department to a high standard. I expect them to live up to our oath of office, our professional code of ethics and our department's core values of trust, accountability and professional service. Furthermore, I expect them to demonstrate procedural justice in their work. With this conduct, Officer Macias failed to meet our standards when he used unnecessary and unreasonable force against the Complainant and then used poor discretion when he threw the phone of the Complainant off of the bridge during this incident. The violation in this matter undermines public trust.

For almost a week leading up to this incident, the officers of the Minneapolis Police Department, including Officer Macias, worked extraordinarily long hours with little rest and little if any time to take care of personal needs. None of this is an excuse for his actions on the date of this incident and he must be held accountable for his actions, but the unusual circumstances of that week are being taken into account as mitigating factors in my discipline decision.

As Chief of Police with authority to discipline for violations of policy under Minn. Stat 626.89 Subd. 17, I am issuing the following discipline to Officer Macias:

Allegation #1, MPD P/P 5-300 Use of Force. Sustained: 40-hour Suspension

Allegation #3, MPD P/P 5-105 Use of Discretion. Sustained: Written Reprimand

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Brian O'Hara
Chief of Police

Commander Kingsbury