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TO: Neal Walsh, Badge 7501
CC: Office of Police Conduct Review
DATE: October 12, 2022
RE: Administrative Investigation Case #20-12298

CHIEF'S DECISION:

- Discharge
- Suspension **Duration:** 40 hours without pay
- Permanent Demotion
- Temporary Demotion, **Duration:** _____
- Written Reprimand
- No Merit

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

Allegations:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-301	.01	Use of Force	C	Sustained

Summary of the Basis for Decision:

The facts noted in the case investigation support the conclusion that Officer Walsh violated Minneapolis Police Department Policy 5-301.01 Use of Force, when he used more force than was objectively reasonable during this incident. I concur with the unanimous recommendation from the Police Conduct Review Panel that there is merit to the allegation.

Allegation #1:

It is alleged that Officer Walsh used more force than was objectively reasonable. **MPD P/P 5-301.01 Use of Force**

- On 12/7/2019, Officer Walsh was working marked squad 430, with his partner Office Spee. They responded to assist squad 462 Officers Partyka and Knuth, who stopped a vehicle and were requesting assistance.
 - Squad 462 stopped the vehicle because the driver was known to have recently been a DOC fugitive and was known to have a revoked license. Officers also state that the reason for the traffic stop was a minor traffic violation.
 - Officer Knuth was the contact officer with the driver of the vehicle, and noted that he smelled the odor of alcohol, noted a cup that he suspected contained alcohol, and asked the driver to place his hands in front of him so he could be handcuffed in front and removed from the vehicle.
 - Officer Knuth reported that the driver reached down towards his waistband and pocket area of his pants, and Officer Knuth didn't know what he was reaching for.
 - Officer Knuth grabbed the arm of the driver and attempted to pull him out of the vehicle while giving commands. Officer Partyka came around from the passenger side of the vehicle to assist and Officer Knuth called for additional officers to assist.
- Officer Walsh and Spee arrived to assist Officers Partyka and Knuth.
- The driver was physically removed from the car and taken to the ground by the four officers who attempted to place him in handcuffs.
- While the male was prone on the ground face down, the four officers (Partyka, Knuth, Spee and Walsh) struggled to get both hands behind his back and secured in handcuffs. One of the driver's hands is visible in the video and is under officers' control. The audio captured commands to the driver to put his hands behind his back and officers' comments that they could not get the other hand out from the driver's jacket and into handcuffs.
- According to the force review and reports, Officer Partyka delivered elbow strikes to the driver's back during the struggle. Officer Spee used body weight to pin the driver's legs and feet down.
- During this struggle, Officer Walsh was at the driver's head using his hands to control the head by pressing down toward the ground.
- According to video and the PIMS report, Officer Walsh delivered three knee strikes to the head of the male driver. Officer Walsh confirmed this in his statement and Loudermill hearing.
- At one point, the driver can be heard to say "impossible" when officers give commands to put his hands behind his back.
- Officer Walsh used his knee and body weight to keep the males head pressed to the ground and holds this position for approximately 27 seconds (according to the OPCR investigative report).
- After Officers handcuff the male and attempt to get him seated up, Officer Walsh grabbed the long dreads of the male and appeared to pull on his hair to sit him up.
 - In his Loudermill hearing, Officer Walsh stated that he was only holding onto the hair of the male to prevent him from pulling away, but not pulling on the hair as suggested by the investigation. He also reported that he used to no force after the driver was secured.
- The driver sustained visible injuries to his face during the arrest.
- The Minneapolis Police Department's Policy and Procedure Manual states in part:

5-301.01 POLICY (10/16/02) (08/17/07)

Based on the Fourth Amendment's "reasonableness" standard, sworn MPD employees shall only use the amount of force that is objectively reasonable in light of the facts and circumstances known to that employee at the time force is used. The force used shall be consistent with current MPD training.

- The Police Conduct Review Panel (PCRP) recommended that there is Merit to the allegation that the use of force in this case was unreasonable.
- I concur with the recommendation of the PCRP, that there is a preponderance of the evidence to support the allegation that Officer Walsh failed to use objectively reasonable force during the arrest in this incident. The allegation is **Sustained**.

As the interim Chief of Police, I am responsible for providing clear expectations for what is acceptable behavior in our workplaces as well as what will not be tolerated. 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. Officer Walsh failed to meet Departmental training and standards when he delivered three knee strikes to the driver's head while the driver was face down in the prone position and three other officers were actively engaged in handcuffing him. His legs were pinned by Officer Spee leaving Officers Partyka and Knuth to secure his hands in handcuffs. One hand is visible and under the control of officers. The other is beneath the driver. It is unclear if the driver is refusing to bring his hand out throughout the struggle or if he cannot as was suggested by his response of "impossible" when officers ordered him to place his hands behind his back. Officers are trained in multiple officer arrest techniques for just such a scenario as this. In assessing the use of the knee strikes, there are multiple factors to consider. The driver had displayed resistance toward the officers attempts to take him into custody by pulling away and refusing to follow commands. His action of reaching toward something in the car reasonably heightened officers concerns; however, the reason for the stop was not a crime of violence or other serious crime but a traffic stop; the officers articulated that the driver had a history of incarceration due to drugs but mentioned nothing about a known history of weapons or violence; there were four officers engaged with one subject; the man was prone and face down on the ground presenting little risk of immediate harm to the four officers controlling his legs, head, torso and one arm; and additional backup officers were near. In considering all of these factors, I find that the knee strikes to the driver's head were unreasonable at the time when they were delivered. Additionally, it appeared in the video that Officer Walsh got the driver up from the ground by pulling on his hair as well as lifting his body. Getting the driver to his feet by pulling his hair is an unreasonable use of force. Officer Walsh's use of unreasonable force during this incident harmed the driver who was arrested, undermines public trust and confidence in Minneapolis police officers and brings discredit to the Department.

As interim Chief of Police with authority to discipline for violations of policy under Minn. Stat 626.89 Subd. 17, I am issuing a 40-hour suspension without pay to Officer Walsh for his failure to use

objectively reasonable force during this incident. I am also directing that Officer Walsh attend re-training in multi-officer arrest and control tactics and MPD use of force policy. This discipline and retraining is intended to correct the issues described in this case and return Officer Walsh to performance that meets department expectations.

Allegation #1: 5-301.01 Use of Force, Sustained. **40-hour suspension without pay.**

DocuSigned by:
Amelia Huffman
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Amelia Huffman
Interim Chief of Police

CC: OPCR Case File
Inspector Adams

Enclosure: Discipline Form