

INVESTIGATIVE REPORT

Complaint Number: 17-23070

Investigator: Liisa M Hill

Officer (s): Noukue Cha

Case Type: Administrative

Date of Incident: October 04, 2017

Complaint Filed: December 22, 2017

CASE OVERVIEW

It is alleged that Officer Noukue Cha deployed a chemical agent to the face of a suspect, per instructions from another officer.

ALLEGATIONS

Allegation 1: Officer Noukue Cha violated Minneapolis Police Department Policy and Procedure when he deployed his chemical agent to prevent a suspect from ingesting narcotics. **MPD P&P § 5-313.01 – USE OF CHEMICAL AGENTS – POST EXPOSURE**

CASE INVESTIGATION

I. Statement of Officer Noukue Cha

On October 2, 2018, Officer Cha was interviewed by Investigator Liisa M. Hill. Officer Cha stated he and his partner Officer Dykstra were on patrol and proceeded to assist in a traffic stop. While at the traffic stop, Officer Cha assisted in searching one of the individuals and found drug paraphernalia on the individual. The individual gave Officer Cha a partial name and was mumbling and complaining of being sick. Officer Dykstra and Officer Seidl asked Officer Cha if he had checked the individual's mouth to which Officer Cha responded he had not. The individual was then taken out of the squad. Officers Dykstra and Seidl proceeded to physically struggle and yell at the individual (known as Christian Byrd) to spit out what he had in his mouth. When Mr. Byrd refused to spit out the contents of his mouth, Officer Cha was instructed by Officer Seidl to use his chemical agent on Mr. Byrd. Officer Cha stated he sprayed one short burst of chemical agent in the face of Mr. Byrd.

Mr. Byrd then spit out the contents of his mouth which was a small plastic bag containing a white substance. Officer Cha was asked if he was aware of MPD Policy 5-313.01, prohibiting the use of chemical agents to prevent the swallowing of narcotics. Officer Cha answered that he vaguely remembered the policy, and that he thinks it had been taught at the Police Academy. Officer Cha was asked if he thought about the policy before deploying the chemical agent to the face of Mr. Byrd. Officer Cha stated he deployed the chemical agent because Officer Seidl told him to do so. Officer Cha added that Officer Seidl is a well-seasoned officer and he has worked with him on previous occasions. Officer Cha stated Officer Seidl has twenty years on him, “he asked me to and at that, in the heat of the moment, I thought it was the right thing to do”.¹ At the end of the interview Officer Cha stated “I was very excited. It was my first time. I didn’t know what to really, you know, to feel like or to I mean being in the heat of it, you know, Officer Seidl asked me to, he said, “Give him some mace.” And I did. And so, thinking back now I would have done it differently, you know, you would’ve just stand up and say, “Hey, this is not my policy. We need to do it in a different way.” Um, but I acknowledge that I did something wrong and that it will be, you know, different down the road and hopefully from, I’m, this, this going on forward that policy violations even though if a superior or a seasoned officer that hopefully I will stop and say, “Hey, we’ve got to do differently. This is wrong.” or, you know, something to that point.”²

II. Review of Officer Cha’s Body Worn Camera Video

After a review of Officer Cha’s body worn camera video it shows Officer Cha did deploy his chemical agent at the request of Officer Seidl. Officer Cha’s Use of Force Video shows at Video Mark 2.24, Officer Seidl tells Officer Cha to “give him some mace” which Officer Cha does.

DISCUSSION

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

5-313.01 USE OF CHEMICAL AGENTS – POST EXPOSURE TREATMENT/MEDICAL AID

Post exposure treatment (Medical Aid) for a person that has been exposed to the chemical agent shall include one or more of the following:

- Removing the affected person from the area of exposure.
- Exposing the affected person to fresh air.
- Rinsing the eyes/skin of the affected person with cool water (if available).
- Render medical aid consistent with training and request EMS response for evaluation at anytime if necessary

Sworn employees shall keep a person exposed to the chemical agent under close observation until they are released to medical or other law enforcement personnel. An officer who has used a chemical agent shall inform individuals accepting custody that it was used on the person.

Use of chemical agents to prevent the swallowing of narcotics is prohibited.

A CAPRS report shall be completed when chemical agents are used.

¹ Statement of Officer Cha, page 4, paragraph 45

² Statement of Officer Cha, page 6, paragraph 40-45

During Officer Cha's interview, Officer Cha admitted that he deployed his chemical agent in the face of the suspect to get the suspect to spit out suspected narcotics contained in his mouth. This is also substantiated with the video from Officer Cha's body worn camera.

CLOSING

1. Did Officer Cha violate Minneapolis Police Department Policy and Procedure, when he deployed his chemical agent on a suspect who was suspected of concealing narcotics in his mouth?

Minneapolis Police Department Policy states: Use of chemical agents to prevent the swallowing of narcotics is prohibited. Officer Cha admitted that he deployed his chemical agent to make the suspect spit out the contents of his mouth at the direction of a senior officer.

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



Investigator: Liisa M Hill

December 07, 2018

Date:

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

COMPLAINT INFORMATION					
Case Number	Precinct	CCN	Date of Incident	Time	Preference
17-23070	3	17-381666	October 04, 2017	10:27 AM	No Preference
Location of Incident		City/State/Zip		Date of Complaint	
28thST		Minneapolis 55407		October 05, 2017	
Complainant Name (Last, First, Middle Initial)			Sex	Race	DOB
Home Address		City/State/Zip		Primary Telephone	
		Minneapolis, MN			
JURISDICTION			CATEGORY		
OPCR Ord. § 172.20(8)			VIOLATION OF THE P&P MANUAL		
BADGE/NAME			ALLEGED POLICY VIOLATIONS		
1035; Cha, Noukue			MPD P&P § 5-313.01 - USE OF CHEMICAL AGENTS - POST EXPOSURE		
ALLEGATION SUMMARY					
It is alleged that that an officer failed to upload a force review in which a suspect sustained a bloody mouth and also that another officer failed to turn on his camera per policy. It is also alleged that an officer deployed a chemical agent to prevent a suspect from ingesting narcotics.					
SUPERVISOR ASSESSMENT					
INQUIRY (INTAKE - COMPLAINT FILED) <input type="checkbox"/>			3401 <input type="checkbox"/> Draft <input checked="" type="checkbox"/> Final approved		
MEDIATION <input type="checkbox"/> Refer to Mediation			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: _____		
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					
FINAL APPROVED INVESTIGATIVE REPORT <input checked="" type="checkbox"/> Refer to Panel					
IAU Supervisor <i>L.T. [Signature]</i>				Date <i>12/17/18</i>	
Director - Office of Police Conduct Review <i>[Signature]</i>				Date <i>12/17/18</i>	

NOTICE OF DISCIPLINE

January 22, 2020

Officer Noukue Cha
Pct. 2 Dogwatch
Minneapolis Police Department

RE: OPCR Case Number 18-18428
Notice of Written Reprimand

Officer Cha,

The finding for OPCR Case #18-18428 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-313.01		Use of Chemical Agents	B	Merit

As discipline for this incident, you will receive this Letter of Reprimand.

This case will remain in the 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, Noukue Cha, acknowledge that I have received my Notice of Discipline for OPCR Case #18-18428.



Officer Noukue Cha

07/03/2020
Date of receipt



Inspector Todd Loining

6-25-20
Date

CC: Personnel
Inspector Loining
OPCR