

**Minneapolis Police Department  
Discipline Worksheet**

Sgt. Shannon Barnette, #0268  
Employee's Name and ID Number

5/25/2017  
Date of Incident

OPCR 17-10527  
Administrative Case Number

**Discipline Panel Recommendation**

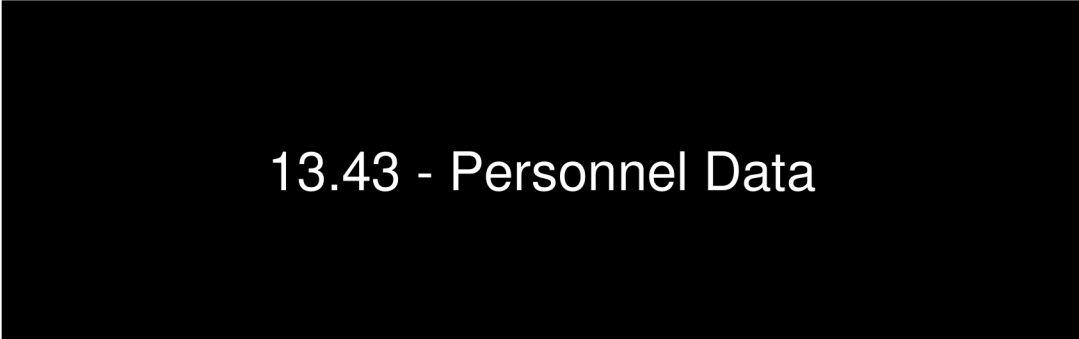
Policy Number	Policy Description	Category	Disposition
5-105 (A)(4)	Professional Code of Conduct		Merit
4-602	Report Writing		Merit

*Alc [Signature]*

Deputy Chief of Professional Standards

*6-30-20*

Date



*Letter of Reprimand  
for Sgt. Barnette  
"B"*



## NOTICE OF DISCIPLINE

June 26, 2020

Sgt. Shannon Barnette  
Gang Interdiction Team  
Minneapolis Police Department

RE: OPCR Case Number 17-10527  
**Notice of Written Reprimand**

Sgt. Barnette,

The finding for OPCR Case #17-10527 is as follows:

<u>Policy Number</u>	<u>Sub-Section</u>	<u>Policy Description</u>	<u>Category</u>	<u>Disposition</u>
5-105	(A)(4)	Professional Code of Conduct	B	Sustained
4-602		Report Writing	B	Sustained

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

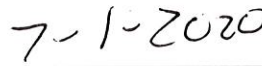
Acknowledgement of receipt:

I, Shannon Barnette, acknowledge that I have received my Notice of Discipline for OPCR Case #17-10527.

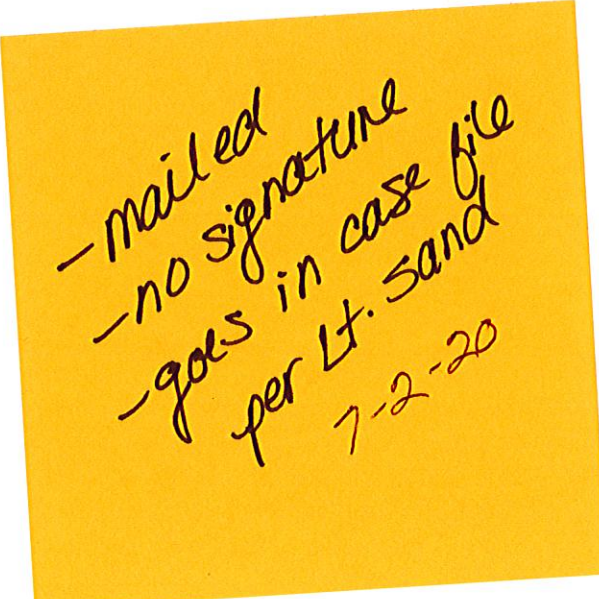
\_\_\_\_\_  
Sgt. Shannon Barnette

\_\_\_\_\_  
Date of receipt

  
\_\_\_\_\_  
Commander Bruce Folkens

  
\_\_\_\_\_  
Date

CC: Personnel  
Commander Folkens  
OPCR

  
- mailed  
- no signature  
- goes in case file  
per Lt. Sand  
7-2-20



## INVESTIGATIVE REPORT

**Complaint Number:** 17-10527

**Investigator:** Stephen J McKean

**Officer (s):** Shannon Barnette, 13.43 - Personnel Data

**Case Type:** Administrative

**Date of Incident:** May 25, 2017

**Complaint Filed:** June 07, 2017

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### CASE OVERVIEW

On 05/25/2017, at 18:11 hours, a 9-1-1 call was received from an unknown male subject who stated that he was the Complainant's 13.82 however, he wished to remain anonymous. The caller asked for officers to respond to Privacy Policy home for "a safety or a welfare check" as she has "mental health issues", the nature of which he could not elaborate. <sup>1</sup> The caller stated that Privacy Policy called him "threatening my family and me." The caller said that he didn't think she was going to do anything.<sup>2</sup> He also stated, "I mean, I don't think she's gonna hurt anyone, but..."<sup>3</sup>

At 20:14 hours on the 25<sup>th</sup>, Officer 13.43 13.43 and Officer 13.43 13.43 responded to PPI PPI residence, in response to the 9-1-1 call received more than two hours earlier. Privacy Policy greeted the officers at the door and asked them why they were there. Officer 13.43 told Privacy Policy about nature of the 9-1-1 call. She told them to get off her property. When Privacy Policy asked who it was that called 9-1-1, Officer 13.43 returned to his squad car to confirm the information in the call. When he returned to the front door, he apologized to Privacy Policy. At 20:26 hours, the officers cleared the call and left Privacy Policy residence without taking any action against her. An officer in Squad 530 created an entry in VisiNet saying that Privacy Policy "appeared to be A-okay."<sup>4</sup>

At 20:41 hours, Privacy Policy called Edina PD via a 9-1-1 call <sup>5</sup> that originally came to Minneapolis Police Department MECC and was transferred to Edina PD. Privacy Policy requested that officers from Edina PD respond to Privacy Policy (in Edina) and check on his welfare as Privacy Policy suspected he was being abused by a caretaker.

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<sup>1</sup> Transcript, 9-1-1 phone call, 05/25/2017, 18:11:36, line 17

<sup>2</sup> Ibid, line 26

<sup>3</sup> Ibid, line 54

<sup>4</sup> VisiNet report CCN #17-190472, page 2 comment [4]

<sup>5</sup> Edina Police Department Event Report, 2017-050454, dated 05/25/2017, 20:41:21

At 20:59 hours, a VisiNet Incident Detail Report was created.<sup>6</sup> At 21:05 hours, a comment was entered in this incident report which stated, “[3] PER SGT BARNETTE SQD 502 – OFCRS TO SIGN A HEALTH AND WELFARE HOLD ON THIS SUBJECT.” At 21:06, another comment was entered saying, “[4] OFCRS TO SIGN HEALTH/WELFARE HOLD PER 502”. At 21:23, Officer 13.43 and Officer 13.43 were assigned to respond to Privacy Policy residence. At 21:37 hours, Officer 13.43, Officer 13.43, and Sgt. Barnette arrived at Privacy Policy home. The three officers went to the front door and knocked. Privacy Policy opened the door and asked what they were doing there. They had a brief conversation lasting approximately 32 seconds before Privacy Policy closed the door, asking them to leave her property. Sgt. Barnette removed the screen from the storm door before Privacy Policy opened her front door again. Immediately, Sgt. Barnette and Officer 13.43 entered Privacy Policy home and took custody of her. Privacy Policy was then transported to Fairview Southdale Hospital, where she was placed on a mental health hold.

### **POLICY**

1. MPD Policy and Procedure § 5-103 USE OF DISCRETION
2. MPD Policy and Procedure § 5-105 A. 4 PROFESSIONAL CODE OF CONDUCT (01/05/16)
3. MPD Policy and Procedure § 4-602 REPORT WRITING (07/26/02) (08/01/08)

### **Related Policy:**

1. MPD Policy and Procedure § 7-1003 MENTALLY IMPAIRED PERSONS (05/06/15)
2. MPD Policy and Procedure § 7-1005 TRANSPORT HOLDS (02/17/06) (05/06/15)

### **ALLEGATIONS**

**Allegation 1:** It is alleged that, on May 25, 2017 at about 21:05 hours, above-named officers forced entry into the Complainant’s residence at Privacy Policy and caused her to be removed from her residence to a hospital for a mental health evaluation without justification.

**Allegation 2:** It is further alleged that Sgt. Barnette failed to complete a supplement report to document and justify her actions.

### **CASE INVESTIGATION**

The Complainant, Privacy Policy, filed her complaint online on May 29, 2017. The incidents for which the complaint was filed were confirmed through CAPRS and VisiNet. Copies of these documents were obtained and Body Worn Camera (BWC) videos from the officers involved were reviewed. The complaint was assigned for investigation on July 10, 2017. The Complainant was interviewed and her statement recorded on August 15, 2017.

On March 19, 2018, this office received from Edina Police Department a CD disc containing several files: audio of (2) phone calls between Minneapolis dispatch and Edina Dispatch, redacted transcription of (2) 9-1-1 calls, and a redacted Event Report #2017-050454.

## **13.43 - Personnel Data**

On May 4, 2018, emails were sent to Officer 13.43 13.43 and Sgt. Shannon Barnette, informing them that they had been scheduled to appear at the Office of Police Conduct Review to provide statements in this matter. On May 8, 2018, the investigator received a voice message from Assistant City Attorney Brian Carter. He said that he was representing Sgt. Barnette in a lawsuit brought by the complainant in this matter. The investigator spoke with Mr. Carter on May 8, 2018, and Mr. Carter stated that both Sgt. Barnette and Officer 13.43 had been deposed in the lawsuit and he would prefer that

<sup>6</sup> VisiNet Incident Detail Report #17-191393

they did not have to provide any further statements about this incident. He said he could provide copies of their depositions, along with some supporting documents, and hoped that they would suffice. He said that, should this office need to speak with the officers, that he would want to be present. The interviews were cancelled at the request of the City Attorney's office.

On June 6, 2018, this office received from the City Attorney's Office a CD disc containing several documents, including the depositions of Sgt. Barnette and Officer [13.43] and related exhibits. Those documents have since been reviewed and incorporated into this investigation.

#### **Body Worn Camera (BWC) videos:**

Each of the officers were equipped with body worn cameras during their encounters with [Privacy Policy]. The cameras were activated during these encounters and the video was uploaded in accordance with policy. The following is a brief narrative of the contents of the videos which were recorded during the incidents. Some of the conversation is quoted here; however, these are not complete verbatim transcripts of the conversations that were recorded.

##### **1) 17-10527 BWC Officer [13.43] (initial call to CP's home)**

This video is 1:59 minutes in length. Officer [13.43] camera appears to have been turned on during contact with [Privacy Policy] at her front door. [Privacy Policy] is inside her home with her screen door closed and the primary door open. Officer [13.43] can be seen standing to the right of Officer [13.43]. [Privacy Policy] directed her conversation to Officer [13.43] and asked, "Who called you?" She then walked back into her home. Officer [13.43] said he was going to check for the name of the caller and went to the squad car, camera still recording. As Officer [13.43] was walking to the squad, he could be heard saying, "Oh boy, she's fired up." Officer [13.43] appeared to check something on the squad computer before returning to the front door. When he arrived at the door, [Privacy Policy] was talking with Officer [13.43] and was holding a cell phone and appeared to be recording the contact with the officers. [Privacy Policy] said she thought that the officers were present at her home in response to a 9-1-1 call she made at "9:56 a.m." Officer [13.43] told [PPI] that they were there because she ([Privacy Policy]) was harassing or threatening one of her family members. Officer [13.43] told [Privacy Policy] that someone called and that was why they responded there. He then apologized for disturbing her and told her to have a nice evening. The officers then left the property and the camera was turned off.

##### **2) 17-10527 BWC Officer [13.43] (Initial call to CP's home)**

This video is 2:03 minutes in length. Officer [13.43] camera appears to have been turned on during contact with [Privacy Policy] at her front door. [Privacy Policy] is inside her home with her screen door closed and the primary door open. Officer [13.43] is not seen but appears to be standing to the left of Officer [13.43]. [Privacy Policy] was directing her conversation to Officer [13.43] and asked him who called. Officer [13.43] is heard saying it was a family member, but [PPI] [PPI] said she had no family members as she is single. She then asked again who called. At that point, [Privacy Policy] turned and walked away from the front door and to the interior of the house. Officer [13.43] said he was going to check on the name and Officer [13.43] remained on the front porch. [Privacy Policy] returned to the front door with her cell phone and asked Officer [13.43] who called. Officer [13.43] told [Privacy Policy] that her partner went to check and informed [Privacy Policy] that she was also recording the incident. [Privacy Policy] then asked again who called and Officer [13.43] told her that her partner went to check. Officer [13.43] then asked why she was upset about them being there and [Privacy Policy] said they were harassing her at her home. She then said she thought the officers were there for the earlier 9-1-1 call. The remaining video is the same as the ending of the Officer [13.43] video described above.

3) **17-10527 BWC Officer 13.43 (forced entry and involuntary hold)**

This video is 20:08 minutes in length and begins as Officer 13.43 parked and exited from the squad car. Officer 13.43 can be seen walking ahead of Officer 13.43 as they approached the front door of Privacy Policy residence. Sgt. Barnette then is seen walking up the walkway to the front porch.

When contact is made with Privacy Policy, Officer 13.43 is at the front door with Sgt. Barnette just off the porch on Officer 13.43 right and Officer 13.43 is off the porch behind Officer 13.43. When Privacy Policy opened the front door, Officer 13.43 said, "Hi." Privacy Policy said, "What are you doing at my home?" Officer 13.43 said, "You called us for help or something." PPI PPI said, "I didn't call you." Sgt. Barnette then introduced herself and said, "We talked on the phone." Privacy Policy, looking toward Sgt. Barnette, repeated, "I didn't call you." Privacy Policy walked back into her home and Sgt. Barnette attempted to open the screen door, but it was locked. Privacy Policy came back to the entry and said to Sgt. Barnette, "Don't you dare try to open my door. This is my home." Sgt. Barnette continued to jiggle the screen door handle before she said, "Okay." Privacy Policy then stated, "Just get off my property, now," and she closed her front door.

With the front door now closed and locked, the officers discussed removing the screen. Sgt. Barnette said, "I'll cut it if I have to." Sgt. Barnette then pushed on the screen and discovered that it was removable and loose. They pried it off the door, apparently bending the metal frame of the screen. Sgt. Barnette then set it aside on the right side of the porch.

Privacy Policy can be heard from inside her home saying, "Get off of my property, now." Sgt. Barnette then said, "Just need to talk to you, Privacy Policy again told the officers to get off her property and Sgt. Barnette told her that, if she came to talk to them they would then leave. When the officers got no response from Privacy Policy, Officer 13.43 repeated what Sgt. Barnette said: PPI come talk to us and then we'll leave." Sgt. Barnette then said, "All we have to do is make sure you're OK and then we can leave. We just need to see that you're OK." Privacy Policy can then be heard saying, "I am fine. Get off my property." Sgt. Barnette then began repeatedly knocking on the front door until Privacy Policy opened the door.

As Privacy Policy opened the front door, she said, "I want you to listen..." Sgt. Barnette then rushed inside Privacy Policy home and Privacy Policy stated, "Get out of my property, now!" Sgt. Barnette grabbed Privacy Policy by her left arm. Officer 13.43 entered and grabbed her right arm. Officer 13.43 pulled Privacy Policy cell phone out of her hand as Privacy Policy yelled out, "Hello! Help! What are you doing?"

Sgt. Barnette then tells Privacy Policy, "I think we need to have you checked out." Privacy Policy responds, "For what?" Sgt. Barnette then states, "I think you're in a mental health...a mental health crisis." Privacy Policy replies, "I'm not in a mental health crisis." Sgt. Barnette replied, "I think that you are." Privacy Policy said, "Well, I'm not." Sgt. Barnette said, "People who act like this don't call 9-1-1 a million times, they don't call Edina PD."

Privacy Policy then explained that she has a vulnerable adult PPI in Edina about whom she was concerned. Sgt. Barnette then said, "Well, I'm thinking that maybe you're in crisis today." Privacy Policy then said she thought that the officers were there in retaliation for a complaint she made earlier in the day regarding a lack of police response to a call about someone smoking marijuana on her property. She again re-stated that she was not in a mental health crisis and Sgt. Barnette said they were going to have her checked out at the hospital. Privacy Policy then stated, "I'm not a danger to myself or anybody else."

The next several minutes of video show a discussion between [Privacy Policy] and Sgt. Barnette about removing [Privacy Policy] from her home to a hospital and [Privacy Policy] telling Sgt. Barnette that she was holding her arm too tightly.

Sgt. Barnette allowed [Privacy Policy] to sit in a chair in lieu of holding her arm. She asked [PPI] [PPI] why she called Edina PD. [Privacy Policy] explained to Sgt. Barnette that [Privacy Policy] lives in Edina and told her about her concerns for [Privacy Policy] welfare and that she wanted Edina PD to check on him.

When the ambulance arrived, [Privacy Policy] was allowed to walk to the ambulance and she is seen exiting the front door. Sgt. Barnette and Officer [13.43] then attempted to put the screen back onto the storm door, but were not successful. Sgt. Barnette then instructed Officer [13.43] to create a forced entry report and document the damage to the screen. Sgt. Barnette placed the screen inside [Privacy Policy] residence before Officer [13.43] turned off his camera.

\*\*The elapsed time from first contact between the officers and [Privacy Policy] to the time that they physically took control of her and informed her she would have to be "checked out" was 3:05 minutes. Total amount of time [Privacy Policy] was directly observed by the officers before she was physically restrained and informed she would have to "checked out" was 39 seconds.

The minutes and seconds displayed on the elapsed time bar at the bottom of the video playback was used to determine the timeline of the events captured in this BWC video:

00:42 [Privacy Policy] opened the front door to her home.  
01:00 [Privacy Policy] walked away from the front door.  
01:02 Officer [13.43] attempted to open the screen door.  
01:05 [Privacy Policy] returned to the front door.  
01:07 Sgt. Barnette attempted to open the screen door.  
01:14 [Privacy Policy] closed her front door.  
01:40 Sgt. Barnette began to remove the screen from the screen door.  
03:35 [Privacy Policy] opened the front door again.  
03:37 Sgt. Barnette entered [Privacy Policy] home.  
03:39 Sgt. Barnette took hold of [Privacy Policy] arm and controlled her  
03:47 Sgt. Barnette told [Privacy Policy], "I think we need to have you checked out."

**4) 17-10527 BWC Officer [13.43] (forced entry and involuntary hold)**

This video is 22:43 minutes long and begins while Officer [13.43] is standing at the front door, Sgt. Barnette is standing below the steps to the porch and Officer [13.43] is just behind Officer [13.43]. The first conversations occur as [Privacy Policy] opens the front door and is greeted by Officer [13.43], as described in Officer [13.43] video above. The sequence of events and conversation described above are also captured in Officer [13.43]' video.

At 4:05 minutes into the video, Officer [13.43] walks out of [Privacy Policy] home to the sidewalk and back to the house. At 4:31, she asked dispatch if the EMS was "on the way." She then re-entered the home.

At 5:19 and 5:52 minutes, Officer [13.43]' camera was aimed into [Privacy Policy] living room and showed the condition of that part of the residence. At 7:12, Officer [13.43] again asked about the location of the ambulance.

At 7:45 minutes, Officer [13.43] went upstairs to retrieve [Privacy Policy] purse and wallet. Officer [13.43] entered a room to the left at the top of the stairs and turned on the light, revealing the condition of the interior of the room. After locating the wallet next to the computer monitor on the desk next to the door, Officer [13.43] returned downstairs. At 9:34 minutes, she again went outside to check on the location of the ambulance.

At 13:04 minutes into the video, Officer 13.43 advised that the ambulance had arrived. PPI PPI then asked Officer 13.43 to retrieve her phone charging cord from the upstairs office. Officer 13.43 went back upstairs and into the office where she unplugged the cord and took it back downstairs. Her BWC captured more of the condition of the interior of Privacy Policy home.

At 15:00 minutes into the video, Officer 13.43 retrieved Privacy Policy house keys from within her kitchen. Officer 13.43 BWC captured the condition of the interior of Privacy Policy kitchen.

At 15:39 minutes, Officer 13.43 entered the ambulance. Privacy Policy stated, "I still have no identification from people who just kidnapped me." At 16:40, Privacy Policy stated to Officer 13.43, "You still haven't identified whoever sent you out to harass me at my home." Officer 13.43 said, "You just talked to my Sergeant." Privacy Policy then said, "You said it was anonymous." Officer 13.43 asked, "What's anonymous?" Privacy Policy then asked, "What cousin? I have twenty-two cousins." Officer 13.43 said, "I'm not going to talk to you. You can talk to my boss later." Privacy Policy then said to Officer 13.43, "We don't even know who you are." Officer 13.43 simply replied, "You will."

Officer 13.43 is seen filling out the mental health hold form. Officer 13.43 came into the ambulance and provided Privacy Policy with a blue card. Officer 13.43 completed the hold form, handed it to the male paramedic, and exited the ambulance. The BWC was then turned off.

#### 5) 17-10527 BWC Sergeant Barnette (forced entry and involuntary hold)

This video is 18:46 minutes in length and begins as Sgt. Barnette is parking her squad car. She exits the squad car and walks up the walk to the front door. Officer 13.43 and Officer 13.43 are already at the front porch. The events captured on Sgt. Barnette's BWC begin as does Officer 13.43 and Officer 13.43 videos with Privacy Policy opening the door and being greeted by Officer 13.43. The conversations recorded by Sgt. Barnette's video is the same as the previous described contacts.

After Privacy Policy closed the door, Sgt. Barnette removed the screen from the screen door and, at 02:03 minutes into her video, Sgt. Barnette said, "Should'a done that first."

The conversation between the officers and Privacy Policy duplicates what is described above in Officer 13.43 BWC video. Additionally, after Officer 13.43 tells Privacy Policy that they need to talk to her before they leave, Privacy Policy is heard from inside her home ask, "About what? Your failure to do anything?"

After Privacy Policy opened the door, Sgt. Barnette quickly entered the residence and took control of Privacy Policy. The conversation was recorded as described above.

After Privacy Policy was lead from her home, Sgt. Barnette and Officer 13.43 attempted to replace the screen on the screen door. Sgt. Barnette turned off her BWC while she was still inside PPI PPI residence and before the screen was completely attached or the home was secured.

#### 9-1-1 Calls placed by Complainant for which recordings were provided:

1. On 05/25/2017, at 09:57 hours, Privacy Policy, placed a 9-1-1 call to report a person, unknown to Privacy Policy, sitting on a retaining wall in the alley behind her home. This call was a transferred call from Edina PD. She said that she believed the individual was smoking marijuana and she asked that police officers respond to contact this person. Privacy Policy did request to speak with the officers when they arrive. Officers (Squad 504) were dispatched to this call at 10:16 hours

and arrived at 10:17 hours. At 10:22 hours, an officer in Squad 504 cleared the call indicating that the “party is goa” (gone on arrival).<sup>7</sup>

2. On 05/25/2017, at 20:21 hours, [Privacy Policy], placed a 9-1-1 call to inquire about the 2 officers who came to her residence telling her that some cousin of hers was slandering her [reference VisiNet Incident Detail Report 17-191155]. [Privacy Policy] was also upset as she complained that no officers responded to her earlier 9-1-1 call. The call taker told her that officers were sent on the first call and [Privacy Policy] said she was home and she wasn’t contacted. She asked that the Precinct Commander call her right away. The call taker said he didn’t have the commander’s direct number but he’d have the sergeant call her. The call taker also informed [Privacy Policy] that the officers who were just there were sent to contact her based on a call from an anonymous relative. [Privacy Policy] was still angry at the end of the call and the call taker said he would have the Sergeant call her.<sup>8</sup>
3. On 05/25/2017, at 20:41 hours, [Privacy Policy] placed a 9-1-1 call received by Minneapolis MECC. [Privacy Policy] asked to be transferred to Edina P.D. When connected with Edina Police, [PPI] [PPI] requested a welfare check on [Privacy Policy], stating that he was a vulnerable adult and she was concerned that he might be being exploited by his caregivers. [Privacy Policy] requested a call back to advise of his condition.<sup>9</sup>
4. On 05/25/2017, at 21:05 hours, [Privacy Policy] placed a second 9-1-1 call received by Minneapolis MECC in which she asked to be transferred to Edina P.D. When connected with Edina Police, [PPI] [PPI] was informed by the call taker that officers were at [Privacy Policy] house and the call taker was waiting for the officers to advise on [Privacy Policy] status. [Privacy Policy] stated that she would be going over there if she did not receive a text from [Privacy Policy] in the next ten minutes.<sup>10</sup>
5. On 05/25/2017, at 21:43 hours, [Privacy Policy] placed a 9-1-1 call after Sgt. Barnette, Officer [13.43], and Officer [13.43] arrived at her home. [Privacy Policy] told the call taker that there were three officers there harassing her at her home, refusing to leave. She told the call taker, “Get them off of my property, now! This is harassment.” During the call, [Privacy Policy] did open the front door and [Privacy Policy] could be heard saying, “Get off my property now. How dare you? Hello! Help!” before the call was disconnected.<sup>11</sup>

### **Complainant and evidence provided by Complainant**

#### **Complainant, [Privacy Policy]**

In her complaint, [Privacy Policy] alleged that two officers from the Minneapolis Police Department appeared at her door on May 25, 2017, at 8:20 PM. She said that the officers told her that “someone” called the police department about “threats.” She said she asked the officers for details, but the officers did not give her any details and she asked them to leave. [Privacy Policy] continued, “*Later, I noticed three police officers on my doorstep, vandalizing my property by forcibly ripping the screen out of my storm door.*”<sup>12</sup> [Privacy Policy] added that she opened her front door to ask them what they were doing and they rushed into her house and “*physically assaulted*”<sup>13</sup> her. [Privacy Policy] added that the officers forcibly removed her from her home without any reason given. She was then taken to Fairview Southdale

<sup>7</sup> VisiNet report CCN #17-190472

<sup>8</sup> 05-25-2017 20\_21\_50 call from 612-927-9841.wav

<sup>9</sup> 2017050454 1<sup>st</sup> 911 call\_Redacted.pdf (transcribed phone call provided by Edina PD)

<sup>10</sup> 2017050454 2<sup>nd</sup> 911 call\_Redacted.pdf (transcribed phone call provided by Edina PD)

<sup>11</sup> 17-191393 911 Calls (3).wav [3<sup>rd</sup> recording]

<sup>12</sup> OPCR Complaint, file 17-10527, Description of Incident, line 5-6

<sup>13</sup> Ibid, Description of Incident, line 8

Hospital. Privacy Policy further alleged, "...a physician acknowledged that I was being illegally detained and released me. I was forced to walk home two miles in the middle of the night."

Privacy Policy was interviewed regarding her complaint on August 15, 2017. She briefly discussed the first time Officer 13.43 and Officer 13.43 arrived at her home. She said it was about 8:20 p.m. and she asked them if they were there regarding her call to 9-1-1 earlier in the day<sup>14</sup> for a person sitting on the retaining wall in the alley behind her home and whom she believed was smoking marijuana. They told her they did not know about that call and they were there about "a cousin and threats, but they weren't giving me any details."<sup>15</sup> She said she asked who called and Officer 13.43 went back to the squad car. When he returned to the front door, he apologized and they left. Privacy Policy said she called 9-1-1 after the officers left to complain about being harassed at her home.<sup>16</sup>

Privacy Policy stated that, at about 9:40 to 9:45 p.m., she "heard a commotion at my front door...I had the screen door locked and the front wooden door locked and observed three Minneapolis police officers breaking down the door of my home."<sup>17</sup> She asked them what they were doing and they continued to "break down the door." Privacy Policy said she closed the door and called 9-1-1 for help, but the officers "pounded on the door"<sup>18</sup>. When she opened the door again, the officers "charged into my home...Two of them assaulted me."<sup>19</sup> Privacy Policy further stated, "They proceeded to make nonsensical statements. Barnette said I had called 9-1-1 a million times, quote, end quote. Um, and, ah, was, um, telling me that she had decided I was in a mental health crisis."<sup>20</sup>

Privacy Policy said she was taken to Fairview Southdale Hospital where she was seen by a doctor. He asked her a few questions before he released her. She left the hospital around midnight and she then had to walk home.

During her statement, Privacy Policy denied calling anyone and making threats against them. She stated, "I didn't threaten anybody at any point in time on May 25th or any other date. Period."<sup>21</sup>

Privacy Policy was asked about the phone conversation she had with Sgt. Barnette prior to the three officers coming to her home and placing her on a hold. She said this conversation occurred after she called 9-1-1 following her contact with Officers 13.43 and 13.43 (the 8:21 p.m. call). Regarding this conversation, Privacy Policy said Sgt. Barnette "seemed totally uninterested and dismissive of any concerns that I had. Rude. Unresponsive."<sup>22</sup> When asked if Sgt. Barnette asked her any questions about her specific state of mind at that time, Privacy Policy simply said, "No."<sup>23</sup>

Privacy Policy was also asked about the 9-1-1 calls she made during which she asked to be transferred to Edina PD. Privacy Policy stated:

*"I called. Made a phone call that evening, ah, a vulnerable adult report. And, ah, the vulnerable adult lived in Edina. So, when I called on my cell phone, I live in the last block in Minneapolis. I have a 612 area code. It apparently went to the Minneapolis 9-1-1 operator and when I gave the address of the vulnerable adult, they transferred me to the Edina police. I'm a mandated reporter of vulnerable adults. Under the law."<sup>24</sup>*

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<sup>14</sup> VisiNet Incident Detail Report, CCN #17-190472

<sup>15</sup> Transcript of Complainant's statement, dated 08/15/2017, Page 2, line 9

<sup>16</sup> 05-25-2017 20.21.50 call from 612-927-9841.WAV

<sup>17</sup> Transcript of Complainant's statement, dated 08/15/2017, Page 2, line 32-35

<sup>18</sup> Ibid, Page 2, line 38

<sup>19</sup> Ibid, Page 2, line 39

<sup>20</sup> Ibid, Page 2, line 43-55

<sup>21</sup> Ibid, Page 5, lines 40 and 54

<sup>22</sup> Ibid, Page 7, lines 5 and 8

<sup>23</sup> Ibid, Page 7, line 12

<sup>24</sup> Ibid, Page 7, lines 30-42



The Complainant expressed concern that the medical report<sup>25</sup> contained false information:

*“Um, the hospital claims that, that the people who brought me in gave the false information to the hospital and they just repeated it. Specifically, the hospital report states that in relay, in regard to me, quote: her apartment was a mess and so they were concerned about whether she could take care of herself.*

*“My closest friends tease me mercilessly about the fact that you could eat off the floors at my house. If you look at the bodycams, you can see that I have a meticulous house. Ah, nothing was out of place.*

*“Um, there was absolu, it’s an absolutely not only false statement but the exact opposite is true and I still have no idea who made it. Fairview Southdale Hospital denies that, ah, they had any information to make such a bizarre statement and, ah, speculated that the people who dumped me there were looking for any reason whatsoever to justify their conduct. That’s the kind of bizarre misstatements that have been made in this case.”<sup>26</sup>*

As mentioned above in the discussion of the BWC videos, Officer **13.43**’ BWC captured some footage showing the interior of **Privacy Policy** home, including the living room area, the upstairs office, and the kitchen. This video footage appears to corroborate **Privacy Policy** statement above in her depiction of the condition of her home.

## **Medical Records**

**Privacy Policy** was admitted into the hospital at 10:14 P.M. She was evaluated by Doctor Robert James Anderson in the Emergency Department and discharged to go home at 12:46 A.M. The following information was included in the medical report under the heading “Medical Decision Making”:

*“The patient is brought in by police on a hold. She was very angry with the staff. I saw the patient and she was very angry with me as well. I explained to the patient the process of police officer holds and the need to undergo medical screening to make sure that there is no significant acute medical or mental health disorder requiring admission the hospital. Although there may be underlying mental health disorders in this patient with a history of depression and anxiety, there may be component of some paranoid behavior, but after spending approximately 20 minutes with the patient, she was somewhat rational and I do not believe that the patient is hold-able. The pt admitted to drinking earlier and does have a legal amount of alcohol in her system now and this may have contributed the the circumstances earlier. The patient elected to go home. She did not want to be admitted to the hospital. Again, she did not have any medical concerns that she wanted me to address. No trauma to suggest intracranial bleed; no headache, no focal neuro deficit etc.”<sup>27</sup>*

## **DISCUSSION**

### **Allegation 1**

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

#### **5-103 USE OF DISCRETION**

The police profession is one that requires officers to use considerable judgment and discretion in the performance of their daily duties. Officers have a large body of knowledge from Department

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<sup>25</sup> Patient Medical Report, **Privacy Policy** dated 05/25/2017, Page 5, “Medical Decision Making”, Line 3

<sup>26</sup> Ibid, Page 10 lines 9-22

<sup>27</sup> Ibid., Page 5, “Medical Decision Making”, paragraph 2

policies and procedures, training, their own professional police experience and the experiences of their fellow officers to guide them in exercising proper judgment and discretion in situations not specifically addressed by Department rules and regulations. In addition, officers must always adhere to the following principles in the course of their employment with the Minneapolis Police Department:

- POLICE ACTION - LEGALLY JUSTIFIED: Officers must act within the limits of their authority as defined by law and judicial interpretation, thereby ensuring that the constitutional rights of individuals and the public are protected. All investigative detentions, pedestrian and vehicle stops, arrests, searches and seizures of property by officers will be based on a standard of reasonable suspicion or probable cause in accordance with the Fourth Amendment of the U.S. Constitution and statutory authority. Officers must be able to articulate specific facts, circumstances and conclusions that support reasonable suspicion or probable cause. (11/17/15)
- EQUALITY OF ENFORCEMENT: Officers shall provide fair and impartial law enforcement to all citizens.
- LOYALTY: Officers shall be faithful to their oath of office, strive to uphold the principles of professional police service, and advance the mission of the Department.

## 5-105 PROFESSIONAL CODE OF CONDUCT (01/05/16)

### A. General

4. Employees shall use reasonable judgment in carrying out their duties and responsibilities. They need to weigh the consequences of their actions. (04/01/05) (05/03/05) (01/05/16)

**Privacy Policy** alleged that the officers in this matter forced entry into her home and had her taken to a hospital for mental health evaluation without justification. Officer **13.43** and Officer **13.43** both indicate in their reports that the decision to place a mental health hold on **Privacy Policy** was made by Sgt. Barnette, prior to arriving at **Privacy Policy** residence.<sup>28</sup> Since Sgt. Barnette did not complete a CAPRS supplement report (discussed below under Allegation 3), there is no articulation of “specific facts, circumstances, and conclusions” in the CAPRS report to support the actions that Sgt. Barnette directed to be taken in this matter.

**Minnesota Statute 253B.05, Subd. 2.** states, “A peace or health officer may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained.” The statute also states, “The peace or health officer shall make written application for admission of the person to the treatment facility. The application shall contain the peace or health officer's statement specifying the reasons for and circumstances under which the person was taken into custody. If danger to specific individuals is a basis for the emergency hold, the statement must include identifying information on those individuals, to the extent practicable.”

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<sup>28</sup> MPD CAPRS CCN #17-191393, Supplement 1, paragraph 4 and Supplement 2, paragraph 3, line 6, [3]  
Page 10 of 27

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

**7-1003 MENTALLY IMPAIRED PERSONS (05/06/15)**

Felony suspects who are mentally impaired shall be booked in the jail unless otherwise ordered by a superior officer. Officers booking a mentally impaired person shall advise the jail and the applicable investigating unit.

Officers dealing with disturbed mentally impaired persons have the authority to transport and hold them pending a medical/ psychological review by a physician as mandated by the Hospitalization and Commitment Act of the Minnesota Statutes (Minn. Stat. 253B.05s2&3). **Officers attempting to use the powers granted by this law shall be familiar with its requirements.** (07/28/89)

Officer [13.43] Officer [13.43]:

Officer [13.43] was partnered with Officer [13.43] on 05/25/2017, in Squad 530. He was not deposed in the civil action filed by [Privacy Policy] and he was not available for an interview due to his employment status following this incident. He completed a supplement report to the CAPRS report which was filed in this matter.<sup>29</sup>

In his report, Officer [13.43] wrote that Officer [13.43] and he were dispatched to [Privacy Policy] home after an anonymous male caller requested officers to check on [Privacy Policy] welfare. Officer [13.43] wrote that the male caller alleged that [Privacy Policy] had placed a threatening phone call to him. Officer [13.43] report does not contain any facts or details relevant to the alleged threats, nor does the report list the identity of the male caller. Officer [13.43] stated in his report that they arrived at [Privacy Policy] residence at 19:38 hours. This appears to be incorrect as VisiNet lists the time they were assigned to the call at 20:05 hours, arriving on scene at 20:14.

Officer [13.43] wrote that [Privacy Policy] was "agitated and uncooperative," asking the officers why they were at her property. Officer [13.43] said he attempted to calm [Privacy Policy] down; however, she continued to shout at them. He wrote that the remarks in the call were related to a male, so they apologized and cleared the call. The VisiNet report shows 20:26 hours as the time that the call was completed.<sup>30</sup>

Officer [13.43] Supplement report lists two different times that Officer [13.43] and he were dispatched to [Privacy Policy] home for the second time. In his second paragraph, he wrote:

*"At approx. 21:23 hours, we were dispatched to Check Welfare at [Privacy Policy]"*

In paragraph seven, he wrote:

*"5/25/2017 21:34 hours, we were dispatched for the second time (17-191393)."*

The information given in paragraph seven appears to list the time incorrectly. The VisiNet Incident Detail Report for this call states that officers were assigned to the call at 21:23 hours.<sup>31</sup>

Officer [13.43] wrote, "**Prior to arriving**, Sgt. Barnette had advised my partner and I to place a Health and Welfare hold on OT, [PPI]"<sup>32</sup> He also wrote, "**Prior to our arrival** we requested EMS and they staged a block away."<sup>33</sup> This information is corroborated by the comments entered into the VisiNet Incident Detail Report, which state:

<sup>29</sup> MPD CAPRS CCN #17-191393, Supplement 1

<sup>30</sup> VisiNet Incident Detail Report #17-191155

<sup>31</sup> VisiNet Incident Detail Report #17-191393

<sup>32</sup> MPD CAPRS CCN #17-191393, Supplement 1, paragraph 3

<sup>33</sup> Ibid, paragraph 7

5/25/2017	21:05:53	CT031779	Response	[3] PER SGT BARNETTE SQD 502 - OFCRS TO SIGN A HEALTH AND WELFARE HOLD ON THIS SUBJECT - SGT BARNETTE HAS ALSO
5/25/2017	21:06:11	CT031779	Response	SPOKEN W/THERESA AND ATTEMPTED TO ADVISE HER [4] **OFCRS TO SIGN HEALTH/WELFARE HOLD PER 502**
5/25/2017	21:26:26	530	Response	[7] START EMS CODE 2 PLZ...

Officer 13.43 and Officer 13.43 arrived at Privacy Policy home at 21:40 hours, while Sgt. Barnette arrived at 21:37.<sup>34</sup>

Following his statement that they were dispatched for the second time, Officer 13.43 paraphrased comments from the VisiNet report into his supplement. He wrote that, since the first incident, PPI PPI appeared to be getting more and more agitated making numerous calls to dispatch and not making sense. He added that she appeared to be in a "mild manic state", information which is not stated in VisiNet and which he had not yet had the opportunity to observe for himself.<sup>35</sup> After knocking on the door, Privacy Policy opened the door and appeared "angry and agitated." She then slammed the door and asked them to leave. At that point Sgt. Barnette removed the screen from the screen door and knocked until Privacy Policy opened the door. Officer 13.43 report does not contain any information about the officers entering Privacy Policy home and physically restraining her.

Paragraph 8 appears to contain Officer 13.43 reasoning for placing Privacy Policy on a mental health hold. He referred to Privacy Policy "thought pattern" as being "scattered". He wrote that she "kept referring to her cousin in Edina who was being 'financially exploited'". She "uttered" that she sent an email to Inspector Waite and Mayor Hodges. She lived alone. He summed it up, writing, "Upon assessing the situation, we determine to place OT, PPI on a health and wellness hold. Primary due to OT/ PPI mild manic and agitated state at the moment she was unable to care for herself."<sup>36</sup>

This supplement report does not address the statutory requirement that an officer must have a reason to believe "that the person is mentally ill or developmentally disabled and in danger of injuring self or others if not immediately detained."<sup>37</sup>

Officer 13.43 13.43 :

Officer 13.43 is listed in the CAPRS report as the reporting officer. The report is coded for a Forced Entry Report as well as Crisis Intervention. The Public Data statement on page one states:

*"Officers responded to the above location for a check the welfare. Per shift Sgt, squad 502, OT1 was placed on a hold. She was transported to the Hospital by the Ambulance (Run # 17037649)."*

<sup>38</sup>

Officer 13.43 also completed a supplement report for this incident. In this supplement report, she included some of the text of the VisiNet Incident Detail Report, which discussed prior responses to her home on that date. This data states that the officers responding to Privacy Policy home were directed by Sgt. Barnette to sign a health and welfare hold on Privacy Policy. This data also states that some member of Privacy Policy family called Edina PD, who in turn called Minneapolis Police Department, to say that she may fight with police.<sup>39</sup>

<sup>34</sup> VisiNet Incident Detail Report #17-191393

<sup>35</sup> MPD CAPRS CCN #17-191393, Supplement 1, paragraph 7

<sup>36</sup> Ibid, paragraph 8

<sup>37</sup> Minnesota Statute 253B.05, Subd. 2.

<sup>38</sup> MPD CAPRS CCN #17-191393, Page 1, Public Data

<sup>39</sup> Ibid, Supplement 2, paragraph 3

Officer 13.43 wrote that she rang the front door bell and Privacy Policy answered, telling them she did not call the police. She told them to get off her property and “slammed the door shut.”<sup>40</sup> Officer 13.43 wrote:

*“The screen door was locked. We continued to knock on the door but she refused to open it. Sgt BARNETTE removed screen door as we continued to attempt to make contact with OT1. I can hear OT1 telling us to get off her property. She was advised that we need to talk to her to make sure she is ok. She said she was fine. OT1 eventually opened the door and again told Officers to get off her property. She was taken into custody until the Ambulance arrived. OT1 was advised she needed help (Crisis). She continued to tell Officers that we are harassing her.”<sup>41</sup>*

Officer 13.43 reported that Privacy Policy appeared to very agitated and upset and she stated that officers were “kidnaping” her from her home. She also complained that officers were holding her arms too tightly, so they allowed her to sit while awaiting an ambulance. Officer 13.43 reported that PPI PPI was placed on a hold at the direction of “Squad 502”, which was Sgt. Barnette’s call sign on that date.

There is no discussion in Officer 13.43 report of Privacy Policy possibly being mentally ill. In the only discussion of Privacy Policy state of mind, Officer 13.43 wrote, “OT1 appeared to be very agitated and upset...Throughout the whole time, OT1 was very argumentative, agitated, and uncooperative.”<sup>42</sup> There is no information in this report stating that Privacy Policy was a danger to herself or any other person. The comment placed in VisiNet by Emergency Communication Center personnel warns officers that PPI PPI may fight with them; however, there is no statement in this report or any other reports that PPI PPI offered any resistance to them or verbalized any threat.

#### **Application By Peace or Health Officer For Emergency Admission:**

Prior to Privacy Policy transport to Fairview Southdale Hospital, Officer 13.43 filled out and signed the Application By Peace or Health Officer For Emergency Admission form. The form requires the officer completing the form to state under what circumstances and for what reasons the person on whom they placed the hold was taken into custody. The following information was submitted by Officer 13.43 :

*“Female continuously called 911 and per dispatcher female was verbally agitated and not making sense. Per Shift Sgt, Squad 502, a hold was place [sic] on the female.”<sup>43</sup>*

There is no information in this statement to explain why the officers believed Privacy Policy was “mentally ill, mentally retarded or chemically dependent and in imminent danger of injuring self or others.” It simply states that a dispatcher found Privacy Policy “verbally agitated” when she called 9-1-1 so Sgt. Barnette wanted a mental health hold placed on her.

#### **Deposition of Officer 13.43 :**

Officer 13.43 was deposed on 01/18/2018.<sup>44</sup> In her deposition during direct examination, Officer 13.43 said that her partner (Officer 13.43) and she were dispatched to Privacy Policy residence to check on her welfare since. She recalled information in the call that Privacy Policy was reportedly “threatening her family.”<sup>45</sup> Officer 13.43 said they contacted Privacy Policy and she seemed angry that the officers were there and she didn’t understand why. Officer 13.43 said that Privacy Policy asked who

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<sup>40</sup> Ibid, paragraph 4

<sup>41</sup> Ibid, paragraph 5

<sup>42</sup> Ibid., paragraph 6

<sup>43</sup> Application By Peace or Health Officer For Emergency Admission, dated 05/25/2017

<sup>44</sup> United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Officer 13.43 13.43, dated 01/18/2018

<sup>45</sup> Ibid., Page 18, line 1

called to say she had threatened them so Officer 13.43 returned to the squad car to check the call information. When Officer 13.43 returned to the front door, he apologized and they left.

Officer 13.43 was asked if Privacy Policy threatened them or anyone else with violence and Officer 13.43 stated, *"Not to my knowledge that she threatened anyone besides what our call remarks said."*<sup>46</sup> Officer 13.43 was then asked if they followed up any information which was provided in the call and she replied she did not call anyone. She also testified that she did not observe anything to indicate PPI PPI was a danger to herself or to others and she had no information that Privacy Policy had any mental illness.<sup>47</sup>

Officer 13.43 then was asked about the second call to Privacy Policy residence. She said a second call came to them on their squad computer screen to return to Privacy Policy home. When asked what information was provided to them regarding the call, she replied that all she could recall were *"pieces of the remarks that she was calling 9-1-1 very agitated, several times."*<sup>48</sup>

Officer 13.43 was questioned about the purpose for returning to Privacy Policy residence. She said that, according to the remarks in the call, Sgt. Barnette had ordered that Privacy Policy was to be placed on a "hold" and that she would be taken to the hospital regardless of whether she was willing to go.<sup>49</sup> Officer 13.43 also testified that she had no knowledge about why she would be taken to the hospital outside of the call remarks.<sup>50</sup>

Officer 13.43 was questioned about her understanding of the reasons someone would be placed on a hold. She replied:

*"A. Some of the reasons may be if they're -- they want to harm themselves, they want to harm others. They can't take care of themselves or others. These are just some of the things."*

*"Q. Any other reasons that you can recall?"*

*"A. I'm pretty sure there is. I just can't think of all of it right at this second."*<sup>51</sup>

Then she was asked specifically about Privacy Policy:

*"Q. What is your understanding of the reason that Privacy Policy was going to be taken to the hospital?"*

*"A. Her call remarks, sir."*

*"Q. Okay. In terms of the criteria for putting a hold on someone, do you know if any of these criteria that you mentioned apply?"*

*"A. Well, per call remarks, whatever my sergeant said that's what goes."*

*"Q. You weren't trying to determine for yourself what the reason was for holding Privacy Policy?"*

*"A. At that point, no."*<sup>52</sup>

Officer 13.43 was asked several questions regarding Minneapolis Police Department policy and Minnesota statutes that give officers authority to place an individual on a mental health hold.

*"Q. So as you sit here, you are not able to describe what the statute says?"*

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<sup>46</sup> Ibid., Page 22, line 7-8

<sup>47</sup> Ibid., Page 21, line 21 through Page 22, line 25

<sup>48</sup> Ibid., Page 24, line 21

<sup>49</sup> Ibid., Page 25, Line 23 and Page 26, line 15

<sup>50</sup> Ibid., Page 26, Line 18

<sup>51</sup> Ibid., Page 27, lines 5-8

<sup>52</sup> Ibid., Page 28, line 18 to Page 29, line 6

*"A. I don't. I don't remember.*

*"Q. Can you -- do you recall anything about what the policy says?*

*"A. If you show it to me.*

*"Q. Before I show it to you, can you recall anything about what the policy says?*

*"A. I don't remember the specifics of it."<sup>53</sup>*

After Officer **13.43** was questioned about the sequence of events when they arrived for the second call at **Privacy Policy** residence, she was asked what happened after **Privacy Policy** opened the front door the second time. Officer **13.43** stated that all three officers entered the residence. She testified that **PPI** had not given them permission to enter:

*"Q. So why did you enter the house without permission?*

*"A. Well, per call remarks, we were to take her and put a hold on her.*

*"Q. Okay. So, the purpose was to come into the house and then take her out to the hospital?*

*"A. Yes."<sup>54</sup>*

Officer **13.43** was asked if she determined, after entering the home, if **Privacy Policy** needed help. She said, no and it wasn't her call. When asked who's call it was, she said, "My Sergeant."<sup>55</sup> Officer **13.43** said she didn't have or form an opinion about whether or not **Privacy Policy** needed help. When asked about her observations of **Privacy Policy**, Officer **13.43** stated she observed aggression. When asked to explain what she meant, Officer **13.43** stated:

*"Q. When you say "aggression" what do you mean by aggression?*

*"A. She was yelling. Her hands were on her waist.*

*"Q. She was angry, right?*

*"A. Yes.*

*"Q. Did she physically attack any officers?*

*"A. No.*

*"Q. Did she engage in any kind of physical aggression towards the officers?*

*"A. No.*

*"Q. She was -- she was verbally angry, right?*

*"A. Yes, sir.*

*"Q. Was she out of control?*

*"A. No.*

*"Q. Okay. Did you observe anything about **Privacy Policy** that led you to believe that she was going to harm herself?*

*"A. No.*

*"Q. Did you observe anything about **Privacy Policy** that made you think she was going to harm anyone else?*

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<sup>53</sup> Ibid., Page 31, line 8 to 15

<sup>54</sup> Ibid., Page 34, Lines 16-21

<sup>55</sup> Ibid., Page 36, line 9

"A. Not that I can recall. I didn't get to interact with her, so.

"Q. Well, again, from your observations, something that you observed that indicated she was going to harm anyone else?

"A. Not at that moment, no.

"Q. At any time that you interacted with her did you observe anything that led you to believe she was going to harm anyone else?

"A. No.

"Q. Did you observe anything that led you to believe that she couldn't take care of herself?

"A. No.

"Q. What did you observe about the condition of her house?

"A. Very nice and very neat."<sup>56</sup>

Privacy Policy had complained that officers grabbed her arms when they entered her home.<sup>57</sup> Officer 13.43 was questioned about that issue. She identified the officers who grabbed Privacy Policy as Officer 13.43 and Sgt. Barnette. When asked if she knew why they grabbed her, Officer 13.43 replied, "No."<sup>58</sup>

Officer 13.43 was asked if she observed anything about Privacy Policy that she thought would justify a hold to be placed on Privacy Policy. Officer 13.43 replied, "No."<sup>59</sup> Officer 13.43 also said she had no knowledge if Privacy Policy had any diagnosis of mental illness.<sup>60</sup>

Officer 13.43 stated in her deposition that she never got any information about the caller to 9-1-1 who claimed to be a cousin to Privacy Policy. He was never identified and the officers did not get any clarification about what this person meant about Privacy Policy threatening him and his family beyond what's in the remarks. She also stated that the comment "Unknown mental health Diagnosis" indicates that the caller doesn't know if she is diagnosed with any mental illness.<sup>61</sup>

The Assistant City Attorney began his examination of Officer 13.43 following a thirteen (13) minute break. He prefaced the questioning by saying that he wanted to "broaden the questions a little bit beyond just your direct observations, and ask some questions about reasonable beliefs based not just on those observations."<sup>62</sup> He asked her to read the comments in the VisiNet reports for the two calls Officer 13.43 and Officer 13.43 were involved with. The first one was regarding the original 9-1-1 call from the person claiming to be a cousin of Privacy Policy in which he alleged that Privacy Policy called him and threatened him and his family.

The Assistant City Attorney asked her to read the comment that was entered by one of the officers at the end of the call [Officer 13.43 could not recall who entered the comment] where Privacy Policy was characterized as "very aggressive and agitated and uncooperative." He did not, however, ask her to read the comment that follows in which the officer who entered the information writes, "she appeared to be A-okay."

The Assistant City Attorney asked Officer 13.43 about the information related to the 9-1-1 calls made by Privacy Policy between the first and second call Officer 13.43 responded to. He then asked about the

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<sup>56</sup> Ibid., Page 37, line 2 through Page 38, line 13

<sup>57</sup> Transcript of Privacy Policy Page 2, lines 40-47

<sup>58</sup> United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Officer 13.43 13.43, dated 01/18/2018, Page 39, lines 16-21

<sup>59</sup> Ibid., Page 45 lines 1-3

<sup>60</sup> Ibid., Page 45, line 15-17

<sup>61</sup> Ibid., Page 47, line 25 to Page 48, line 20

<sup>62</sup> Ibid., Page 69, lines 12-15



comment pertaining to the caller to Edina PD in which the caller warned that [Privacy Policy] might fight with the police.

The Assistant City Attorney asked Officer [13.43] if she had reviewed each of the comments relating to the calls prior to arriving at [Privacy Policy] home. She said she did. He then asked, based on this information and her experience as a police officer if it was reasonable to believe that [Privacy Policy] was mentally ill and a threat to others. Officer [13.43] answered, "Yes."<sup>63</sup>

Officer [13.43] was questioned again by [Privacy Policy] attorney. The examination began with an inquiry and subsequent argument between attorneys regarding a meeting that occurred between the Assistant City Attorney and Officer [13.43] during the break which preceded the examination of Officer [13.43] by the Assistant City Attorney.<sup>64</sup>

Officer [13.43] was asked if she had any prior knowledge of a mental illness diagnosis of [Privacy Policy] and she said, "No." She was asked if she spoke to the person who alleged the threats and she said, "No." She was asked if she knows who that caller is and she said, "No." She was also asked if she knows if that person was, in fact, a cousin and she, again, said, "No." Officer [13.43] was also asked if she or if anyone in the Minneapolis Police Department knew the identity of the caller or of the nature of the alleged threat and she said, "No, I don't."<sup>65</sup>

*"Q. Do you agree that you don't know if they -- if the threats did occur, you don't know if they were threats of violence?"*

*"A. I do not know."*

*"Q. Okay. And the person who called and said that she might fight with the police, do you know who that person was?"*

*"A. No."*

*"Q. And do you know what the basis for that person's statement was?"*

*"A. All I got is what's in front of me. I mean I can reread that to you. That's pretty much all I got."*

*"Q. Did [Privacy Policy] fight with you at all?"*

*"A. Physically?"*

*"Q. Yes."*

*"A. No, sir."<sup>66</sup>*

#### **Sergeant Shannon Barnette:**

##### **Training**

During her deposition, Sgt. Barnette was asked if she had any specific training on dealing with people with mental illness during her career with the Minneapolis Police Department.<sup>67</sup> She stated that the "majority of the department" went through a 1-week crisis intervention training program "approximately a year ago."

Sgt. Barnette was then questioned about other specific training she attended during her career dealing with people with mental illness. These classes were documented in her training records. One class was

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<sup>63</sup> Ibid., Page 69, line 11 to Page 75, line 24

<sup>64</sup> Ibid., Page 76, line 2 through Page 78, line 7

<sup>65</sup> Ibid., Page 78 line 9 through Page 82, line 18

<sup>66</sup> Ibid., Page 87, line 21 through Page 88, line 17

<sup>67</sup> United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Sergeant Shannon L. Barnette dated 01/16/2018, beginning Page 19, line 19

Trauma Training dated 07/10/2017. When asked if she could remember anything about that training, she replied, *"No. Not specific."*<sup>68</sup>

The next course was Taser training, CIT (Crisis Intervention Team) coach certification, on 12/5/2016. She stated that, upon completion of the course, she was asked to coach Crisis Intervention; however, when asked about the course, she stated, *"I don't remember specifics."*<sup>69</sup>

Sgt. Barnette discussed Crisis Intervention Team training, 05/09/2016 through 05/13/2016. When asked if she recalled any specific details about the course dealing with people with mental illness, she, again, could not recall specific details.<sup>70</sup>

One last class mentioned by Sgt. Barnette from her training records was Early Intervention Training from 2010 and 2009. About this course, Sgt. Barnette stated, *"I specifically -- I don't have specifics for you, but part of it is recognizing people that are struggling mentally, either in crisis or that kind of stuff."*<sup>71</sup>

Sgt. Barnette was asked how she can identify if someone has mental illness. She responded, *"I think there is -- I don't know if you can specifically. I think it has to be on a case-by-case basis."* She was next asked what's her definition of mental illness. Sgt. Barnette responded, *"Oh. I don't have a specific -- I don't know if there is one specifically to give."*<sup>72</sup>

Sgt. Barnette was then asked, "So is that something you do try to identify in your work as a police officer if someone has a mental illness?" Sgt. Barnette replied that she would try to identify if she thought someone was in crisis. She was then asked for her definition of "in crisis." Sgt. Barnette replied that it could be varying from case to case. When asked for some examples, Sgt. Barnette replied

*"Well, there is the example of people that specifically call and say that they are in one. Like I said, it would be -- it would have to be a specific event that I could give specifics on why I thought that person was in a crisis."*<sup>73</sup>

Sgt. Barnette was then asked several questions about what she has been taught about responding to people who are in crisis. Again, she replied that it was a "case-by-base situation." She was next asked if she had been given any definitions for what it means to be in a crisis. Sgt. Barnette replied, "Well, I think that there's many definitions of that. I don't think there is any specific."<sup>74</sup>

*"Q. What are the -- what are the definitions that you're aware of?"*

*"A. Again, it would have to be something, a specific case."*

*"Q. You don't have any specific definitions?"*

*"A. No."*<sup>75</sup>

Sgt. Barnette was questioned about her knowledge of an officer's authority to place someone on a mental health hold.<sup>76</sup> She was asked if she had any specific training on placing someone on a mental health hold. She replied that would have been part of the training on "dealing with the mentally ill."<sup>77</sup> When asked which of the training courses discussed previously during her deposition contained that

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<sup>68</sup> Ibid, Page 23, line 23

<sup>69</sup> Ibid, Page 23, line 23 to Page 24, line 13

<sup>70</sup> Ibid, Page 24, Line 20 through Page 25, line 4

<sup>71</sup> Ibid, Page 25, line 7-9

<sup>72</sup> Ibid, Page 25, Line 25 through Page 26, line 12

<sup>73</sup> Ibid, Page 26, line 13 to 25

<sup>74</sup> Ibid, Page 27, line 16-17

<sup>75</sup> Ibid, Page 27, lines 18 through 23

<sup>76</sup> Ibid, beginning Page 28, line 2

<sup>77</sup> Ibid, Page 28, line 18

information, she had no recollection.<sup>78</sup> When Sgt. Barnette was asked to explain from where her knowledge of her authority to place someone on a mental health hold came, she replied, "I -- I can't specifically answer that."<sup>79</sup>

Sgt. Barnette was questioned about her knowledge of the Minnesota Statute that defines under what circumstances a person can be placed on a mental health hold. When asked if she was aware of any criteria given in the statute for when she could place someone on a mental health hold, she replied that she would have to review the statute to answer the question.<sup>80</sup> Sgt. Barnette was asked several questions regarding the number of persons she placed or caused to be placed on mental health holds. She could not recall the exact number, however, she recalled having [Privacy Policy] placed on a hold in this matter. She was again asked if she recalled the specific statutory criteria for placing someone on a mental health hold and she replied, "I would have to review it."<sup>81</sup>

**Mental Health Hold placed on [Privacy Policy] :**

During her deposition, Sgt. Barnette stated that it was her decision to place [Privacy Policy] on a mental health hold. When asked what were her reasons for this decision, Sgt. Barnette replied, "Oh, there was several reasons...I felt that she was in a mental health crisis because of her behavior."<sup>82</sup>

Sgt. Barnette was asked to explain all the reasons why [Privacy Policy] was placed on a hold. Sgt. Barnette replied, "Specifically, the information that she was repeatedly calling 911 about an officer not coming to her home after calling 911 earlier in the day... And when I spoke to her on the phone she seemed quite upset... She was very agitated. If I remember correctly, she wasn't listening that I -- that an officer had come out. Very upset."<sup>83</sup> Sgt. Barnette was asked if [Privacy Policy] made any threats of harm or violence toward her (Sgt. Barnette), herself, or others during this phone call. Sgt. Barnette said she either didn't believe so or couldn't recall.<sup>84</sup>

Sgt. Barnette was asked about the 9-1-1 calls placed by [Privacy Policy] that day. Sgt. Barnette could not say how many calls were placed nor could she say what the calls were about or the tone of her voice. Sgt. Barnette also said she did not listen to any of the recordings and did not speak with any of the call takers.<sup>85</sup>

Sgt. Barnette discussed the first welfare check call to [Privacy Policy] home by Officer [13.43] and Officer [13.43]; however, Sgt. Barnette did not know many details of that call as she was not there. After speaking with [Privacy Policy] on the phone, she accompanied Officer [13.43] and Officer [13.43] back to [PPI] home.

Sgt. Barnette was asked if there was any other factor(s) upon which she based her decision. Sgt. Barnette discussed a phone call she had with [Privacy Policy] a year or more before in which [Privacy Policy] complained about circumstances involving the death of her sister. Sgt. Barnette was asked what about that incident was relevant to her decision to place her on a hold. Sgt. Barnette replied, "I just remember that I had dealt with her on the phone a year or two prior and felt at that point that maybe there was some mental issues with thinking that her sister was still alive when medical personnel were telling her that she had passed."<sup>86</sup> She was asked if everyone that has mental health issues should be involuntarily hospitalized and she said, "No."

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<sup>78</sup> Ibid, Page 28, lines 22 through Page 29, line 1

<sup>79</sup> Ibid, Page 29, line 15

<sup>80</sup> Ibid, Page 31, line 18 to Page 32, line 18

<sup>81</sup> Ibid, Page 34, line 12-15

<sup>82</sup> Ibid, Page 35, line 24 to Page 36, line 6

<sup>83</sup> Ibid, Page 38, line 6-18

<sup>84</sup> Ibid, Page 47, line 14-24

<sup>85</sup> Ibid, Page 44, line 4 to Page 45, line 3

<sup>86</sup> Ibid, Page 50, line 23 to Page 51, line 5

Sgt. Barnette was asked if she decided before going to [Privacy Policy] residence to place her on a hold and she said, "No." She was asked what was her plan and she said she wanted to talk to her to make sure she wasn't just angry. She was also asked if she instructed Officer 13.43 and Officer 13.43 to place PPI on a mental health hold prior to going to the residence. She replied she had not. When reminded that she was under oath and asked if that was her testimony, she replied, "Yes."<sup>87</sup>

The above testimony from Sgt. Barnette is contradicted by Officer 13.43 supplement report, Officer 13.43 supplement report, and the timeline in the VisiNet Incident Detail Report (CCN #17-191393).

Sgt. Barnette was asked to explain what it was about [Privacy Policy] behavior that caused her to place PPI on a mental health hold. Sgt. Barnette stated:

*"A. When we got -- she was -- when we got out there she was extremely agitated. Like I said, her -- she seemed very frazzled, was yelling at us. I had told her, you know, that -- she had made some comment about someone being in her house. And I said, well, you know, we had just talked on the phone and she had never said someone was in her house. I believe I said that they were on a retaining wall. It was just -- she just seemed very upset and just seemed to be in a crisis to me. I was worried for her.*

*"Q. What do you mean by "a crisis"?"*

*"A. That she just -- she wasn't listening to what we were saying. She wasn't being reasonable. I don't think that when I -- we tried to talk to her about a cousin who had called to check the welfare, she didn't believe that that had happened. She was talking about [Privacy Policy] who was a vulnerable adult. It was very all over the place."<sup>88</sup>*

Sgt. Barnette was asked if that conversation was before or after she decided to place [Privacy Policy] on a hold. Sgt. Barnette replied, "At the point that I decided to place her on a hold is when I removed the screen door."<sup>89</sup>

There was additional inquiry on this topic:

*"Q. So your testimony was that at the time that you removed the screen door was when you decided -- you made a final decision you were going to be placing [Privacy Policy] on a mental health hold?"*

*"A. I made the decision to place her on a mental health hold and then removed the screen.*

*"Q. Okay. All right. So, that was, obviously, before you entered her house?"*

*"A. Correct.*

*"Q. And up until that time had you had any conversation with her about [Privacy Policy]? You know, up until that -- during your visit with her at the house had you had any -- what did you talk -- let me do it this way.*

*"What had you spoken to her about while you were at the house before you removed the screen?"*

*"A. I just -- I told you what we talked about.*

*"Q. Okay. So, your testimony was that you had that conversation before you removed the screen?"*

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<sup>87</sup> Ibid, Page 51, line 25 to Page 52, line 16

<sup>88</sup> United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Sergeant Shannon L. Barnette dated 01/16/2018, Page 53, line 2-17

<sup>89</sup> Ibid, Page 53, line 24 to Page 54, line 1

*“THE WITNESS: All the things that I talked to you about her behavior is prior to me removing the screen.”<sup>90</sup>*

The above testimony dealing with when the screen was removed and when the conversation with PPI PPI occurred is contradicted by each of the officers’ BWC videos, which are described above under the heading “CASE INVESTIGATION: Body Worn Camera (BWC) Videos”. All conversation involving Ms. Privacy Policy and the reason for the 9-1-1 call to Edina PD, as well as the person allegedly smoking marijuana, occurred inside Privacy Policy residence after the screen was removed, the officers entered the residence, and Privacy Policy was physically restrained.

Sgt. Barnette was asked if she knows if Privacy Policy has any specific diagnosis of mental illness. She replied, *“I don’t have any information on her health history.”<sup>91</sup>*

Sgt. Barnette was asked if she had any information that Privacy Policy had made a recent attempt or threat to physically harm herself or others. She first answered that she had “no idea,” but later added “Other than her cousin.”<sup>92</sup> When asked if she knew any specific information about this threat, she said, “I would have to look at the call.”<sup>93</sup>

The 9-1-1 call received requesting an officer to check on Privacy Policy came from a male caller who said he was a cousin to Privacy Policy. He specifically wished to remain anonymous and he requested no call back. During the call, this caller stated that Privacy Policy called him and threatened him and his family; however, he did not offer any details of the alleged threat nor was he asked any questions about the threat by the call taker. In the same sentence in which he said she made a threat, the caller stated, “...I don’t know I don’t think she’s gonna do anything but...” later in the call, he stated, “I mean I don’t think she’s gonna hurt anyone.”<sup>94</sup>

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

**7-1005 TRANSPORT HOLDS (02/17/06) (05/06/15)**

As per Minn. Stat. §253B.05, subd. 2, a health officer or police officer may take into custody an individual believed to be mentally ill, chemically dependent or mentally retarded, if there is a reason to believe the person poses a threat to himself or others. The threat does not have to be imminent, and the health or police officer does not need to directly observe the behavior and may consider information from other reliable sources. The hold allows the person to be taken to a hospital and held until they are evaluated. After the evaluation, the hospital may release the person or place them under a 72-hour hold.

When a police officer responds to a health officer’s call to assist in transporting a person, the health officer should identify him/herself to the police officers as qualified under the statute to write a hold. If the hold order is written by a health officer (on or off-site) and presented to a police officer, the police officer shall assist in executing the hold. Officers also have the authority to sign a transport hold.

Officers are advised to request an ambulance to transport a combative person to the hospital.

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<sup>90</sup> Ibid, Page 55, line 3-25

<sup>91</sup> Ibid, Page 59, line 2-5

<sup>92</sup> Ibid, Page 64, line 13-22

<sup>93</sup> Ibid, Page 65, Line 7-18

<sup>94</sup> 17-10527 9-1-1 Call transcript – call from “Cousin”

## ***Allegation 2***

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

### **MPD Policy and Procedure § 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 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, addresses 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.

Additionally, the manual states in part:

### **Minneapolis Police Department Policy and Procedure § 4-604 OFFICER'S STATEMENTS (07/26/02)**

Officers shall make a statement in any case that they could be required to testify in court, and/or those incidents that involve homicides, major crimes, felony arrests, gross misdemeanor arrests or misdemeanor arrests that have unusual circumstances.

A statement is essentially an officer's account of an incident. It should include all the information that an officer can testify to directly from his/her observations and senses. Joint statements are prohibited; each officer must make their own individual statement. Statements should also include additional contact information not listed in the "names" section of the CAPRS data entry field.

Statements are usually made in narrative form, but a question and answer format may be used at the discretion of the investigator. Statements shall be made whenever requested by an investigator or a supervisor.

Officers 13.43 and 13.43 each completed supplement reports to the CAPRS report documenting the seizure and transport of Privacy Policy to the hospital for a mental health evaluation.<sup>95</sup> Neither officer included any “rationale and legal justification” for seizing and transporting Privacy Policy to the hospital for a mental health evaluation. Officer 13.43 wrote in his supplement report, “Prior to arriving, Sgt. Barnette had advised my partner and I to place a Health and Welfare hold on OT/██████████”<sup>96</sup> Officer 13.43 referenced comment [3] in the VisiNet Incident Detail report, “[3] PER SGT BARNETTE SQD 502 - OFCRS TO SIGN A HEALTH AND WELFARE HOLD ON THIS SUBJECT.”<sup>97</sup> These supplement reports, coupled with the VisiNet Incident Detail Report<sup>98</sup>, show that the decision to place Privacy Policy on a mental health hold was made by Sgt. Barnette and this decision was made prior to any officers arriving at Privacy Policy home. Further evidence indicating that the decision to place the hold was made by Sgt. Barnette is the “Application by Peace or Health Officer for Emergency Admission”, which was completed by Officer 13.43.<sup>99</sup> This document lists the following reasons for the hold placed against Privacy Policy:

*“Female continuously called 9-1-1 and per dispatcher female was verbally agitated and not making sense. Per shift sgt, Squad 502, a hold was place (sic) on the female.”*

Sgt. Barnette did not complete a supplement report for this incident. Sgt. Barnette was asked during her deposition why she didn’t prepare a police report.<sup>100</sup> She responded, “It wasn’t necessary.” When asked why it was not necessary, she replied, “It just wasn’t required.”

MPD Policy and Procedure Manual § 4-602 states, “Specific reports are written for specific purposes. Offense reports detail the elements of the crime or incident. Statements are made by individual officers pertaining to what the specific officer observed or heard and what action the officer took. [O]fficer statements... shall include rationale and legal justification for the initial stop as well as justification for subsequent search/seizure.” Since neither Officer 13.43 nor Officer 13.43 were responsible for the decision to seize Privacy Policy and remove her from her home, the responsibility for completing an officer statement about that decision, in this incident, fell to Sgt. Barnette. The only officer who could, by policy, prepare a supplemental report containing the “rationale and legal justification” for placing Privacy Policy on a mental health hold was Sgt. Barnette.

MPD Policy and Procedure Manual § 4-604 states that officers shall make a statement in any case for which they may be required to testify in court. It also requires that each officer shall write their own individual statement and include all information available to them. Per policy, Officer 13.43 and Officer 13.43 could not include in their respective reports information about which Sgt. Barnette would be expected to testify, nor could they include in their reports information that only Sgt. Barnette learned and which she used to formulate her decision to place Privacy Policy on a hold and transport her to a hospital for evaluation. Without Sgt. Barnette’s officer statement, the CAPRS report lacks the details necessary to demonstrate how and why Sgt. Barnette reached that decision.

## **CLOSING**

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

1. MN Statutes 253B.05s2 states that a peace officer “may take a person into custody and transport the person to a licensed physician or treatment facility if the officer has reason to believe, either through direct observation of the person's behavior, or upon reliable

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<sup>95</sup> MPD CAPRS CCN #17-191393, pages 4 and 5

<sup>96</sup> Ibid, page 4, paragraph 4

<sup>97</sup> Ibid, page 5, paragraph 2

<sup>98</sup> VisiNet Incident Detail Report, CCN #17-191393

<sup>99</sup> District Court – Mental Health Division, 4<sup>th</sup> Judicial District, Application by Peace or Health Officer for Emergency Admission, In the Matter of Privacy Policy, dated 05/27/2017

<sup>100</sup> United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Sergeant Shannon L. Barnette, page 10, line 24, through page 11, line 2

*information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled **and in danger of injuring self or others** if not immediately detained."*

2. Sgt. Barnette directed Officer 13.43 and Officer 13.43 to place Privacy Policy on a mental health hold prior to arriving at Privacy Policy residence and prior to any direct in-person observation of her behavior. Her only contact with Privacy Policy prior to arriving at her home was during a phone call to discuss a complaint against Officer 13.43 and Officer 13.43.
3. Sgt. Barnette testified during her deposition that she did not direct Officer 13.43 and Officer 13.43 to place the hold prior to arrival; however, comments in the VisiNet Incident Detail Report, Officer 13.43 supplement report, Officer 13.43' supplement report, and Officer 13.43' testimony state that the direction to place Privacy Policy on a hold came prior to the officers' arrival at her home.
4. Sgt. Barnette testified about the timing of her decision to place Privacy Policy on a hold. She said that she made her decision immediately before she removed the screen from the storm door. The elapsed time from first contact with Privacy Policy to the time that they physically took control of her and informed her she would have to be "checked out" was 3:05 minutes. For the majority of that time, however, the front door was closed and locked. The total amount of time Privacy Policy was directly observed by the officers before she was physically restrained and Sgt. Barnette informed her that she would have to be "checked out" was 39 seconds. As evidenced through the BWC videos, none of the officers who were present ever asked Privacy Policy about the alleged threat, about her state of mind, or about her past psychiatric history.
5. The information which resulted in the initial response to Privacy Policy residence by Officer 13.43 and Officer 13.43 came from a 9-1-1 call. In that call, a person wishing to remain anonymous alleged that Privacy Policy had called him and threatened him and his family. No details of the alleged threat were offered by the caller. This person claimed to be PPI PPI 13.82 however, this information was never verified. This person also stated that Privacy Policy had "mental health issues", but, he did not know of any specific diagnosis. During this phone call, the caller also said, "I don't think she's gonna do anything" and, "I mean, I don't think she's gonna hurt anyone."
6. In addition to direct observation, MN Statutes 253B.05s2 gives a peace officer authority to act *"upon reliable information of the person's recent behavior and knowledge of the person's past behavior or psychiatric treatment, that the person is mentally ill or developmentally disabled **and in danger of injuring self or others** if not immediately detained."* In this matter, the call came from an unknown source who did not provide any details of the threat allegedly made by Privacy Policy. He did not know any factual information about Privacy Policy past behavior or psychiatric treatment.
7. Sgt. Barnette testified that the basis for placing a mental health hold on Privacy Policy was because she called 9-1-1 several times and she was angry and agitated. She said Privacy Policy seemed "frazzled" and she wasn't listening to the officers. She also stated that she had no information on Privacy Policy health history.
8. **MPD Policy & Procedure Manual § 7-1003 [MENTALLY IMPAIRED PERSONS (05/06/15)]** states that the Hospitalization and Commitment Act of the Minnesota Statutes (Minn. Stat. 253B.05s2&3 gives officers dealing with disturbed mentally impaired persons the authority to transport and hold them pending a medical/ psychological review by a physician. Additionally, it states: **"Officers attempting to use the powers granted by this law shall be familiar with its requirements."**
9. During Sgt. Barnette's deposition, she was questioned at length about an officer's authority to place a mental health hold on someone. Sgt. Barnette failed to demonstrate any knowledge or understanding of the requirements and/or the criteria needed to be met to



apply this statute. When asked specifically about the authority granted by the statute and the criteria stated within the statute, Sgt. Barnette stated multiple times that she would have to review the statute before she could answer the questions.

**Allegation 2:**

1. Officer [13.43] completed the CAPRS report for the incident in which [Privacy Policy] was taken into custody and transported to the hospital (CCN #17-191393). She also completed a supplement report detailing her actions.
2. Officer [13.43] completed a supplement report for this CAPRS report detailing his actions in this matter.
3. In their respective supplement reports, Officer [13.43] and Officer [13.43] stated that the decision to place [Privacy Policy] on a mental health hold came from Sgt. Barnette, and the decision came prior to officers arriving at [Privacy Policy] home.
4. No information is included in either officers' supplement reports relating to the rationale and legal justification for placing [Privacy Policy] on a mental health hold.
5. Sgt. Barnette testified during her deposition that it was her decision to place [Privacy Policy] on the mental health hold.
6. Sgt. Barnette did not write a supplement report to the CAPRS report for this incident. Sgt. Barnette stated during her deposition that she didn't write a report because, "It wasn't necessary" and "It just wasn't required."
7. MPD Policy and Procedure Manual § 4-602 states, in part, "[O]fficer statements... shall include rationale and legal justification for the initial stop as well as justification for subsequent search/seizure."
8. Since the decision to take custody of [Privacy Policy] for a mental health hold was made by Sgt. Barnette and was made prior to Officer [13.43] and Officer [13.43] arriving at [Privacy Policy] home, Sgt. Barnette was the only officer with personal knowledge of the reason(s) behind her decision.
9. MPD Policy and Procedure Manual § 4-604 states that officers shall make a statement in any case for which they may be required to testify in court. It also requires that each officer shall write their own individual statement and include all information available to them.
10. Per policy, Officer [13.43] and Officer [13.43] could not include in their respective reports information about which Sgt. Barnette would be expected to testify, nor could they include in their reports information that only Sgt. Barnette learned and which she used to formulate the decision to place [Privacy Policy] on a hold and transport her to a hospital for evaluation. Without Sgt. Barnette's officer statement, the CAPRS report lacks the details necessary to demonstrate how and why Sgt. Barnette reached that decision and lacks the rationale and legal justification for placing [Privacy Policy] on a mental health hold.

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



Investigator: Stephen J McKean

September 12, 2018

Date:

## EVIDENCE

### 1. Statements

- a) Complainant, Privacy Policy
- b) United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Sergeant Shannon L. Barnette dated 01/16/2018
- c) United States District Court, District of Minnesota, Civil Case 17-2920, Deposition of Officer 13.43 13.43, dated 01/18/2018

### 2. Records

- a) MPD CAPRS CCN #17-191393
- b) VisiNet Incident Detail Report, CCN #17-191393
- c) VisiNet Incident Detail Report, CCN #17-19-1-155
- d) VisiNet Incident Detail Report, CCN #17-190472
- e) Authorization for Release of Protected Health Information to Fairview Southdale Hospital, signed by Privacy Policy dated 05/17/2018
- f) Fairview Southdale Hospital Medical Records, Privacy Policy admission on 05/25/2017
- g) Application By Peace or Health Officer For Emergency Admission, dated 05/25/2017

### 3. Media

- a) CD-R disc containing 9-1-1 calls and dispatch recordings
- b) CD-R disc from City Attorney's Office containing officer depositions and associated exhibits
  - 1) A. 13.43 Depo Transcript – 1-18-18 with Index
  - 2) Ex\_1 – Confidential - PPI v Barnette 13.43 Mpls\_17-2920 JNE SER
  - 3) Ex\_2 - CONFIDENTIAL - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 4) Ex\_3 - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 5) Ex\_4 - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 6) Ex\_5 - PPI v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 7) Ex\_6 - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 8) Ex\_6 - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 9) Ex\_7 - CONFIDENTIAL - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 10) Ex\_8 - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 11) Ex\_9 SEALED (video recording)
  - 12) Ex\_10 – CONFIDENTIAL (audio recording)
  - 13) Ex\_11 -CONFIDENTIAL - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 14) Ex\_12 - CONFIDENTIAL v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 15) Ex\_13 - CONFIDENTIAL PPI v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 16) Ex\_14 - CONFIDENTIAL v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 17) Ex\_15 - CONFIDENTIAL v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 18) Ex\_20 - PPI v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 19) Ex\_21 - PPI v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 20) Ex\_22 - CONFIDENTIAL - v Barnette 13.43 13.43 Mpls\_17-2920 JNE SER
  - 21) S. Barnette Depo Transcript - 1-16-18 with Index
- c) CD-R disc, Edina Police Department Event #2017050454:
  - 1) Audio of 2 calls between Edina and Minneapolis dispatch
  - 2) Redacted Transcript of (2) 9-1-1 calls

- 3) Redacted Event Report #2017050454
- d) Body Worn Camera video
  - 1) 17-10527 BWC Officer [REDACTED] (initial call to CP's home)
  - 2) 17-10527 BWC Officer [REDACTED] (Initial call to CP's home)
  - 3) 17-10527 BWC Officer [REDACTED] (forced entry and involuntary hold)
  - 4) 17-10527 BWC Officer [REDACTED] (forced entry and involuntary hold)
  - 5) 17-10527 BWC Sergeant Barnette (forced entry and involuntary hold)