Minneapolis
City of Lakes

Police Department – Medaria Arradondo, Chief of Police
350 S. Fifth St. - Room 130
Minneapolis, MN 55415
TEL 612.673.3000

www.minneapolismn.gov

NOTICE OF DISCIPLINE

July 15, 2020

Officer Daniel McCafferty
Pct. 1 Middlewatch
Minneapolis Police Department

RE: OPCR Case Number 17-11259
Notice of Written Reprimand

Officer McCafferty,

The finding for OPCR Case #17-11259 is as follows:

Policy Number	Sub-Section	Policy Description	Category	Disposition
4-604	(A)	Officer's Statements	B	Merit

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

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

Medaria Arradondo
Chief of Police

By: Michael Kjos, Assistant Chief of Police
Henry Halvorson, Deputy Chief, Professional Standards Bureau

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Daniel McCafferty, acknowledge that I have received my Notice of Discipline for OPCR Case #17-11259.

Officer Daniel McCafferty

07/21/2020
Date of receipt

Inspector Bill Peterson

07/21/20
Date

CC: Personnel
Inspector Peterson
OPCR

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NOTICE OF DISCIPLINE

July 15, 2020

Officer Lance Faust
Pct. 1 Middlewatch
Minneapolis Police Department

RE: OPCR Case Number 17-11259
Notice of Written Reprimand

Officer Faust,

The finding for OPCR Case #17-11259 is as follows:

Policy Number	Sub-Section	Policy Description	Category	Disposition
7-314	(B)	Domestic Abuse Incident Response Protocol	B	Merit

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

This case will remain in the OPCR files per the record retention guidelines mandated by State Law.

Be advised that any additional violations of Department Rules and Regulations may result in disciplinary action up to and including discharge.

Sincerely,

Medaria Arradondo
Chief of Police

By: Michael Kjos, Assistant Chief of Police
Henry Halvorson, Deputy Chief, Professional Standards Bureau

NOTICE OF RECEIPT

Acknowledgement of receipt:

I, Lance Faust, acknowledge that I have received my Notice of Discipline for OPCR Case #17-11259.

Officer Lance Faust — Date of receipt: 7-21-2020

Inspector Bill Peterson — Date: 07/21/2020

CC: Personnel
Inspector Peterson
OPCR

Minneapolis
Office of Police
Conduct Review

Minneapolis
Police

Investigative Summary

Complaint Number:	**17-11259**
Investigator:	**Sergeant Timothy P. Eck**
Officer (s):	**Officer Lance Faust, Badge #1960** **Officer Daniel McCafferty, Badge #4530**
Case Type:	**OPCR Administrative**
Date of Incident:	**April 20, 2017**
Complaint Filed:	**June 30, 2017**

CASE OVERVIEW

This case involves the failure of Officer Lance Faust and Officer Daniel McCafferty to properly follow MPD's Domestic Abuse Incident Response Protocol. The alleged policy violation likely led to the declination of a Gross Misdemeanor Domestic Strangulation case that may have been otherwise chargeable. In addition, Officer McCafferty failed to complete a CAPRS supplement regarding a felony arrest. The complaint was brought to the attention of MPD Internal Affairs via 1st Precinct Supervisors.

ALLEGATIONS

Allegation 1: It is alleged that on April 20, 2017, after making an arrest for a gross misdemeanor domestic assault, Officer Lance Faust failed to follow the MPD's Domestic Abuse Incident Response Protocol. Significant pieces of the protocol were not completed or not otherwise documented in the MPD CAPRS report which likely led to the case being declined for prosecution by the Hennepin County Attorney's Office. ***7-314 (B) MPD's Domestic Abuse Incident Response Protocol***

Allegation 2: It is alleged that Officer Daniel McCafferty did not complete a CAPRS supplement pursuant to the above gross misdemeanor arrest. ***4-604 (A) Officer's Statements***

CASE INVESTIGATION

This investigation was initiated by way of referral by MPD Sgt. Thomas Schmid of the 1st Precinct Midwatch Shift in downtown Minneapolis. While Sgt. Schmid was approving police reports for his shift on the night of April 20th, 2017, he took note of protocol deficiencies in Officer Faust's and Officer McCafferty's report which had documented an arrest for a gross misdemeanor domestic strangulation. Sgt. Schmid advised Officer Faust of the issues and requested corrections be made before the end of his shift. The corrections were not made prior to the end of Faust's shift and, the next day, the case was declined for prosecution by the Hennepin County Attorney's Office.

MINNEAPOLIS POLICE DEPARTMENT RECORDS

Internal Complaint

13.43 - Personnel Data

CAPRS Report

This incident occurred on April 20, 2017, at approximately 1700 hours at 1600 1st Avenue South in Minneapolis. The CAPRS report is titled DASTR (Domestic Assault/Strangulation), Officer Faust is the primary reporting officer, Officer McCafferty is the assisting officer. The public information section documents the criminal elements of the incident, namely, the relationship between the victim and the suspect and the idea that the report alleged that strangulation had occurred. The victim was transported to HCMC via ambulance and Officers Faust and McCafferty brought the suspect to jail where he was booked for PC Domestic Assault By Strangulation (MN 609.2247).

Sergeant Schmid readily identified deficiencies in the CAPRS report and Domestic Abuse Protocols and met with Officer Faust, prior to end of shift, in person, to address them. See the Discussion section of this report for details.

MECC/Dispatch Records

Officers Faust and McCafferty were signed on as Squad 122 on this date and were dispatched to a Domestic Abuse-In Progress at 1600 1st Avenue South, a multi-unit apartment building. The initial caller was an on-site security officer who had received the information from another staff member who requested he call 911. The victim soon called 911 from a land line at the apartment building. The remarks in the call stated that "CLR (victim) was strangled and passed out" and "...was uncon for a few minutes".[1] There is nothing else of note from the MECC/Dispatch records.

[1] From digital dispatch (VISINET) records.

Body-Worn Cameras

Body-worn cameras were worn and activated by both officers according to policy. Officer Faust acknowledges that the arrest pursuant to this incident is "going to have to be a felony...strangulation".[2] Officer McCafferty later asks Officer Faust if he wants to call Sgt. Schmid for PC Authorization, Officer Faust replies "no".[3]

It is also learned that Officer Faust felt that the call they were handling should have been the responsibility of another officer, Officer Courtois.[4] Officer Faust's BWC documented an interaction between Officer Faust and Officer John Yang. Officer Yang and his partner, Officer David Martinson, had just arrived to the call as Faust was stepping out of the ambulance which contained the victim. Officer Yang asked Faust "you need anything done sir?" Officer Faust replied, "no, we got it...we got all the info...". Officer Yang apologized for taking so long to arrive at the call, to which, Officer Faust replies, "don't worry about it, we're taking 13.43 call, that's who should be apologizing, but, I don't think that's coming".[6]

Pertaining to the domestic abuse policy, Officer Yang then asked "What's going on with him (arrested party)?"[7] Faust stated "Well...we gotta take him to jail." Yang then asked, "Are we doing that whole, non-sensical , whatever crap?"[8] Officer Faust replied "I'm not doin' that, no, I'm just taking him to jail."[9]

Interview of Officer Lance Faust

On April 24th, 2018 I interviewed Officer Faust in the MPD Internal Affairs office. Officer Faust wished to proceed with the interview without any sort of federation or other representation.

Officer Faust recalled the incident related to this investigation. Faust acknowledged that a felony arrest was made in relation to a domestic assault call which then triggered the MPD Domestic Abuse Incident Response Protocol. I outline the key components of the protocol that were missing to Officer Faust and asked him why he did not complete the protocol. He responded "I couldn't tell ya. Probably didn't understand completely the entire protocol."[10]

I asked Officer Faust if he remembered his supervisor, Sgt. Tom Schmid, advising him of the deficiencies and requesting that he correct the issue for the end of his shift, to which, Faust replied, "I vaguely remember-, remember that...I'm guessing. I...like I said, it's a year ago, so I couldn't tell you exactly the reason that it happened, but it did."[11]

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[2] Officer McCafferty's BWC, 2nd activation, 4:55 mark.
[3] Officer McCafferty's BWC, 2nd activation, 7:15 mark.

13.43 - Personnel Data

[6] Officer Faust's BWC, 10:10 mark.
[7] Officer Faust's BWC, 10:24 mark.
[8] A presumed reference to the domestic abuse protocol.
[9] Officer Faust's BWC, 10:30 mark.
[10] Interview of Officer Lance Faust, page 3, line 3.
[11] Interview of Officer Lance Fause, page 3, lines 5-15.

I advised Officer Faust of his conversation he had that was recorded on his body-worn camera where he alluded to idea that he was not going to complete the domestic protocol and that he was "just taking him to jail".[12] To this, Officer Faust advised that he did not review his body-worn camera and that "I don't...I'm not disagreeing with what it said...If it said that, it said that."[13] I offered to play the BWC recording for Faust; he did not wish to view it.

Officer Faust advised that after he received a "nasty gram from the lieutenant"[14] he reviewed the policy and now fully understands the domestic protocol and the timelines associated with in-custody arrests and charging deadlines.

Interview of Officer Daniel McCafferty

I conducted an interview with Officer Daniel McCafferty on April 25, 2018 at the MPD Internal Affairs office. Officer McCafferty proceeded without federation or other representation.

13.43 - Personnel Data

I then addressed the fact that Officer McCafferty did not complete his own non-public statement pursuant to this felony arrest. Officer McCafferty advised that "...the fact that I was the driver...my partner was the contact officer. He handled, you know, the report aspect of it. Anything that I could have added to the report had nothing or wouldn't have been of any bearing to anything."[16]

Officer McCafferty acknowledged that he and his partner reviewed the relevant policies after receiving Lieutenant House's email which outlined the issues with the police report. McCafferty advised that they are now following this policy closely.

13.43 - Personnel Data

[12] Officer Faust's BWC footage, 10:30 mark.
[13] Interview of Officer Faust, page 3, lines 29-32.
[14] Statement of Officer Faust, page 3, line 34. Also see original referral memo from Sgt. Schmid.
[15] Statement of Officer McCafferty, page 2, line 26.
[16] Statement of Officer McCafferty, page 2, lines 34-36.

13.43 - Personnel Data

CRIMINAL INVESTIGATION

Sergeant Schmid identified the incomplete domestic abuse protocol and brought it to the attention of Officer Faust towards the end of his shift, at approximately 1245 hours on April 21st. Sergeant Schmid requested that the corrections/additions to the report be made prior to the end of the shift as to facilitate charging of the case on Friday morning. Officer Faust did not make the corrections to the report before the end of his shift.

Friday morning, LT. House received notification from investigations that Officer Faust and Officer McCafferty's domestic assault report was missing key pieces from the domestic abuse protocol. LT. House sent an email Faust and McCafferty, and their chain of command, expressing the urgency to complete the report so the arrested party may be charged before the end of the business day, citing the thirty-six hour probable cause hold expiration.[17] In addition, Officer McCafferty had not entered an individual supplement required for felony arrests. Officers Faust and McCafferty work midwatch hours. The message was not received and the corrections were not made.

This incident occurred on April 20, 2017, a Thursday evening. As this was a felony, in-custody case which was assigned for investigation to Sergeant Gilles Antaya of the Domestic Assault Unit on Friday morning, April 21st. Sergeant Antaya had until the end of the business day to get the case charged through the Hennepin County Attorney's Office as the arrested party's thirty-six hour probable cause hold will be expiring over the weekend. Sergeant Antaya submitted the case as he received it his CAPRS supplement stated "At this point in the investigation I am going to submit the case to the county attorney with the information I have to submit. I am unable to get in touch with the victim as she did not give any contact information. I do not have any photos of the victim,

[17] See email from LT. House contained in this file.

medical release or BWC footage to go off of at this point".[18] The case was ultimately declined for charging by the Hennepin County Attorney's Office and the arrested party was released.[19]

DISCUSSION

It is alleged that Officer Lance Faust failed to properly follow the Minneapolis Police Department's Domestic Abuse Incident Response Protocol, likely resulting in the case being declined for prosecution. If this allegation is found to be true, it would violate the department policy included below.

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

7-314 DOMESTIC ABUSE (03/14/12)

B. Domestic Abuse – MPD's Domestic Abuse Incident Response Protocol (03/14/12) (01/12/15)

1. The Minneapolis Police Department has adopted the following protocol for patrol officers responding to adult arrest and suspect cases for the following offenses: (01/12/15)
    - Felony 1st degree assault, if the parties are family or household members;
    - Felony 2nd degree assault, if the parties are family or household members;
    - Felony 3rd degree assault, if the parties are family or household members;
    - Felony domestic assault by strangulation;
    - Felony terroristic threats, if the parties are family or household members;
    - Misdemeanor, gross misdemeanor or felony domestic assault;
    - Misdemeanor, gross misdemeanor or felony violation of an Order for Protection;
    - Misdemeanor, gross misdemeanor or felony violation of a Domestic Abuse No Contact Order;
    - Misdemeanor, gross misdemeanor or felony violation of a Harassment/Restraining Order, if the parties listed in the order are family or household members;
    - Gross misdemeanor or felony stalking, if the parties are family or household members; and
    - Gross misdemeanor interference with an emergency call.

2. As part of this protocol, patrol officers shall complete the following preliminary investigative tasks when responding to any calls as described above:

[18] Supplement of Sergeant Antaya, 17-142346.
[19] See declination letter included in this file.

a. Check for existence of Order for Protection or Domestic Abuse No Contact Order on every domestic related 911 call.

b. Ask victim if suspect or arrestee has access to any guns or ammunition or if there are any in the home. (01/12/15)

i. If victim indicates yes, ask if victim has any safety concerns. Document responses in the report. (11/03/14)

ii. ii. If the victim has safety concerns, officers may property inventory the guns and ammunition for safe keeping. (01/12/15)

c. Obtain a signed medical release with shaded areas completed from victim if victim is seeking medical treatment.

d. Ask victim to complete domestic violence victim's supplement. Property inventory supplement on completion.

e. Document in CAPRs report the victim's answers to risk assessment questions listed on domestic violence victim's supplement and ask any follow-up questions.

f. Take photographs. Examples of things to photograph include, but are not limited to: the arrestee; victim; injuries; scene, including any damaged property; and the arrestee in an Order for Protection or Domestic Abuse No Contact Order case at a prohibited address.

g. Collect any physical evidence and property inventory it.

h. Obtain contact information from witnesses to the incident including name, address, and phone number.

i. Question witnesses regarding the incident.

j. If suspect is gone on arrival, remind victim to call police if suspect returns within 72 hours of the incident. (11/03/14)

k. Inform victim of domestic violence resources on blue card and call the 24-Hour Domestic Violence Hotline at 612-874-7100 to inform them of incident. (01/12/15)

l. If the case is misdemeanor or gross misdemeanor level, check the PC Enhanced Felony. Follow the instructions pertaining to the arrested party or suspect if they are on the list and add the additional charge listed. (01/12/15)

m. If the case is misdemeanor or gross misdemeanor level, obtain a squad video Mirandized Scales statement from suspect or arrestee. Document results of the interview in the CAPRS report. (Miranda statements DO NOT need to be taken on felony level cases). (01/12/15)

The Minneapolis Police Department's Domestic Abuse Incident Response Protocol sets for specific steps that officer must take when responding to incidents of domestic abuse. In this instance, Officer Faust failed to document "key pieces"[20] of information required by this protocol. The deficiencies are as follows:

[20] [redacted] 13.43 - Personnel Data

1. Officer Faust did not check or otherwise document that the PC Felony Enhance List had been checked.[21]
2. Officer Faust did not check for, or otherwise document that he had checked for the existence of Order for Protection or Domestic Abuse No Contact Order.
3. Officer Faust did not ask if the arrestee has access to any guns or ammunition.
4. Officer Faust did not obtain a signed medical release form.
5. Officer Faust did not document in the CAPRS report the victim's answers to risk assessment questions listed on the domestic violence victim's supplement.
6. Officer Faust failed to take photographs related to the felony arrest.[22]

In addition to not completing the MPD's Domestic Abuse Incident Response Protocol, it is also alleged that Officer Daniel McCafferty did not enter a CAPRS supplement pursuant to the felony domestic arrest in this case.

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

4-604 OFFICER'S STATEMENTS (07/26/02)

(A)

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.

Minneapolis Police Policy and procedure requires that each officer make their own individual statements. Body-Worn Camera footage documented that Officer Faust acknowledged that the arrest pursuant to this incident is "going to have to be a felony...strangulation"[23], thus Officer McCafferty should have entered his own non-public statement.

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[21] Officer Faust added a supplement on the following evening that the PC Felony Enhanced List was checked with negative results.
[22] BWC was activated and saved, however, there were no stand-alone still photos documenting injuries or other items of evidentiary value.
[23] Officer McCafferty's BWC, 2nd activation, 7:15 mark.

CLOSING

1. Did Officer Faust fail to comply with the Minneapolis Police Department's Domestic Abuse Incident Response policy?

    a. Officers Faust and McCafferty made an arrest for a domestic strangulation, a felony.

    b. Body-Worn Camera footage showed that both officers had acknowledged that this domestic incident rose to the level of a felony.

    c. Body-Worn Camera footage of a conversation between Officer Faust and Officer Yang suggested that Officer Faust deliberately disregarded the policy.

    d. The initial CAPRS supplement by Officer Faust failed to document key pieces of the domestic abuse protocol.

    e. Officer Faust's supervisor, Sergeant Tom Schmid, while approving the evening's police reports, requested that Officer Faust make the corrections before the end of his shift.

    f. The corrections/additions to the CAPRS supplement were not completed and had to be submitted to the Hennepin County Attorney's Office as is.

    g. The defendant was not charged in relation to this case.

    h. Officer Faust advised he did not completely understand the protocol at the time of this incident.

    i. Officer Faust and his partner, Officer McCafferty have since reviewed the protocol and is aware of the mistakes he made, he took responsibility for his actions.

2. Did Officer McCafferty fail to complete a separate CAPRS supplement pursuant to a felony arrest?
    a. Officer McCafferty was working with Officer Faust at the time of this felony domestic arrest.

    b. Officer McCafferty was not the primary report writer in this instance, however, McCafferty did nothing to facilitate or encourage the proper implementation of the MPD's Domestic Abuse Incident Response Protocol.

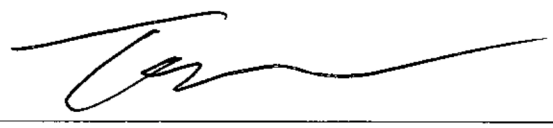
    c. Officer McCafferty acknowledged that the officers were making a felony arrest.

    d. Officer McCafferty did not enter a separate CAPRS supplement.

    e. Officer McCafferty did not believe doing a supplement would have added anything to the case.

f. Officer McCafferty took responsibility for his actions.

I confirm that my summary of this case is true to the best of my knowledge.



Investigator:

7/25/18

Date

CITY OF MINNEAPOLIS
OFFICE OF POLICE CONDUCT REVIEW

COMPLAINT INFORMATION					
Case Number	Precinct	CCN	Date of Incident	Time	Preference
17-11259	N/A	17-142346	April 20, 2017	1714	None

Location of Incident	City/State/Zip	Date of Complaint
1600 1st Avenue South	Minneapolis, MN 55403	May 9, 2017

Complainant Name (Last, First, Middle Initial)	Sex	Race	DOB
Joint Supervisors			

Home Address	City/State/Zip	Primary Telephone
	,	

JURISDICTION	CATEGORY
OPCR Ord. § 172.20(8)	Violation of the P&P Manual

BADGE/NAME	ALLEGED POLICY VIOLATIONS
1960; Faust, Lance	MPD P&P § 7-314 (B) (2) – MPD's Domestic Abuse Incident Response Protocol
4530; McCafferty, Daniel	13.43 - Personnel Data

ALLEGATION SUMMARY

It is alleged that Officers failed to follow the MPD's Domestic Abuse Incident Response Protocol, likely resulting in the denial of the criminal complaint. It is also alleged that Officer McCafferty did not complete a non-public supplement as required.

SUPERVISOR ASSESSMENT

INQUIRY (INTAKE – COMPLAINT FILED)
☐

MEDIATION
☐ Refer to Mediation

COACHING
☐ Refer to Precinct

INVESTIGATIONS
☐ Preliminary Investigation
- ☐ Civilian Investigator: _____
- ☐ Sworn Investigator: _____

☒ Admin Investigation: Investigator **Sergeant Eck**

FINAL APPROVED INVESTIGATIVE REPORT
☒ Refer to Panel

3401
☐ Draft
☒ Final approved

DISMISS
☐ Reckoning Period Expired
☐ No Basis
☐ Failure to State a Claim
☐ Failure to Cooperate
☐ Exceptionally Cleared
☐ Lack of Jurisdiction
☐ Withdrawn
☐ Duplicate
☐ Refer to Dispatch
☐ Refer to EIS
☐ Refer to: _____

IAU Supervisor Lt. [signature]	Date 8/2/18
Director – Office of Police Conduct Review [signature]	Date 8/2/18