



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

367 Grove Street Telephone: 651-266-5588
Saint Paul, Minnesota 55101 Facsimile: 651-266-5542

November 3, 2016

Brian Ficcadenti
367 Grove Street
Saint Paul, MN 55101

Dear Officer Ficcadenti:

This settlement letter is meant to rescind the letter hand delivered to you on October 28, 2016, providing notice of my intent to terminate, and to follow-up our meeting today. This meeting was offered to you in my letter dated on October 28, 2016, and held pursuant to your request. Present at the meeting were you, your attorney Chris Wachtler, Union President Dave Titus, Assistant City Attorney Gail Langfield, Senior Commander Robert Thomasser, and me. During the meeting we discussed facts surrounding internal affairs investigation 16-0707 as well as your future with the Saint Paul Police Department. Based on our discussion, I have decided not to terminate your position.

The facts of the case are as follows:

On June 24, 2016, you responded to 1891 7th Street E on a report of a fight involving a large group under complaint number 16-126703. The anonymous caller stated there were people with bats, golf clubs, and at least one with a gun. The call was updated to say the person with a gun was a black male with dreadlocks last seen wearing a white t-shirt.

According to your report and statement, when you arrived at the address, you saw a group of people scatter in multiple directions. You made no note of seeing any weapons or fighting. You also reported not seeing anyone matching the person described as holding a gun. You drove around the block and entered the alley. While driving west in the alley, you reported seeing a row of parked cars behind 1871 7th Street E. You reported that there was a black male with dreadlocks sitting in one of the cars talking on the telephone. You directed your spotlight onto the car and the male leaned forward revealing he was wearing a white t-shirt.

You reported that you believed because the male was black, had dreadlocks, and was wearing a white t-shirt, he was the person who was in possession of a gun. You stopped your car facing west when the suspect was almost directly south of your position. You exited the car and removed your K-9 partner. You ordered the male out of his car and he exited.

You gave directions to the male to put his hands in the air and reported he would, "put one up and put one down." You reported that he refused to comply with your commands to step out from between the cars and you reported that he was doing "nothing." You concluded that his lack of actions was the result of him "thinking."

You reported, and ICC audio captures, that you ordered him to place his hands in the air and walk toward you several times.

You reported he did not comply with your orders and you released your dog believing he was “about to pull a firearm on you” and that it was necessary to prevent a “lethal force encounter.”

The decisions and conclusions you made are troubling. You responded to anonymous information about a fight and man with a gun. No witness ever identified this citizen or his vehicle as being involved to you or any other officer and he was three apartment buildings away from the original call location. The citizen was in his car speaking on a cell phone when you ordered him to exit his car. The citizen did in fact exit his car as instructed. According to your report and statement, the citizen was never seen with a gun nor did he display any aggression toward you. The entire interaction from when you gave the first verbal command until releasing your K-9 partner was less than twenty (20) seconds.

Your tactical decisions were not consistent with the training provided by the Saint Paul Police Department, or specifically, the K-9 unit. You failed to utilize your squad car as trained in what you perceived to be a high-risk situation. You did not position your vehicle so that you had cover, protection from bright lights, or a barrier between you and this citizen. Rather, you chose to position your rear squad door closest to the citizen so that you could deploy your K-9. You had time to exit your car, remove your K-9 partner, and call in your location and situation all before engaging the citizen. Once you did engage him verbally, you gave him less than 20 seconds to completely comply before releasing your K-9 and running toward the citizen. This decision created unnecessary risk and was not consistent with policy or training.

You did not follow the training provided by the K-9 unit to utilize multiple officers in a contact and cover configuration. Rather than waiting for assisting officers who were already on scene, you released your K-9 and ran toward the citizen, who you believed was preparing to assault you, with your firearm in your holster. This decision was reckless at best, and created a hazard for you and assisting officers.

After you released your K-9 partner, he made contact with the citizen and bit the citizen’s lower leg. The K-9 was off lead and not in your control. The K-9 was on the citizen’s leg for approximately 70 seconds. You failed to control your K-9 partner, which resulted in serious injury and permanent disfiguration of the citizen’s leg.

You also failed to control the arrest. You were trained that as a K-9 handler, it is your responsibility to direct other officers in arrest scenarios where a K-9 is utilized. Officers were supporting you and ready to act for nearly the entire time the K-9 was biting this citizen. You did not utilize these resources even after being informed by other officers that they were ready to assist.

Your actions have violated the following department policies:

- **246.01 Response to Resistance and Aggression Continuum (Force is used “when and only to the extent reasonably necessary).** The ability to disengage is imperative. Reasonably necessary – means that no reasonably effective alternative appears to exist and the amount of force used is reasonable to affect the lawful purpose intended.

- **230.12 City of St. Paul Civil Service Rules, 16. B**
 - (4) Willful violation of the Civil Service Rules;
 - (5) Conduct unbecoming a City employee;
 - (11) Incompetent or inefficient performance of the duties of the employee's position.

- **150.02 Conduct Unbecoming a Police Officer** – An officer must, at all times, conduct him/herself in a manner which does not bring discredit to him/her, the department or the City...when an officer exceeds authority by unreasonable conduct, s/he thereby violates the sanctity of laws sworn to uphold.

- **150.04 Officer Response to Resistance and Aggression** – While the use of reasonable physical response to resistance and aggression may be necessary in situations which cannot be otherwise controlled, physical response to resistance and aggression may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances.

- **150.09 Attention to Duty** – The responsibility for the proper performance of an officer's duty lies primarily with the officer. An officer carries a responsibility for the safety of the community and fellow officers. S/he discharges that responsibility by the faithful and diligent performance of assigned duty. Anything less violates trust placed by the people, and nothing less qualifies as professional conduct.

- **160.02 Individual Dignity** – Recognition of individual dignity is vital in a free system of law. Just as all persons are subject to the law, all persons have a right to dignified treatment under the law, and the protection of this right is a duty which is as binding to the department as any other.

- **170.01 Police Action Based on Legal Justification** - ...an officer must act reasonably within the limits of authority as defined by statute...thereby ensuring that the rights of individuals and the public are protected.

At that meeting we agreed to continue your employment with the City of Saint Paul, under the following terms and conditions:

- You will be suspended for 30 days for the reasons identified in this settlement letter,
- You admit that there is a factual basis for this suspension,
- This suspension and other terms in this settlement will not be grieved,
- You will not return to the K-9 Unit, and
- You agree that failure to meet these expectations will result in your discharge from employment with the Saint Paul Police Department.

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Officer Brian Ficcadenti
IA #16-0707

If you are in agreement with these conditions, please sign below. The department acknowledges that the terms of this settlement agreement are not precedent setting.

Sincerely,



Todd Axtell
CHIEF OF POLICE


I am in agreement with the terms and conditions listed above.



11-3-16

Signature of Union Representative, date

I am in agreement with the terms and conditions listed above.



11/3/16

Signature of employee, date

cc: Assistant Chief Kathy Wuorinen
Deputy Chief Matt Toupal
Angela Nalezny, Human Resources Director
Ben Reber, Labor Relations
Gail Langfield, City Attorney
Police Human Resources
Internal Affairs