

D14-50
ENTERED 5/14/15
#621
SPREADSHEET



Police Department • 82 E. University Avenue • Champaign IL 61820 • (217) 351-4545 • fax (217) 403-6904 • www.ci.champaign.il.us

MEMORANDUM

To: Officer Matt Rush, #7114
From: Chief Anthony Cobb *[Signature]*
Date: April 14, 2015
Subject: Letter of Suspension – 14-II05

This Letter of Suspension is being issued based upon your actions during a call for service and subsequent arrest on May 26, 2014. In this incident (C14-04514), your initial actions toward the female were found to have been discourteous and inciteful. Your actions violated Department Rule 3(B)(1) / Courtesy, which states, "Employees shall be courteous in their conduct and communication to citizens and other City employees. Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct; and shall not express any prejudice or insulting language concerning race, sex, religion, politics, national origin, lifestyle or similar personal characteristics."

You were found to have delivered a punch to the female, which was more than required given the situation. Your actions violated Department Rule 5(D)(1), which states, "The use of physical force to accomplish a police task is restricted by law and departmental directive to that force which is reasonable and necessary under the circumstances."

You failed to document the punch to the female. Your actions violated Department Rule 5(A)(2) / General Operations, which states, "Each employee shall provide aid or furnish information consistent with police duty in accordance with law and departmental directive."

As a result of your actions, you are receiving a 30-day suspension without pay. This suspension is in accordance with Arbitrator Dichter's ruling on April 3, 2015. Per this ruling, your suspension will be documented and considered already served.

A repeat violation may result in more serious disciplinary action. Removal of this discipline from your employee file will be accordance with the terms of the current labor agreement.

ACKNOWLEDGMENT

I, Officer Matt Rush, hereby acknowledge receipt of the above Letter of Suspension.

[Signature]

Officer Matt Rush

05/14/15

Date

Cc: DC Gallo Lieutenant Rea Lieutenant Myers
Lieutenant Clark Professional Standards HR Department

ENTERED 8/7/14
#588
EX-3A



Police Department • 82 E. University Avenue • Champaign IL 61820 • (217) 403.7000 fax (217) 403-7022 • www.ci.champaign.il.us

Letter of Discipline

July 23, 2014

Matt Rush
~~XXXXXXXXXXXXXXXXXXXX~~
~~XXXXXXXXXXXXXXXXXXXX~~

RESUMED
PER ARBITRATOR'S
RULING

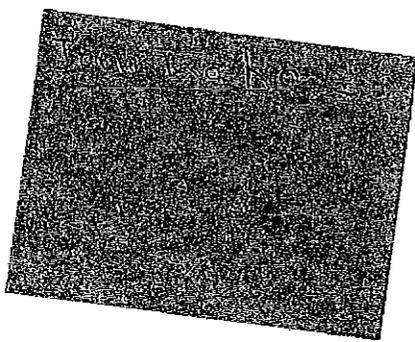
Officer Rush,

As a result of three (3) investigations into allegations of misconduct, I have determined that you have violated the following departmental rules: Rule 1 Section (A)(3) & (B)(1) / General Conduct & Fitness, 2(A)(1) / Communication, Information and Records, 3(B)(1) / Courtesy, 5(A)(2) / General Operations, 5(D)(1) / Physical & Deadly Force.

As a result of these violations, I have recommended to the City Manager that the appropriate discipline of termination should be imposed. This termination shall take effect at the close of business on Friday, August 8, 2014. You should contact Stacy Rachel in the Human Resources Department if you have questions about your benefits. You have the right to appeal this discipline according to the process described in Articles 32 and 33 of the Illinois FOP Labor Council collective bargaining agreement with the City of Champaign.

Sincerely,

Anthony D. Cobb
Chief of Police



Cc: Human Resources
City Manager
FOP Attorney



Police Department • 82 E. University Avenue • Champaign IL 61820 • (217) 403-6911 • fax (217) 403-6924 • www.ci.champaign.il.us

MEMORANDUM

TO: Officer Matt Rush
FROM: Chief Anthony Cobb *[Signature]*
DATE: May 30, 2014
SUBJECT: Placement on Investigative Leave

This memorandum serves to provide you with written notice that, effective immediately, you are being placed on investigative leave. Your placement on investigative leave is the result of an ongoing internal investigation.

During the term of your investigative leave you will continue to receive pay and benefits in accordance with your existing job assignment.

During the term of your investigative leave your police powers are suspended.

Your placement on investigative leave will be re-evaluated at the conclusion of the internal investigation.

If you have any questions about your placement on investigative leave you may contact me at my office.

cc: Deputy Chief Gallo
Lt. Shaffer
Professional Standards
Fiscal Administration
Human Resources
City Legal

PRE-DISCIPLINARY MEETING NOTICE AND ORDER

TO: DEC. MAT RUSH
(Employee)

TO: CHAMPAIGN POLICE DEPT.
(Department)

1. Notice. On JUNE 18TH, 2014, at 1:30 o'clock P.m., you are ordered to appear at the location below concerning an alleged incident which has been investigated. Attachment A to this Notice contains proposed charges and the evidence on which it is based. It also contains your previous disciplinary history.
2. Purpose. The purpose of this meeting is to give you an opportunity to respond to the charges and factual matters detailed in the Attachment so that I have all the information necessary to make a decision concerning whether or not discipline is warranted and if so, the extent of discipline, and to allow me or other City representatives to question you further regarding the incident. Any statement that you make during the course of this meeting may be used as evidence of misconduct and as the basis for charges for suspension or discharge.
3. Format. At the meeting, you will have a full opportunity to speak. You will be ordered to answer fully and truthfully any questions asked of you during the meeting, which bear on your employment with the City of Champaign. The interview may be tape-recorded or transcribed by a court reporter.
4. Your Rights. You may have your union representative present at the interview.
5. Your Rights - Fire and Police Only. If you are a fire fighter as defined in 50 ILCS 745/1 et seq., or if you are a peace officer as defined in 50 ILCS 725/1 et seq., you have all the rights in the applicable Act which is attached to this notice. Additional information is also provided to you on the attached form.
6. Location of Interview:

CHAMPAIGN POLICE DEPARTMENT
CHIEF'S CONFERENCE ROOM

6/18/14

 Date

[Signature]

 Department Head

NOTE: For Police and Fire, attach Investigation Form 2B.

INVESTIGATION FORM 2A

TO: OTC. MAT CUSH
EMPLOYEE

FACT FINDING INTERVIEW NOTICE AND ORDER

1. *Notice.* On THURSDAY JUNE 5TH, at 11:00 o'clock a.m., you are ordered to appear at the location described below to be interviewed concerning an alleged incident described below.
2. *Purpose.* The purpose of this interview is to investigate whether or not this incident occurred as alleged. Any statement that you make may be used as evidence of misconduct and as the basis for charges for suspension or discharge.
3. *Format.* At the interview, you will be ordered to answer all questions fully and truthfully which bear on your employment with the City of Champaign. The interview may be tape-recorded or transcribed by a court reporter. I or another representative of the City will ask the questions. We are also interested in hearing from you regarding any mitigating circumstances that may bear on this incident.
4. *Your Rights.* You may have your union representative present at the interview.
5. *Your Rights - Fire and Police Only.* If you are a fire fighter as defined in 50 ILCS 745/1 et seq., or if you are a peace officer as defined in 50 ILCS 725/1 et seq., you have all the rights in the applicable Act which is attached to this notice. Additional information is also provided to you on the attached form.
6. *Location of Interview:*

CHAMPAIGN POLICE DEPT.
2ND FLOOR / INVESTIGATIONS CONF. RM.

6/2/12
Date

[Signature]
Department Head

Incident to Be Investigated: MAY 26, 2012 INCIDENT INVOLVING THE
USE OF PHYSICAL FORCE AND THE ARREST OF [REDACTED]
[REDACTED] (C.I.A. 1514)

INVESTIGATION FORM 2B

NOTICE IN COMPLIANCE WITH THE UNIFORM PEACE OFFICERS' DISCIPLINARY ACT
[FIREFIGHTERS' DISCIPLINARY ACT]

TO: OFF. MATT RUSH
(Police Officer or Firefighter)

A. Nature of Investigation

You are advised that an investigation has commenced concerning your conduct in connection with the following described incident:

MAY 26, 2014 INCIDENT INVOLVING THE USE OF PHYSICAL
FORCE AND THE ARREST OF [REDACTED]
(C.D. 4514)

B. The names of the complainants are:

CHIEF ANTHONY COBB

C. Office in Charge of Investigation:

Name TON SWENSON; Rank LIEUTENANT;
Unit PROFESSIONAL SERVICES

D. Interrogators:

Name	Rank	Unit
<u>TON SWENSON</u>	<u>LIEUTENANT</u>	<u>PROF. SERVICES</u>
<u>DAVID CHAFFER</u>	<u>LIEUTENANT</u>	<u>PATROL</u>
_____	_____	_____
_____	_____	_____

INVESTIGATION FORM 2B

NOTICE IN COMPLIANCE WITH THE UNIFORM PEACE OFFICERS' DISCIPLINARY ACT
[FIREFIGHTERS' DISCIPLINARY ACT]

TO: OFFICER MIKE RUSH
(Police Officer or Firefighter)

A. Nature of Investigation

You are advised that an investigation has commenced concerning your conduct in connection with the following described incident:

MARCH 3, 2014 ACCIDENT RESPONSE AND INVESTIGATION (CA-1781);
APRIL 11, 2014 ARREST OF [REDACTED] (CA-2017), AND;
MAY 26, 2014 ARREST OF [REDACTED] (CA-4514)

B. The names of the complainants are:

CHIEF ANTHONY COBB

C. Office in Charge of Investigation:

Name TON SWEDSON; Rank LIEUTENANT;
Unit PROFESSIONAL STANDARDS

D. Interrogators:

Name	Rank	Unit
<u>TON SWEDSON</u>	<u>LIEUTENANT</u>	<u>O/S</u>
<u>DAVE SHAFER</u>	<u>LIEUTENANT</u>	<u>CONTROL</u>
<u>ANTHONY COBB</u>	<u>CHIEF OF POLICE</u>	<u>—</u>
_____	_____	_____
_____	_____	_____

E. Persons Present During Interrogation (Other than Interrogators)

THOMAS CUMMINGS - TOP ATTORNEY

Administrative Rights

1. Admissions. Admissions made by you in the course of any interrogation may be used as evidence of misconduct or as the basis for charges seeking suspension, removal or discharge.
2. Counsel. You have the right to be represented at this or subsequent interrogations by legal counsel of your choosing. You may request such counsel at any time before or during the interrogation. When such request is made, no interrogation shall proceed until reasonable time and opportunity are provided to you to obtain counsel.
3. Record. A transcript or copy of the record of this interrogation is available to you without charge upon your request.

F. Refusal to Answer

You have an obligation to truthfully answer all questions. Your answers or responses constitute an official report. If you persist in a refusal to answer questions after an order of a superior officer to answer, you are advised that such refusal constitutes a violation of Departmental Rules and may serve as a basis for suspension, removal or discharge or other disciplinary actions. You are further advised that by law, any admission made by you during the course of this interrogation cannot be used against you in any subsequent criminal proceeding.

THE UNDERSIGNED ACKNOWLEDGES THAT A COPY OF THIS NOTICE WAS RECEIVED BY HIM/HER.

DELIVERED BY
E-MAIL

Time 12:17:30 HRS

Date 6/16/14

Witnesses:

[Signature]

**Fact Finding Interview
Officer Matt Rush
June 5, 2014**

JS: Lt. Jon Swenson
DS: Lt. Dave Shaffer
MR: Officer Matt Rush
TC: FOP Attorney, Tamara Cummings

JS: Okay, today's date is Thursday, June 5th, 2014. The time is approximately 10:55 a.m. For identification purposes my name is Lieutenant Jon Swenson. Also present in the room at this time are Lieutenant Dave Shaffer, FOP Attorney Tamara Cummings, and Officer Matt Rush. Officer Rush, before we get started I need to advise you that this interview is being recorded. I also need to advise you that you are hereby ordered to respond to all questions truthfully and fully that bear on your employment with the Champaign Police Department. Do you understand that order?

MR: Yes.

JS: Any admission made by you during the course of this interview may be used as evidence of your misconduct and may form the basis of charges in seeking discipline against you, up to and including termination. Do you understand that?

MR: Yes.

JS: You have the right to a legal representative of your choosing. Do you understand that?

MR: Yes.

JS: And you have elected to have Ms. Cummings serve as your legal representative?

MR: Yes.

JS: And you were served with and provided with a copy of the fact finding notice regarding this interview, correct?

MR: Correct.

JS: Okay. This internal investigation pertains directly to your behavior and your actions during the arrest of [REDACTED] on May 26th, 2014. For the record, prior to this interview you were allowed to watch the squad car video which captured that event, is that correct?

MR: Yes.

JS: Okay. Were you on duty and working on May 26th, 2014?

MR: Yes.

JS: At approximately 0652 hours that morning, were you dispatched to [REDACTED] w to assist . . . fire, to assist the Fire Department after a small explosion at the residence?

MR: Correct.

JS: And Sergeant Crane responded to that address with you as well?

MR: Yes.

JS: Following your arrival at the residence, did you learn information that led you to believe that [REDACTED] was somehow responsible for the explosion and/or may have tried to intentionally start a fire at the residence?

MR: Uh, I knew she resided there due to prior calls for service in the past two days.

JS: Okay.

MR: So I knew it was her house.

JS: Okay.

MR: And the description from the reporting party matched her.

JS: Okay.

MR: For the fire, that is.

JS: Did you respond to the residence and speak with fire personnel at all?

MR: Sergeant Crane did. I checked the area . . .

JS: Okay. So while he spoke with them at the scene and learned that she wasn't there you began circulating the area in an attempt to locate her?

MR: Correct.

JS: Okay.

MR: . . . north of William and south of John Street to the west of Duncan.

JS: Okay. And Sergeant Crane ultimately left the residence and joined you in that search?

MR: Correct.

JS: And that search was unsuccessful?

MR: Correct.

JS: Okay. After clearing that call did METCAD dispatch officers to a criminal damage in progress at Thornton's which is located in the one hundred block of South Mattis?

MR: METCAD advised Sergeant Crane that there was a call pending . . .

JS: Okay.

MR: . . . at Thornton's on South Mattis. When that call came out I was in the one hundred block of South Mattis and basically on scene.

JS: Okay.

MR: And the radio transmission advised that the offender left, left the store and was east bound on University.

JS: Okay. And did you also learn from the radio transmissions that this female had entered the store and damaged some property?

MR: Correct.

JS: Okay. And the dispatcher provided a physical description of the female?

MR: I didn't catch that on my radio. That's what you'll see in my video, when I slowed down I pulled up the dispatch ticket and read the ticket. . .

JS: Okay.

MR: . . . pending call to see what the clothing description was.

JS: Okay.

MR: And that's why I slow down to like five miles an hour and drive down University and cars passed me.

JS: Okay. And based upon that description, did you form the opinion that [REDACTED] may be the suspect in the Thornton's incident?

MR: I didn't think it would be her to be honest, just because of the timing of the explosion and the distance to Thornton's.

JS: Okay.

MR: So I didn't think it would be her.

JS: Okay. Did you ultimately locate a female a short distance away from Thornton's in or around the sixteen or seventeen hundred block of West University Avenue?

MR: Uh, yes, I located her at the intersection of University and Victor.

JS: And she matched the description that was given of the suspect in the Thornton's incident?

MR: Per the dispatch ticket, yes.

JS: Okay. Was that female later identified as [REDACTED]?

MR: Yes.

JS: After you observed [REDACTED] in the sixteen hundred to seventeen hundred block of West University, did you stop and attempt to make contact with her?

MR: I did.

JS: Did you activate your squad's video camera as you did so?

MR: I did. I activated my video before I made contact just so I would be protected and the incident would be on camera.

JS: Okay. Did you also activate your audio transmitter?

MR: My audio transmitter was dead because I'd worked a call back from five to ten the night before and had been on for approximately fourteen and a half hours.

JS: Okay. What specifically did you say to [REDACTED] when you attempted to initiate contact with her?

MR: I told her to come here. She refused. I told her to come here again. Told her stop, she continued to . . . I believed she was under the influence, just by her mannerisms. She was very, you know, punching into her hand, yelling. I wasn't sure what her deal was exactly.

JS: Okay. Did she comply with your request to stop?

MR: No.

JS: Okay. As you continued to approach [REDACTED] on foot, did she continue walking away from you?

MR: She continued to walk and then began to jog away from me, and run.

JS: Okay. And you briefly gave chase?

MR: I gave chase; I caught up to her. I wasn't going to tackle her to the ground because I didn't need to. I was just going to follow her, at the speed she was running, there was no need to. So I was waiting for her to stop and then she did eventually stop.

JS: Okay. And according to your report as you closed the distance between the two of you to approximately four feet she turned and essentially squared off with you.

MR: Yes.

JS: Okay. And in response you reached out to grab her arm in an attempt to secure her handcuffs?

MR: Correct.

JS: Okay. How did she respond when you did that?

MR: She grabbed me by the throat with all four, all five fingers and pinched her fingers in my neck to the point that my neck was bleeding after the incident.

JS: Okay. When she grabbed you by the throat, what did you do in response?

MR: I delivered a knee strike with my left knee to her right upper thigh area.

JS: And after striking her thigh with your knee, you then took her to the ground?

MR: That knocked her back away from me, released the grasp, kinda knocked her off balance. She was still facing me so then I took her to the ground.

JS: Okay. Once on the ground did [REDACTED] continue to resist your efforts to handcuff her?

MR: Yes.

JS: Okay. In response to her resistance, and also in response to what you perceived to be a physically expressed intention on her part to spit on you, you deployed OC spray and delivered a short burst of the spray directly into her eyes?

MR: Correct.

JS: According to your report, the deployment of OC spray was effective in that [REDACTED] stopped resisting and was taken into custody without further incident. Is that correct?

MR: Uh, I don't believe that's what I said in my report. I believe my report said it allowed her to stop. She laid on the ground. Still was tense and rigid. She . . . was keeping her hands up.

JS: Right.

MR: But she was no longer trying to get away from me.

JS: So she wasn't actively fighting with you, she was still tense and rigid, but from that point you handcuffed her without further incident.

MR: I, it . . . well after that.

JS: Okay.

MR: Approximately a minute and a half I think, two minutes later but . . .

JS: Okay.

MR: . . . yes.

JS: All right. When we watched the video of the incident at hand prior to this interview, I specifically directed your attention to an action by you. That action occurred at approximately 7:22 a.m. and 9 seconds of the video. Can you tell me specifically what you are doing at that point in time?

MR: That was after the spray? [REDACTED] still had her hands up like this. Do I need to describe it for the . . .

?: Sure.

MR: . . . she had her hands up towards her face.

JS: Okay.

MR: I grabbed her by both wrists. She was sweaty. Her hands were spinning. So I took both wrists and drove them into the ground and just held her there. That was after use of force. I didn't have to twist her arms behind her back and hurt her, I just pinned her to the ground and held her there. Because I could tell her act, her actions weren't necessarily criminal, it was more her mental capacity than anything that caused it.

JS: Okay. Now by my interpretation when I watched that portion of the video, it appears to show you punching her. There's some reaction by her upper torso when that movement is made. So are you denying that you punched or were attempting to punch [REDACTED] at that time?

MR: Yes, I am. What I was trying to do was separate myself from her lower body. She had a sundress on that was all the way up to her breasts, she had no underwear on. Her legs were spread wide open. I was trying to get as far away from that end of her body as I could. I stayed up by her right shoulder, pinned her arms to the ground, radioed for assistance. Said that she wasn't actively fighting me but I didn't have her in handcuffs and she was on the ground. So at that time I just held her there and waited for other units or her to calm down, whichever came first. And then she did, eventually did calm down.

JS: Okay. We've previously discussed portions of the report that you submitted regarding the arrest of [REDACTED]. Is that report true and accurate to the best of your recollection?

MR: Yes.

JS: Did you use any force during the arrest of [REDACTED] that was not properly documented in your report?

MR: No.

JS: Okay. Prior to this interview I gave you a couple of documents to review. One was Champaign Police Department Policy 1.3, which is the Use of Force Policy. The second document was the Department Rules. At this time I want to direct your attention to Section 1.3.4(B)(3)(c). That section of the policy states - Officers shall decontaminate or flush the eyes of the subject against whom OC has been deployed as soon as feasible following the deployment. Have you read and are you familiar with that excerpt of the policy?

MR: Yes, I am aware of this policy.

JS: Did you personally undertake any efforts to decontaminate or otherwise relieve [REDACTED] of the effects of the OC spray?

MR: No, I did not. As Sergeant Crane arrived on scene uh, I stepped away from her and Officer Petkunas transported [REDACTED] County from thereon.

JS: Okay.

MR: So as soon as other officers arrived on scene I had no contact with her.

JS: Did you let the other officers know, including Sergeant Crane and Officer Petkunas, that she had been pepper sprayed?

MR: That was made, that broadcast was made over the air, when I was requesting additional .

JS: But in addition to that broadcast you didn't have any further conversation with those . . .

MR: No. .

JS: . . . officers at the scene? Okay, well, after Officer Petkunas placed her in the car, she sat in that car for somewhere between six and seven minutes and at that point in time, during that point in time, no effort was made to decontaminate her. Did you direct anyone to decontaminate her or make any follow up effort to ensure that that took place?

MR: No, I left the scene whenever Officer Petkunas took custody of her.

JS: Okay. Rule 5(A)(2) states – Each employee shall provide aid or furnish information consistent with policy duty in accordance with law and departmental directive. Have you read and are you familiar with that Department Rule?

MR: Yes.

JS: Did you furnish the aid that you were required to, both by Department Policy 1.3 and Department Rule 5(A)(2)?

MR: I no longer had custody of her. I did not know she was injured.

JS: But you knew that she'd been pepper sprayed?

MR: Correct. And I, I said that over the air that she had been sprayed.

JS: Okay.

MR: So everyone there knew it.

JS: Okay. Directing your attention back to Policy 1.3, Section 1.3.5(A) of that Policy states in part – After any use of force incident, if an officer observes any injury or the person arrested or seized complains of any injury, then the officer shall obtain medical assistance as soon as reasonably possible. The part I want to emphasize is it also says – photos shall also be taken of all observable injuries. Have you read and are you familiar with that excerpt of the policy?

MR: Yes.

JS: And you documented a minor injury to [REDACTED] right arm in your report, is that correct?

MR: Sergeant Crane informed me after the fact when we arrived at post that she did have a small scratch on her arm.

JS: Okay. You didn't see that at the scene prior to your departure?

MR: No.

JS: Okay. Can you specifically describe what direction Sergeant Crane gave to you when he responded to the scene?

MR: Lieutenant, I, I can't remember what he said specifically.

JS: Okay. Did you hear him give anyone any direction regarding the decontamination of [REDACTED]

MR: I do not recall that, no.

JS: Okay. Did he direct you or anyone else at the scene to provide any medical treatment to [REDACTED]

MR: Once officers arrived on scene, I left and came back to post.

JS: Okay. But while you were there, you did not hear him . . .

MR: . . .

JS: . . . direct you or anyone else to provide medical attention to her?

MR: I don't recall that.

JS: Okay. Did he direct you to seek medical treatment based upon the injuries to your neck?

MR: Uhhh, he asked if I was okay, if I needed anything. I said I was fine, I looked in the mirror and saw it wasn't, you know, a, a very deep cut but I decided to come back to post to document everything and type my report.

JS: Okay. I want to direct your attention at this point to Rule 5(D)(1) which states – The use of physical force to accomplish a police task is restricted by law and departmental directives to that force which is reasonable and necessary under the circumstances. Have you read and are you familiar with Rule 5(D)(1)?

MR: Yes.

JS: And do you believe that your actions during the arrest of [REDACTED] were consistent with that? That you did not use any force that was not reasonable or necessary?

MR: No, I did not. I do not believe that at all. I believe everything I did was acceptable. She attacked me. I mean to the point that she choked me. My neck bled from her fingernails.

JS: Okay.

MR: And knowing that it wasn't a criminal act, that's the reason you see on video, I'm on top of her, two minute, one minute and a half just holding her to the ground. So no force did have to be used. I knew I was in control of her body and she wasn't gonna get away. So that's why I pinned her there and held her there.

JS: Okay. And for the record, you're saying that the action that we observed by you on video, at the 7:22:09 mark is you reaching up and then going down . . .

MR: That's . . .

JS: . . . in an effort to pin her . . .

MR: . . . that's . . .

JS: . . . arms to the ground.

MR: . . . that's both of her wrists . . .

JS: Uh huh.

MR: . . . inside my hands being pinned on the ground with her arms out almost in a crossed position.

JS: Okay. Lieutenant Shaffer, do you have any follow up questions?

DS: I don't have any questions.

JS: Okay. Officer Rush, is there anything of a factual nature that you wish to add to your statement?

MR: No, sir.

JS: Ms. Cummings, anything that you wish on Officer Rush's behalf?

TC: Not at this point, no.

JS: Okay. The time is approximately 11:10 on Thursday, June 5th, 2014, at this point in time the recording will cease.

End of Recording.

**Pre-Disciplinary Meeting
June 18, 2014
Officer Matt Rush**

JS: Lieutenant Jon Swenson
DS: Lieutenant Dave Shaffer
AC: Chief Anthony Cobb
TC: FOP Attorney Tamara Cummings
MR: Officer Matt Rush

JS: Today's date is Wednesday, June 18, 2014. The time is approximately 1:10 p.m. For identification purposes, my name is Lieutenant Jon Swenson. Also present in the room at this time are Chief Anthony Cobb, Lt. Dave Shaffer, Officer Matt Rush, and FOP Attorney Tamara Cummings. Officer Rush, before we begin I need to advise you that this interview is being recorded. I also need to advise you that you are hereby ordered to respond to all questions truthfully and fully that bear on your employment with the Champaign Police Department. Do you understand that?

MR: Yes, sir.

JS: Any admission made by you during the course of this interview may be used as evidence of your misconduct, and may form the basis for charges in seeking discipline against you, up to and including termination. Do you understand that?

MR: Yes.

JS: You have the right to a legal representative of your choosing. Do you understand that?

MR: Yes.

JS: And you have elected to have Ms. Cummings serve as your legal representative?

MR: Yes.

JS: Okay, were you served with the pre-disciplinary notice regarding this interview?

MR: If that's your email, yes.

JS: Okay. Uh, the Pre-Disciplinary Notice would be what I gave to you in the parking lot.

MR: Correct, yes. Yes.

JS: Okay.

MR: I was served that.

JS: Okay. This pre-disciplinary hearing concerns three internal investigations, each of which you are the subject. The first internal investigation, which is case number 14-II03, concerns a traffic accident at 1111 West Bradley Avenue that you were dispatched to on March 3, 2014. A fact-finding interview was conducted concerning that incident on May 15, 2014, and the findings of the internal investigation were that while you failed to properly submit the corresponding accident report in a timely fashion, there may have been technical issues with the report writing computers and/or the accident reporting system that caused that to happen. However, the investigation also found that it took 39 days for you to turn in the traffic citation that you issued in conjunction with your accident investigation. During the fact-finding interview on May 15, 2014, you admitted to your violation of the Department Rules. Is that an accurate summary of the facts of that incident?

MR: Yes, it is.

JS: And is there anything of a factual nature that you wish to add?

MR: I don't believe so, no, not in regards to that.

JS: Okay. The second internal investigation, which is case number 14-II04, concerns your arrest of [REDACTED] at [REDACTED] on April 11, 2014. The findings of an internal investigation into that matter were that you used profane language while speaking with [REDACTED]; that you deliberately struck her with your knee while she was handcuffed and as you were placing her in a squad car following her arrest, and; that you failed to document the knee strike in your official police report. A fact-finding interview was conducted concerning that incident on May 15, 2014, and during that interview you admitted your violations of the Department Rules. Is that an accurate summary of the facts of that incident?

MR: Yes.

JS: And is there anything of a factual nature that you wish to add?

MR: Just the wording on that. Uh . . .

JS: Okay.

MR: . . . deliberately. I admitted that I struck her. Uh, she was at the door kicking at me. It was just such a minor use of force that it just slipped my mind. I knew cameras were hot, I wasn't trying to hide anything, um, it was just, you know, I didn't step back and drive all the way through her, it was just a quick jab into her thigh when she was at the door. And I believe Officer Haugen, uh, took over from there and placed her in the car.

JS: Okay.

MR: So, I just wanted to get that out there.

JS: I appreciate the clarification. The third internal investigation, which is case number 14-II05, concerns your arrest of [REDACTED] (clears throat) excuse me, in the 1600 block of West University Avenue on May 26, 2014. During the fact-finding interview regarding that matter, you gave a statement in which you denied having struck [REDACTED]; you denied having used any force that wasn't documented in your official police report, and; you denied any responsibility for ensuring that [REDACTED] was properly decontaminated from the effects of OC spray. However, the findings of an internal investigation into that matter were that you struck [REDACTED] during the course of her arrest; that you failed to document the strike in your official police report; that you were not truthful about your actions during the fact-finding interview relative to that matter, and; that you failed to undertake or initiate efforts to ensure that [REDACTED] was decontaminated following your deployment of OC spray during her arrest. Is there anything of a factual nature that you wish to add regarding that matter?

TC: . . . do you have a police report for that by any chance? . . . okay.

MR: Um, could you rephrase the last question please? . . .

JS: Certainly. Do you need me to repeat the summary?

MR: No, I just . . . factual nature . . .

JS: Is there anything of a factual nature that you wish to add regarding that matter?

MR: Lieutenant, I am, the first two incidents, I admit to my wrongdoing. I did nothing wrong. I mean I've come to you countless times without representation, if I mess up and make a mistake I always own it. And I think that you . . . I did not punch that woman. I would be more than happy to document and show you exactly how it happened. I will stand up and show you exactly the body language, the moves, turns. I turned my camera on just so I was covered cause I wanted it on tape. I knew I was being recorded. I documented in

my report that I delivered a knee strike and threw her on the ground which I think would be much more devastating than any punch. I did not try to hide that. The thing that looks like a punch is when I was pinning her on the ground. Can I stand up and show you?

AC: Go ahead.

MR: So I, knee strike.

AC: Um-hmm.

MR: I threw her down. She lands straight on her back.

AC: Hmm.

MR: Okay? She's laying. Her right arm is pinned down with me on the side. She's got her left hand up towards my face so I reach back, grab her hand and slam it in the ground and then just me sitting, holding her on the ground. But I waited and waited and tried to do everything I could not to use force on her because I realized uh, that I pinned her on the, pinned her arm on the ground. I realized it wasn't a criminal act and it was more mental deficiencies causing her behavior so I didn't want to use force, that's why I just held her as long as I did before I put handcuffs on. Because I knew I had her pinned to the ground like that. She wasn't gonna get away and she didn't pose a threat to me anymore. So, if I would have punched her, I always put it in my report. I've punched people. There's no reason for me not to do it in this case. I can understand the way your video, the way the video looks but that's just not what happened and this, the thing that bothers me about this the most is my integrity is coming to play and without integrity I might as well not be a police officer.

AC: Hmm.

MR: And I've never lied to you guys about anything that I've done. I've always owned my mistakes and I'm stating emphatically that I did not punch [REDACTED] at all. That was just me turning, pinning her on the ground, holding her there so she couldn't continue to scratch my face and she couldn't get away.

AC: ...

TC: No, uh uh.

JS: Alright Matt, Department Rule 1(A)(3) states, "Employees shall perform duties in a productive, effective, and efficient manner." With regard to the incident involving the traffic accident, you have been charged with a violation of Rule 1(A)(3). That charge stems from the finding that you did not submit the traffic citation that you issued in conjunction with your accident investigation for 39 days. Is there anything . . .

MR: Lieutenant, can we step back to the previous question real quick?

JS: Um-hmm.

MR: About [REDACTED] and the decontamination?

JS: Um-hmm. We're gonna go over that in a little more detail . . .

TC: . . .

MR: . . . never mind.

JS: . . . later.

MR: Carry on then.

JS: Okay. So regarding that, that violation of Rule 1(A)(3) which stems from the fact that you didn't turn the accident, or I'm sorry, the traffic citation that you issued in conjunction with the accident, for 39 days, is there any information concerning that charge that is not true?

MR: No, that is correct, I did not turn it in for 39 days.

JR: Okay. Department Rule 3(B)(1) states, "Employees shall be courteous in their conduct and communication to citizens and other City employees. Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct, and shall not express any prejudice or insulting language concerning race, sex, religion, politics, national origin, lifestyle, or similar personal characteristics." With regard to the arrest of [REDACTED], you have been charged with a violation of Rule 3(B)(1). That charge stems from the finding that you used profanity while speaking with [REDACTED]. Is there any information concerning that charge that is not true?

MR: No, that is true. I, we went through the video, I did curse at her, um, I, I know I was wrong. I had a lot going on in my personal life that I let carry over to work. Um, during the course of the last year, [REDACTED]. I had [REDACTED] living with me, which if you haven't heard the horror stories of that. I was sleeping three to four hours a day. That's it. I was just under a lot of pressure and I let it get to me. And I let my personal life come to work and that's why I got pissed off and I cursed at her. So I will fully admit, I did curse at her. I heard the video and I understand that we can't do that. And that, and that type of profanity can't be used in that type of manner on the street.

JS: Alright. Department Rule 5(D)(1) states, "The use of physical force to accomplish a police task is restricted by law and Departmental directive to that force which is reasonable and necessary under the circumstances." With regard to the arrest of, arrest of [REDACTED], you have been charged with a violation of Rule 5(D)(1). That charge stems from the finding that you struck [REDACTED] with your knee while you were placing her in the back of a squad car and also the finding that the knee strike was a violation of Department policy. Is there any information concerning that charge that is not true?

MR: Okay, yeah, I mean, um, I know I didn't document it after watching the video. I see it, it's clear that there was a knee strike delivered, but that was when [REDACTED] was, she was handcuffed behind her back. She was being resistive at the door, wouldn't get in the car. She already spit on me once and whenever she was at the back door, she kind of had her backside facing the door, was kicking her legs out a little so I just give a quick jab to her thigh. And like I said, I knew the cameras were on, I knew it would be seen. It's not like I didn't think anybody would see it, it's just I forgot that I did because it was such a minor thing to me at the time.

JS: Let me ask you this because if I recall correctly during your Fact Finding Interview regarding that particular incident you referred to that knee strike as an obvious violation of policy. Are you admitting that that was in violation of policy or are you now saying that that knee strike was reasonable and necessary and simply wasn't documented?

MR: I know I didn't, I broken policy by not documenting it, I understand that, correct. But I believe the knee strike was reasonable at the time to get her into the back of the car.

JS: All right.

MR: But I know I should I, I should have documented it. It's policy, document all force used. And I know I didn't do that in my report.

JS: Okay. I believe that's in conflict with what you said during your Fact Finding but I'll have to look back at the transcript of that to be sure. Department Rule 5(C)(1) states, "Officers shall not mistreat persons who are in their custody by violating a provision of law or Departmental directive." With regard to the arrest of [REDACTED], you have been charged with a violation of Rule 5(C)(1). That charge stems from the finding that Kissica Seets was handcuffed and in custody at the time you delivered a knee strike to her in violation of Department policy. Is there any information about that charge that is not true?

MR: Uh, I don't believe so, no.

JS: Alright. Department Rule 5(A)(2) states, "Each employee shall provide aid or furnish information consistent with police duty and in accordance with law and Departmental directive." With regard to the arrest of [REDACTED], you have been charged with a violation of Rule 5(A)(2). That charge stems from the finding that you failed to document the knee strike in your official police report. Is there any information about that charge that is not true?

MR: No, I, I did not document it, that is true.

JS: Alright. As we previously discussed, Department Rule 5(D)(1) states, "The use of physical force to accomplish a police task is restricted by law and Departmental directive to that force which is reasonable and necessary under the circumstances." With regard to the arrest of [REDACTED], you have been charged with a violation of Rule 5(D)(1). That charge stems from the finding that you struck [REDACTED] while you were arresting her and that the strike was in violation of Department policy. Is there any information about that charge that is not true?

MR: Like I said before Lieutenant, I, I did not strike her. I understand what the video looks like but, and I know in that situation I would have been completely justified to strike her, but I didn't need to do it. I just pinned her, held her on the ground because I knew when I was on top of her pinning her, she no longer posed a threat to me. And I know she wasn't gonna get away from me.

JS: Okay.

TC: Could I... I'm sorry, go ahead. Can I add a few points or do you want us to...

JS: Uh, can I ask a question first?

TC: Sure.

JS: And then let you do that? Can you articulate for me what the justification would have been for you punching her at that time?

MR: Uh, she . . .

TC: . . . not really a fair question, but go ahead.

MR: I've got no problem answering that.

TC: Okay.

MR: Um, she'd attacked me once, she was still being combative, uh, she had obviously tried to run from me once, was resisting arrest. I didn't punch her, I didn't need to because I had enough control of her upper body when I pinned her that no strike was needed. Does that answer your question?

JS: Yep. Ms. Cummings?

TC: Yeah, just to add, I mean I've seen the video several times and I can see different interpretations being there. Again, he's been candid as long as I've worked with him so it would be really out of character for him to deny it if it happened. And it, here's my thought, um if he didn't pin her arm and he struck her why did he put in his report that he pinned her? Was he just making that up, I mean that makes no sense. Um, I'm also curious to know what she said, she being [REDACTED]. And I saw there's a car, are there any other witnesses there that said he did it? I don't think there are so, um, you know, I, he's, he's willing to fall on the sword for what he did. Let's not create a situation if there's not evidence to support, uh, to support it which I don't think there is with a strike.

JS: Okay. Matt, Department Rule 2(A)(1) states, "Employees shall, in departmental work product or departmental communication, transmit truthful, complete, and accurate information." You are charged with two violations of Rule 2(A)(1) as a result of the internal investigation into the arrest of [REDACTED] n. The first charge stems from the finding that you failed to document the fact that you struck [REDACTED] in your official police report. Is there any information about that charge that is untrue?

MR: Not sure how to answer that. Uh, could you ask it again? I mean, no, I'm saying no I did not strike her if that's what you're asking.

TC: So that's why you didn't put in the report.

MR: Right, cause I didn't, I did not strike her . . .

TC: Okay.

MR: . . . so I didn't put it in the report.

JS: Okay. The second charge stems from the finding that you were not truthful during the fact-finding interview when you were asked to explain your actions; specifically, that you denied having struck [REDACTED]. Is there any information about that charge that is untrue?

MR: Like I said uh, if I would have done, if I would have struck her I would have told you. Anytime I've ever made a mistake, I've always admitted to it. I've come to you before without Tamara or any FOP representation. If I make a mistake, I own it. I always have, have for the last four years. Lieutenant Shaffer, I think you could say the same thing. I'm always more than willing to accept my responsibility. And in this, in this case, it's just not true, I did not strike [REDACTED].

JS: Okay, so your statement is, just so that we're all clear, that you were truthful during your fact-finding interview?

MR: Yes.

JS: Okay.

MR: I'm sorry if I didn't, I didn't ans . . .

JS: No, I just wanted to summarize it. Matt, Section 1.3.4(B)(3)(b) of the Champaign Police Department Use of Force Policy states, "Officers shall decontaminate or flush the eyes of a subject against whom OC has been deployed as soon as feasible following the deployment." One of the findings of the internal investigation into your arrest of [REDACTED] was that you failed to undertake or initiate any efforts to ensure that [REDACTED] was decontaminated following your deployment of OC spray during her arrest. Your failure to do so was found to be in violation of Department Rule 1(B)(1) which states, "Employees shall be familiar with and obey written orders and directives issued or authorized by the Chief of Police." Is there any information about that charge that is untrue?

MR: Um, in regards her not being decontaminated by me, I was the first one on scene, I was there with her for maybe a minute and a half, just the two of us. Sergeant Crane was the first responding officer while I had her, [REDACTED], on the ground. I radioed out that she had been sprayed so everyone knew that she'd been sprayed. Once Sergeant Crane arrived on scene, he took custody of [REDACTED] and I removed myself from the situation. He saw my neck was bleeding, he told me to go to post to get photographs and do my report. So I just left and [REDACTED] was in, I think, Officer Petkunas' custody after that, at that time. So from the time of first Crane arriving on scene, she's still on the ground, I'm holding her. He takes custody of her and I just remove myself from it. And I come here and take my photographs and do my report.

JS: Alright.

MR: So everybody knew that I'd sprayed her cause I mentioned it, everybody on Patrol One would have heard that I sprayed, she's been sprayed and she's on the ground.

JS: Fair enough.

MR: And I'm, obviously, the effects of it were still on her face so you could see that too. Anybody on the scene would know that.

JS: Okay. Prior to today's hearing you were provided with a summary of your discipline . . . discipline history, correct?

MR: Yes, I was.

JS: And is that summary accurate?

MR: Uh, to my knowledge, yes.

JS: Okay. One of the purposes of today's hearing is to provide you with an opportunity to present any information to Chief Cobb which you believe will assist him in making a fair decision as to the level of discipline to be imposed for your violations of Department Rules 1(A)(3), 1(B)(1), 2(A)(1), 3(B)(1), 5(A)(2), 5(C)(1), and 5(D)(1). With that in mind, are there any mitigating circumstances surrounding your violations of the Department Rules that you believe Chief Cobb should consider in making his decision?

TC: Could we take a break real quick?

JS: Sure.

TC: ...

JS: The time is approximately 1:28 p.m. At this point in time, the recording will be temporarily paused.

End of first recording.

Second Recording Begins.

JS: Okay, the time's approximately 1:30 p.m. and at this point in time the recording will resume. So just to repeat, Matt, one of the purposes of today's hearing is to provide you with an opportunity to present any information to Chief Cobb which you believe will assist him in making a fair decision as to the level of discipline to be imposed for your violations of Department Rules 1(A)(3), 1(B)(1), 2(A)(1), 3(B)(1), 5(A)(2), 5(C)(1), and 5(D)(1). With that in mind, are there any mitigating circumstances surrounding your violations of the Department Rules that you believe Chief Cobb should consider in making his decision?

MR: Um, not really sure where to begin. Uh, like I said Lieutenant and Chief, if I make mistakes, I always own up to 'em. In regard to the accident and [REDACTED], you know, I had a really bad time in my life. Like I said I sleeping three to four hours a day, working midnights, uh, I just felt like I was always under constant pressure and strain. Here and at home, and it just got the better of me. Uh, I've taken steps to correct that. [REDACTED] no longer lives with me. Uh, my girlfriend is actually back in [REDACTED] now so we can deal with her issues that she was going through and things are going much better. Um, I'm doing what you guys ask of me in regards to making my career here better. Uh in regards to uh, in regards to turning my camera on (clears throat), excuse me, leaving it running and that's why I turn my camera on to get out with [REDACTED]. My camera wasn't turned on - or not [REDACTED], [REDACTED] - I activated my camera myself. I didn't use my emergency lights, I wanted it on camera. So I knew everything that was going on was going to be documented, I was fine with that. And like I said I'm willing to do whatever it takes and that's what I've been doing, I think, um, I know a lot of guys arrive on scene, stop their cameras. I don't do that anymore, I just leave it running so everything is out there. And you can see that I'm not out violating people's rights or harming people. Um, like I said, I've always, I've always been honest about my mistakes and I don't see this being any different. Um, Lieutenant Swenson and I have talked about shift change to make things better for my career. I initially was resistant to that but now I think that's probably the best thing for me. Going on down the road, um, just to get a fresh start, work day shift, power shift, anything, to just give me something different and get all this put behind me

so I can just move on. So. I don't know, Chief, if you have any questions to me about anything that, I'm more than willing to answer anything you might have.

JS: I just have a few more questions for you . . .

MR: . . .

JS: . . . at this point then I'll open it up for other people to ask questions or make comments. Are you aware of other similar incidents, either in your bargaining unit or concerning other City employees, that you feel should be considered by Chief Cobb to ensure that you are disciplined fairly?

MR: Not sure I understand that question?

JS: Are you aware of any other similar discipline cases that you believe Chief Cobb should use as a guide in determining the level . . .

TC: . . .

JS: . . . of discipline?

TC: . . . involving other officers?

MR: . . . I don't even know, I couldn't even tell you. I don't really pay much attention to other people's discipline. I mean, I don't think there's been a whole lot of discipline handed out so it'd be kind of hard to pick a specific incident and use that.

TC: That's fair.

JS: Are there, is there any other information rather, concerning your violations of the Department Rules, that you would like Chief Cobb to consider in making a determination as to the level of discipline to be imposed?

MR: I, I think we've pretty much touched base on everything. Uh, just apologize for everybody having to use so much time for something like this. But I think we've pretty much touched base on everything that was going on in my life and what's happened in these incidents so I don't think I have anything else.

JS: Okay. Ms. Cummings, is there any information that you wish to present on behalf of Officer Rush?

TC: No, I think we've, between the two of us we have covered it.

JS: Lt. Shaffer, do you have any follow up questions?

DS: I do not.

JS: Chief Cobb, any additional questions from you?

AC: I know you stated that your girlfriend's now here, [REDACTED] no longer living with you . . .

MR: Right.

AC: . . . is there anything else that you've done or dealt with. You say you had a lot of problems you're dealing with them. I don't know all the problems . . .

MR: Right.

AC: . . . and I'm not saying I need to know all the problems but I'm saying what assurances can you give me that this is not going to continue to happen? Cause I can tell you when I look at these things?

MR: Right.

AC: The big thing I see is a lot of . . . of judgment. I look at the way you treat people. That concerns me quite a bit. I look [REDACTED], when you started in the front yard and you're taking her across the yard there and she's asking - hey slow down this and that. Your response was not really . . . a value statement that we will hold true and dear here at the department or over at the City. We see the same thing here when you get out of the car with this young lady, who's the last one?

JS: [REDACTED]

AC: [REDACTED]. Uh, when you get out of the car - Come here! I mean, you're yelling at her . . .

MR: . . .

AC: . . . but also talking to her.

MR: I understand.

AC: Those things are very concerning. And very, very inflammatory when people look at it because it sets the tone as if you're escalating the situation.

MR: ...

AC: ... you want me to ... the weight of that, you're, wasn't trying to escalate the situation. But the whole context starts up here.

MR: Right.

AC: And who sets the context right there. That's my problem with this.

MR: Okay. Well I think the department sent me to some classes that were very helpful. The verbal judo was good. Some other good classes we've been to. Um.

AC: What can we do to get you to use it?

MR: I, well, when, when, when, did we first meet, the two of us, maybe like a month ago? I think if you go through and look, I mean, my work has definitely improved to what you guys would want and what the department would want. Since we met. Um, I, I just don't know what else to say, Chief. I really don't. I understand it looks bad. But I think my whole problem with this, with is uh, I take things personally and this is a very passionate job for me and I just need to take it, slow that down a little bit and look at each case individually and not take things so personally.

AC: Why is this job so passionate for you?

MR: It's all I want to do. I love this job. It's all I've wanted to do since I was little. That's, like I, I, when I think of doing anything else, I can't think of anything, other than this job. Nothing. And I'm ... this is what I've wanted since I was twelve years old.

AC: That passion is admirable but at the same token it concerns at the same time. I have no other questions.

JS: Okay. Matt, just for the record, I want to state that immediately following this hearing you're being directed to meet with Lieutenant Shaffer. He's going to give you a written order, or, I'm sorry, a memorandum, which will serve as a written order for you to report to work tomorrow morning at 9 a.m. You're to see him when you get here. There are a number of reports, um, that you're responsible for which are currently not complete. Um,

without going into a lot of unnecessary detail, some of them appear to have been completed in ARMS Field Reporting and simply need to be printed off.

MR: Okay.

JS: Others are in various stages of completion, either the face sheet has been done but the narrative hasn't, or something to that effect, but your job is going to be to come in here tomorrow at 9 o'clock and make sure that all those reports are completed and properly turned in.

MR: Tamara told me about it so I'm aware of that.

JS: Okay. No questions about that?

MR: No sir.

JS: All right. The time is approximately 1:38 p.m. at this point in time the Pre-Disciplinary Hearing will conclude.

End of Second Recording.

Summary of Charges and Evidence

RULES VIOLATIONS:

- Rule 1(A)(3) – “Employees shall perform duties in a productive, effective, and efficient manner.”
- Rule 1(B)(1) – “Employees shall be familiar with and obey written orders and directives issued or authorized by the Chief of Police.”
- Rule 2(A)(1) – “Employees shall, in departmental work product or departmental communication, transmit truthful, complete, and accurate information.”
- Rule 3(B)(1) – “Employees shall be courteous in their conduct and communication to citizens and other City employees. Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct, and shall not express any prejudice or insulting language concerning race, sex, religion, politics, national origin, lifestyle, or similar personal characteristics.”
- Rule 5(A)(2) – “Each employee shall provide aid or furnish information consistent with police duty and in accordance with law and Departmental directive.”
- Rule 5(C)(1) – “Officers shall not mistreat persons who are in their custody by violating a provision of law or Departmental directive.”
- Rule 5(D)(1) – “The use of physical force to accomplish a police task is restricted by law and Departmental directive to that force which is reasonable and necessary under the circumstances.”

SUMMARY OF EVIDENCE AND FINDINGS

Case number 14-II03:

Concerns a traffic accident at 1111 West Bradley Avenue that Officer Rush was dispatched to on March 3, 2014. The findings of the internal investigation into that matter were that it took Officer Rush 39 days to turn in the traffic citation that he issued in conjunction with the accident investigation. The findings are supported by documentation and through admissions made by Officer Rush.

Sustained violation – Rule 1(A)(3)

Case number 14-II04:

Concerns Officer Rush's arrest of [REDACTED] at 421 Fairview Drive on April 11, 2014. The findings of an internal investigation into that matter were that Officer Rush used profane language while speaking with [REDACTED]; that Officer Rush deliberately struck [REDACTED] with his knee while she was handcuffed and as he was placing her in a squad car following her arrest, and; that Officer Rush failed to document the knee strike in his official police report. The findings are supported by documentation, video and audio evidence, and through admissions made by Officer Rush.

Sustained violations – Rule 3(B)(1), Rule 5(A)(2), Rule 5(C)(1), and Rule 5(D)(1)

Case number 14-II05:

Concerns Officer Rush's arrest of [REDACTED] in the 1600 block of West University Avenue on May 26, 2014. The findings of an internal investigation into that matter were that Officer Rush struck [REDACTED] during the course of her arrest; that Officer Rush failed to document the strike in his official police report; that Officer Rush was not truthful about his actions during the fact-finding interview relative to that matter, and; that Officer Rush failed to undertake or initiate efforts to ensure that [REDACTED] was decontaminated following his deployment of OC spray during the arrest. The findings are supported by documentation, witness statements, and video and audio evidence.

Sustained violations – Rule 1(B)(1), Rule 2(A)(1), and Rule 5(D)(1).



City of
CHAMPAIGN

To: Chief Anthony Cobb
From: Lt. Jon Swenson
Date: June 20, 2014
Subject: Internal Investigation / 14-1105

INCIDENT SUMMARY

On May 26, 2014, at approximately 0652 hours, Sgt. Matt Crane and Officer Matt Rush responded to 610 Goldenview following a request for assistance from the Champaign Fire Department. Assistance was requested by fire personnel following their response to a reported fire at the address. When fire personnel arrived on scene they discovered a small fire in the kitchen and found that the residence was unoccupied.

Sgt. Crane was the first to arrive on scene. Upon his arrival he met with fire personnel and learned of their discovery of a small working fire in the kitchen. Sgt. Crane also learned that a female adult had exited and then departed the residence at about the same time the fire was reported. Sgt. Crane examined the residence and noted that that a number of windows to the residence had been broken out and that the interior of the house was in complete disarray.

Through prior responses to the same address Sgt. Crane was aware that [REDACTED] was the primary adult occupant of the residence and he suspected that she might be responsible for the kitchen fire.

Sgt. Crane then stepped away from the residence and met with Officer Rush. During that meeting Sgt. Crane communicated his knowledge about the incident, as well as his observations about the residence, to Officer Rush. Following their meeting, Sgt. Crane and Officer Rush spoke with several neighbors and then searched the immediate area in an attempt to locate [REDACTED]. Their efforts to locate [REDACTED] were, however, unsuccessful.

Following his efforts to locate [REDACTED], Officer Rush left the area and began traveling to the Champaign Police Department where he intended to complete several police reports that were pending from his shift that evening.

As Officer Rush was traveling to the police department he heard METCAD advise Sgt. Crane, by radio, of a pending call at Thornton's at 101 South Mattis. During the course of that radio transmission Officer Rush also heard METCAD inform Sgt. Crane that a female had just entered Thornton's, caused a disturbance, intentionally broken a bottle of alcohol, and then left on foot.

Officer Rush was at or near the intersection of Mattis and University at the time of the above-described radio transmission, and he immediately began an effort to locate the female.

As Officer Rush was searching for the female suspect he accessed the dispatch ticket via his mobile data computer and learned that the suspect had been described as a black female in her 30's, approximately 5'4" tall, with a thin to medium build. He further learned that the suspect was reported to be wearing a purple and white "dress" and that she had last been observed walking eastbound on University Avenue.

After traveling approximately two (2) blocks east on University, Officer Rush located a female walking eastbound along sidewalk on the north side University Avenue, at intersection with Victor. The female matched the physical description that had been given of the suspect in the Thornton's incident, and she was also wearing clothing that was similar in description. Notably, this female was later identified as [REDACTED].

Upon locating the [REDACTED], Officer Rush pulled his squad car to the curb, activated his MVR system, exited his squad car, and verbally commanded [REDACTED] "come here." Officer Rush ultimately repeated this order two more times.

[REDACTED] failed to comply with Officer Rush's command. Clearly agitated, [REDACTED] briefly stopped, turned, and yelled to address Officer Rush. After doing so, [REDACTED] turned away and continued walking eastbound on University Avenue. When Officer Rush followed her, [REDACTED] ran along the sidewalk for a short distance.

Officer Rush briefly pursued [REDACTED] and in doing so quickly closed the distance between the two of them. When Officer Rush came within a few feet of her, [REDACTED] stopped running and turned to address Officer Rush. When Officer Rush reached out to grab [REDACTED] arm in an attempt to handcuff her, [REDACTED] raised her left arm, reached out, and grabbed Officer Rush by the neck.

In an effort to separate himself from [REDACTED], Officer Rush used his left knee to strike to [REDACTED] right thigh. The strike was effective in that it allowed Officer Rush to separate himself from [REDACTED]. Once separated from [REDACTED], Officer Rush then took her to the ground.

Once on the ground [REDACTED] continued in her attempts to escape from Officer Rush and she also resisted his efforts to handcuff her. At one point during her resistance [REDACTED] began taking deep breaths and then pursed her lips together, leading Officer Rush to believe that she was preparing to spit on or at him. When Officer Rush noticed this, he deployed Oleoresin Capsicum (OC) spray and delivered a short burst of the spray directly into [REDACTED] eyes.

Despite being sprayed with OC, [REDACTED] persisted in her resistance. She continued her attempts to roll away from Officer Rush, and she continued to tense her body and arms in an effort to avoid handcuffing.

Officer Rush was ultimately able to control [REDACTED] and pin both of her arms to the ground. Once that was accomplished, Officer Rush asked [REDACTED] if she was done fighting with him. When [REDACTED] indicated that she was, Officer Rush rolled her to her stomach and handcuffed her.

Following her arrest [REDACTED] was transported to the Champaign County Jail where she was charged with the offenses of Aggravated Battery to a Peace Officer, Resisting/Obstructing a Peace Officer, and Criminal Damage to Property.

USE OF FORCE REVIEW

On Thursday, May 29, 2014, Lt. David Shaffer received the "Use of Force Incident Report" for file number C14-4514 from Sgt. Matt Crane. Included along with the Use of Force Incident Report were the police reports documenting [REDACTED] arrest and the force used by Officer Rush in accomplishing the arrest. The Use of Force Incident Report had been completed by Sgt. Crane, and it served as documentation of his review of the relevant police reports and the relevant Mobile Video Recordings (MVR) associated with the arrest. Sgt. Crane indicated in the

report that he had reviewed all relevant materials and that he concurred with Officer Rush's use of force.

Lt. Shaffer began his review by likewise reviewing all of the relevant police reports. Lt. Shaffer specifically documented his review of the original report by Officer Rush, as well as his review of the supplemental police reports that were written and submitted by Sgt. Crane and Officer Standifer.

Following his review of the relevant police reports, Lt. Shaffer reviewed the relevant MVR recordings. Lt. Shaffer specifically documented in his review that he viewed recordings of the incident that were captured by the MVR systems in the squad cars driven by Sgt. Crane, Officer Rush, Officer Epling, Officer Petkunas, Officer Voges, and Officer Wendt. Lt. Shaffer noted in his review that he paid particular attention to the recording that was captured by the MVR system in Officer Rush's car since it was the only recording that captured [REDACTED] arrest.

During his review of Officer Rush's MVR recording, Lt. Shaffer noted the following with regard to Officer Rush's use of force:

- The video showed [REDACTED] stop abruptly and approach Officer Rush. It appears that [REDACTED] then grasped Officer Rush, which resulted in a brief struggle.
- In response, Officer Rush used his left knee to deliver a strike to [REDACTED], which was then followed by a "hip toss" which was used to take [REDACTED] to the ground. Officer Rush then positioned himself on top of [REDACTED].
- Up until this point the actions of Officer Rush appeared to be consistent with policy. However, at the video timestamp marked 07:22:09, the video shows Officer Rush delivering a downward strike toward [REDACTED]. The video depicted Officer Rush as he drew his hand up and backwards, followed by an accelerated downward movement. This movement was consistent with a punch.
- Despite repeated viewings of the video, it was difficult for Lt. Shaffer to explain this motion as anything other than a punch.
- After seeing this action, Lt. Shaffer checked Officer Rush's official police report to determine whether or not there was any mention of a punch. No such mention was found.
- It appeared that the punch was inconsistent with policy, and Officer Rush's failure to document the punch was a violation of Department Rules.
- Given these observations, Lt. Shaffer neither concurred with the application of force nor Sgt. Crane's assessment.

The following is a summary of additional concerns expressed and documented by Lt. Shaffer during the course of his use of force review:

- Initial Contact by Officer Rush – As Officer Rush arrived on scene he exited his vehicle and immediately in a raised voice yelled "Come here" at [REDACTED] several times. The manner in which Officer Rush initiated the contact with [REDACTED] was less than courteous, and his tone of voice was confrontational and authoritative from the moment he exited the vehicle. Officer Rush's manner of communication appeared to be in violation of Rule 3(B)(1)
- Squad Car Camera Transmitter Not Synched – Neither Sgt. Crane, nor Officer Rush, nor Officer Voges had a "synched" audio transmitter during their response to this incident. The lack of a synched transmitter was inconsistent with policy and previous administrative direction.
- Oleoresin Capsicum (OC) Decontamination – During this incident Officer Rush delivered a burst of OC spray into the eyes of [REDACTED]. As a result,

and in accordance with departmental policy, [REDACTED] should have been promptly decontaminated immediately following her arrest. This did not occur, and the failure of any officer on scene – most importantly including Sgt. Crane – was unacceptable and inconsistent with policy. Following her arrest, [REDACTED] sat handcuffed in a squad car for approximately 6 minutes and 35 seconds before she was transported from the scene and ample opportunity existed for the officers on scene to decontaminate [REDACTED] and/or relieve her from the effects of OC spray.

- Failure to Adequately Document Injury – As a result of this incident both [REDACTED] and Officer Rush sustained minor injuries. Officer Rush suffered minor scratches and redness to his neck; [REDACTED] suffered an abrasion and/or scratches to her elbow, presumably when she was taken to, or restrained on, the ground. Sgt. Crane took steps to ensure that Officer Rush's injury was photographed, but he failed to take similar steps to ensure that [REDACTED] injury was documented as required by policy.

Immediately following Lt. Shaffer's review he contacted me by telephone to inform me of his observations. At the conclusion of our conversation we arranged to meet the following morning (May 30, 2014) to review Officer Rush's MVR recording together.

On the morning of May 30, 2014, I met with Lt. Shaffer in his office to view the video in question. Following my initial viewing of the video I was in complete agreement with Lt. Shaffer's assessment that the video depicted Officer Rush punching/striking [REDACTED]. I watched the video approximately six (6) times that morning, and each viewing strengthened my belief that the video depicted Officer Rush punching/striking [REDACTED].

Immediately following our meeting, Lt. Shaffer and I met with Chief Anthony Cobb and Deputy Chief Joseph Gallo. At the time of that meeting we had both of them view Officer Rush's video. Upon viewing the video both were in agreement that the video depicted Officer Rush punching/striking [REDACTED].

INITIATION OF INTERNAL INVESTIGATION

On May 30, 2014, I was directed to open an internal investigation and to complete a review of the incident that culminated in the arrest of [REDACTED] on May 26, 2014.

Prior to the close of business on May 30, 2014, Officer Rush was placed on paid investigative leave pursuant to this investigation. Due to personal obligations on the part of Officer Rush, I was unable to meet with him and personally serve him with a written copy of the order placing him on Investigative Leave on that date. I did, however, speak with Officer Rush by phone on that day, and at that time I verbally advised him that he was being placed on Investigative Leave pending an internal investigation into this matter.

I later met with Officer Rush in person on Tuesday, June 3, 2014. At that time he was provided with written notice of his placement on Investigative Leave.

On Wednesday, June 4, I met with Sgt. Nate Rath (FOP Representative) and provided him with written notice of Officer Rush's placement on Investigative Leave.

During my investigation into this matter I read and reviewed all of the police reports that were submitted in this matter; I reviewed the available audio and video evidence; I reviewed Lt. Shaffer's memorandum; I interviewed [REDACTED], [REDACTED], and Sgt. MATT CRANE; and I conducted a Fact Finding Interview with Officer Matt Rush.

INTERVIEW OF [REDACTED]

During my initial review of the audio/video that was captured by Officer Rush's in-car video camera system, and which depicted Officer Rush's contact with and arrest of [REDACTED]. I noted that the arrest took place in the parkway located directly south of an address that I later determined to be 1624 West University Avenue. I also noted that there was a vehicle parked immediately adjacent to the parkway, along the north curb, at the time the contact began. The vehicle in question appeared to be a tan or beige Toyota Prius, but based upon my review of the video I was unable to definitively identify the make and/or model of the vehicle or ascertain the registration for the vehicle.

During my review of the video I also noted that the vehicle in question departed as Officer Rush's was attempting to effect the arrest of [REDACTED]. Further review of the video disclosed that the driver of the vehicle had already been seated in the vehicle at the time Officer Rush's contact with [REDACTED] began.

Given the time of day that the vehicle departed (0722 hours) and the fact that the neighborhood in the 1600 block of West University is comprised almost entirely of single family residences, I suspected that the driver of the vehicle in question might possibly be a resident of the neighborhood.

On the morning of May 30, 2014, Lt. Shaffer and I responded to the [REDACTED] University Avenue. We approached the residence and knocked on the door. The door was answered by an individual who identified himself as [REDACTED]. [REDACTED] further identified himself as the resident at [REDACTED].

I first informed [REDACTED] that he was not in trouble. I then explained to him that I was investigating an incident which occurred near the front of his residence on the morning of May 26, 2014. I further informed [REDACTED] that I was trying to identify the owner/occupant of a tan or beige Toyota Prius or Honda Civic that had been parked in front of his residence at the time of the incident I was investigating. [REDACTED] immediately identified the owner of the vehicle as [REDACTED]. [REDACTED] stated that [REDACTED] lived in Boulder, Colorado, but had been in town for an overnight visit with him on the evening of May 25, 2014.

After very briefly explaining to [REDACTED] the nature of my investigation, [REDACTED] asserted the belief that [REDACTED] was a likely witness to the incident I was investigating. As evidence of that belief, [REDACTED] showed me two (2) text messages that he received from [REDACTED] on the morning of May 26, 2014. The first text message from [REDACTED] read: "Oh man. Did you guys see all those cops outside your house!" The second text message, which was sent immediately afterwards, read, "As I was leaving I saw this take down by force this uncompliant woman. Then when I drove back by University Ave(nue) saw like 10 cops circled around the lawn." (Note - A photograph of the text messages is attached to this report).

[REDACTED] willingly provided me with [REDACTED] cell number, and at approximately 1200 hours on May 30, 2014, I contacted [REDACTED] by phone. When I contacted [REDACTED] by phone he was traveling through western Iowa while on his way back to Boulder, Colorado. Because of that fact, [REDACTED] was unavailable to meet with me in person and/or view the video depicting [REDACTED] arrest.

During my telephone conversation with [REDACTED] I asked him a series of questions and he provided me with the following information:

- [REDACTED] permanently resides in Boulder, Colorado.
- On the evening of May 25, 2014, [REDACTED] was in Champaign, Illinois, and visiting friends. [REDACTED] spent that evening at [REDACTED] where his friend [REDACTED] resides.

- [REDACTED] parked his vehicle in front of [REDACTED] University [REDACTED] during his overnight stay.
- Following his overnight stay, [REDACTED] exited [REDACTED] residence and entered his vehicle as he prepared to drive back to Boulder, Colorado.
- [REDACTED] estimated that he walked out to and entered his vehicle at approximately 0720 hours on May 26, 2014.
- After entering his vehicle and starting it, [REDACTED] heard someone yelling in the immediate area.
- When [REDACTED] heard yelling he rolled down the driver's door window of his vehicle in an effort to determine who was yelling, where they were yelling from, and what the individual was yelling about.
- When [REDACTED] rolled down his window he was able to determine that the yelling was coming from the area behind his vehicle.
- [REDACTED] then looked in that direction and observed an unidentified black female walking eastbound on the north sidewalk in the 1600 block of West University.
- When [REDACTED] first observed the female she was walking away from a uniformed Champaign police officer who was trying to approach her on foot. The female was yelling as she walked away from the officer.
- [REDACTED] described the officer as a younger white male who was tall and thin.
- [REDACTED] could not tell what the female was saying as she was yelling, but it was apparent to him that she was yelling at or to the officer.
- [REDACTED] heard the officer tell the female to "stop" when he addressed her, but he could not recall hearing the officer say anything else specific to the female.
- [REDACTED] could not recall hearing the female say/yell anything specific to the officer, but he did recall that the female used profanity while yelling at or to the uniformed officer.
- As the officer neared the female she turned and began running away from him.
- The officer briefly gave chase and in doing so quickly closed the distance between himself and the female.
- When the officer got close to the female she "turned on him and became aggressive towards him."
- [REDACTED] did not see exactly what the female did when she turned on the officer, but it was apparent to him that she was "not being compliant."
- In response to the female's aggression the officer used his knee to strike one of the female's legs. The officer then performed some type of "leg sweep" and took the female to the ground.
- [REDACTED] departed from the scene in his vehicle "seconds" after the female was taken to the ground by the officer.
- At no point during his observation of the contact between the officer and the female did [REDACTED] see the officer use pepper spray on the female.
- At no point during his observation of the contact did [REDACTED] see the officer strike the female with his hand or fist.
- Soon after departing [REDACTED] regretted having left when he did, primarily because of the fact that the situation was not yet resolved when he departed.
- After traveling several blocks [REDACTED] decided to turn around and return to the scene.
- Upon [REDACTED]' return to the scene, which he estimated to be a couple of minutes later, he observed a number of other officers on scene so he continued on.
- [REDACTED] was unable to recall anything else remarkable about his observations but indicated that he would contact me if he was able to recall additional details in the future.
- To date, I have not been contacted by [REDACTED].

INTERVIEW OF [REDACTED]

On Monday, June 2, 2014, Lt. Shaffer and I responded to the Champaign County Satellite Jail in an effort to interview [REDACTED] regarding this investigation.

At 1253 hours we met with [REDACTED] in an interview room located adjacent to the booking area. Upon meeting with [REDACTED] I identified myself by name and by office. I also introduced her to Lt. Shaffer. I then asked her if she would be willing to speak with us regarding her arrest. [REDACTED] indicated that she was willing to speak with us.

Because of the fact that [REDACTED] was in custody on charges related to her arrest by Officer Rush on May 26, 2014, I first provided her with written notice of her rights under "Miranda." Upon providing [REDACTED] with written notice of her rights, I also read them to her. [REDACTED] indicated that she understood her rights and she again indicated her willingness to speak with me.

Upon interview, [REDACTED] provided me with the following information:

- [REDACTED] and she possesses a tenth (10th) grade education.
- [REDACTED] has been diagnosed as suffering from [REDACTED]. She has been prescribed and takes lithium to treat her disorder.
- [REDACTED] has difficulty sleeping on a regular basis and she has also been prescribed and takes an unknown prescription medication for a sleep disorder.
- [REDACTED] believed that that she was pregnant since she had not experienced a normal menstrual cycle for the past several months, but she had not yet seen a doctor to confirm her belief.
- [REDACTED] generally recalled the circumstances leading to her arrest on May 26, 2014, and she specifically remembered having been in Thornton's just prior to her arrest. [REDACTED] also specifically recalled that she had broken a bottle in the store prior to departing Thornton's.
- After leaving Thornton's, [REDACTED] walked away from the scene.
- After walking several blocks, [REDACTED] was stopped by a uniformed officer who was driving a marked squad car.
- [REDACTED] could not recall the name of the officer who stopped her.
- [REDACTED] was generally upset during the time leading up to her contact with the officer and she did not particularly care to speak with the officer.
- [REDACTED] admitted to having walked away from the officer, but also volunteered that she never "attacked" him.
- The officer with whom [REDACTED] had contact on the morning of May 26, 2014, threw her to the ground during the contact and then pepper-sprayed her while she was on the ground.
- [REDACTED] suffered a minor injury to her right arm/elbow during the course of her arrest. (Note - [REDACTED] had a 3"-4" kidney shaped abrasion on the outside of her right forearm. Her injury, while still relatively minor, was of greater significance than what was described in police reports).
- I asked [REDACTED] on two separate occasions whether or not the officer who arrested her struck her with his hands and/or fists during her arrest. On both occasions [REDACTED] responded by stating, "I'm not worried about that." When pressed further, [REDACTED] would neither acknowledge nor deny that the arresting officer had struck her.
- [REDACTED] had no additional information to offer concerning her arrest.

VIDEO LOG

Following the initiation of this investigation, I requested that Lt. Michael Paulus undertake efforts to enhance the quality of Officer Rush's MVR video. I specifically requested that Lt. Paulus focus his efforts towards improving the level of contrast and on reducing the glare caused by direct sunlight. Lt. Paulus did so and later provided me with a DVD copy of the enhanced video. Officer Rush's actions during the arrest of [REDACTED] were made clearer by the enhanced video.

The following log of activity was created through the review of relevant MVR videos and radio traffic. It should be noted that the log is not all-inclusive and that all times are approximate.

<u>TIME</u>	<u>ACTIVITY</u>
07:21:09	Officer Rush's MVR begins recording.
07:21:28	[REDACTED] comes into the view of the camera. She is walking eastbound on the north sidewalk in the 1700 block of West University Avenue.
07:21:41	Officer Rush pulls to the north curb in the 1600 block of West University Avenue, parks, and exits his squad car. Upon exiting his squad, Officer Rush immediately begins yelling "Come here!" to [REDACTED]. He issues the command three times.
07:21:45	[REDACTED] stops walking, turns, and addresses Officer Rush.
07:21:50	[REDACTED] turns and resumes walking eastbound. Officer Rush follows on foot.
07:21:55	[REDACTED] begins running eastbound. Officer Rush pursues her.
07:21:57	As Officer Rush nears her, [REDACTED] stops, turns, and faces him.
07:21:59	[REDACTED] reaches out towards Officer Rush's neck. In response, Officer Rush grabs [REDACTED] by the arms.
07:22:01	Officer Rush strikes [REDACTED] in the right thigh with his left knee.
07:22:02	Officer Rush spins [REDACTED] and throws her to the ground. He then positions himself on top of her.
07:22:08	Officer Rush asks METCAD to send another unit.
07:22:09	While over [REDACTED], Officer Rush draws his right hand/arm back and then drives it downward towards [REDACTED]'s shoulder/upper body in an accelerated manner. While doing so, Officer Rush's left hand remains "posted," either on the ground or on [REDACTED]'s upper torso. [REDACTED] upper body can be seen reacting immediately afterwards.
07:22:11	A beige Toyota Prius, later determined to have been driven by [REDACTED], pulls away from the north curb on the west edge of the property located at [REDACTED]. [REDACTED] then begins traveling eastbound on University Avenue.
07:22:14	[REDACTED] appears to reach up towards Officer Rush with her left hand. [REDACTED] then begins actively struggling with Officer Rush.

<u>TIME</u>	<u>ACTIVITY</u>
07:22:15	METCAD advises Champaign units, "I need a unit to back at University and Victor."
07:22:21	Officer Epling responds, "65, from post."
07:22:54	Officer Rush pins [REDACTED] to the ground and restrains her in place.
07:23:19	METCAD advises Officer Rush that three units are en route and asks for his status.
07:23:26	Officer Rush responds, "I've got her on the ground, I'm trying to get her in cuffs. She's been sprayed. She scratched me in the face and neck."
07:23:33	METCAD responds, "10-4, want me to send an ambulance that way?"
07:23:41	Officer Epling advises Officer Rush, "We're downtown and we'll be there in a minute."
07:23:49	Officer Rush states, "She's (unintelligible), I just can't get her in cuffs. She's been sprayed."
07:23:54	Officer Rush rolls [REDACTED] over and onto her stomach. [REDACTED] continues to struggle after being rolled over.
07:24:22	Officer Rush removes a pair of handcuffs from his belt and begins to handcuff [REDACTED].
07:24:41	Officer Rush secures [REDACTED] in handcuffs.
07:24:43	Officer Rush advises METCAD, "95" (subject in custody).
07:24:46	METCAD responds, "10-4. Do you require medical?"
07:24:51	Sgt. Crane responds, "METCAD, 934, I'm 23 (on scene). I'll advise."
07:24:55	METCAD responds, "10-4."
07:25:04	Sgt. Crane is on scene and appears in view of the camera.
07:25:10	Sgt. Crane approaches Officer Rush and [REDACTED], bends down while standing over them, and appears to be examining [REDACTED].
07:25:23	Sgt. Crane logs to Officer Rush's squad then returns to Officer Rush and [REDACTED] a short time later.
07:25:55	Officers Wendt, Petkunas, and Voges arrive on scene within seconds of each other.
07:26:28	[REDACTED] is assisted to her feet by officers.
07:26:57	[REDACTED] is seated in a squad car.
07:29:41	Officer Rush walks to and enters his squad car.
07:30:05	Officer Rush leaves the scene.

<u>TIME</u>	<u>ACTIVITY</u>
07:30:37	Officer Epling states, "Let me ask her if she's injured because if she says she is they will refuse her."
07:30:41	Sgt. Crane responds, "Let's take her to county."
07:33:42	Officer Petkunas begins transporting [REDACTED] to the Champaign County Jail. [REDACTED] complains about the effects of OC spray several times during her transport, and the effects of OC spray on [REDACTED] are clearly visible.
07:44:30	Officer Petkunas arrives at the Champaign County Jail with [REDACTED].

FACT-FINDING INTERVIEW

On Monday, June 2, 2014, I contacted Officer Rush by cell phone (text) in an effort to arrange to serve him with the "Fact Finding Interview Notice and Order" relative to this investigation. Officer Rush responded and indicated that he was unable to meet with me that day due to a personal obligation. Officer Rush then asked if arrangements could be made for me to serve him with the notice on the following day. I informed Officer Rush that would be acceptable and indicated that I would be in touch with him.

On Tuesday, June 3, 2014, I met with Officer Rush at the Champaign Police Department. At that time I served Officer Rush with a written copy of the "Fact Finding Interview Notice and Order" relative to this investigation. That document served as a written order for Officer Rush to report for an interview relative to this investigation at 11:00 a.m. on Thursday, June 5, 2014.

It should be noted that prior to the fact finding interview I also contacted F.O.P. Attorney Tamara Cummings by telephone regarding this investigation. During our telephone conversation I informed her of this investigation and the pending interview. I also arranged for her to be present at the interview in order to represent Officer Rush in this matter.

The interview was conducted as scheduled on June 5, 2014. Lt. Shaffer was present with me during the interview, and Ms. Cummings appeared and served as Officer Rush's legal representative during the interview. The interview was recorded, and a full copy of the transcript of the interview is attached to this memorandum.

INTERVIEW OF SGT. MATT CRANE

On Tuesday, June 10, 2014, Lt. Shaffer and I met with and interviewed Sgt. Matt Crane regarding this investigation. In response to a series of questions from me, Sgt. Crane provided us with the following information:

- On the morning of May 26, 2014, Sgt. Crane was on duty and working in his normal capacity as a Southwest District supervisor on the Midnight shift.
- At approximately 0652 hours that day, Sgt. Crane and Officer Rush responded to [REDACTED] to assist the Champaign Fire Department.
- Upon Sgt. Crane's arrival at [REDACTED] he met with fire personnel and learned that they had responded to deal with a small fire that was caused by someone who left food cooking on the stove. He also observed that a number of windows were broken out of the residence and that the house was in total disarray.

- Based upon previous responses to [REDACTED], Sgt. Crane knew that [REDACTED] was the primary adult occupant of the residence and he suspected that [REDACTED] might be responsible for the stove fire.
- Sgt. Crane communicated the information that he learned at the scene to Officer Rush and the two of them then spent approximately fifteen (15) minutes searching the neighborhood in an attempt to locate [REDACTED]. They also spoke with several neighbors during their attempts to locate [REDACTED].
- After their efforts to locate [REDACTED] were unsuccessful Sgt. Crane permitted Officer Rush to leave the scene so that he could return to the department and work on reports that he had yet to complete.
- Following Officer Rush's departure, METCAD contacted Sgt. Crane by radio and advised him that there was a call holding at Thornton's at 101 South Mattis. METCAD further advised Sgt. Crane that a female had recently entered the store, intentionally broken a bottle, and then departed on foot. METCAD additionally provided Sgt. Crane with a description of the female suspect. (Note – Sgt. Crane could not specifically recall the description at the time of our interview).
- Almost immediately following that radio transmission, Officer Rush advised METCAD that he was in the area of Thornton's.
- A short time later Officer Rush advised METCAD, by radio, that he had located a female near the intersection of University and Victor who matched the description of the suspect from the incident at Thornton's.
- Officer Rush initiated contact with the female and ultimately identified her as [REDACTED].
- Officer Rush arrested [REDACTED] following his contact with her.
- Sgt. Crane responded to the scene of [REDACTED]'s arrest and upon his arrival he found [REDACTED] handcuffed and lying on her stomach in the parkway.
- Sgt. Crane spoke with Officer Rush following his arrival and at that time learned that the female in custody was [REDACTED].
- During that same conversation Sgt. Crane was informed by Officer Rush that he had deployed OC spray against [REDACTED] during the course of her arrest.
- When Sgt. Crane approached [REDACTED] to examine her he found her wearing only a nightgown (with no undergarments).
- In examining [REDACTED] Sgt. Crane also noted that she appeared to have suffered a very minor injury during the course of her arrest as she had a small (three to four inch) scratch on her right arm that was bleeding slightly.
- [REDACTED] was very calm when Sgt. Crane examined her and she displayed no outward signs of significant OC exposure. Sgt. Crane recalled [REDACTED] as having coughed once or twice while he examined her, but he never heard her express any complaint or ask for any assistance.
- Since [REDACTED] was somewhat exposed while wearing a nightgown with no undergarments, because there were a significant number of motorists and passers-by, and because [REDACTED] seemed to be suffering from very mild effects as a result of OC exposure, Sgt. Crane's first instinct was to have [REDACTED] placed into a squad car where she was out of view and could then be promptly transported to the County Jail for decontamination.
- At no time did Sgt. Crane specifically direct anyone at the scene to decontaminate [REDACTED].
- Sgt. Crane was unable to explain why [REDACTED] was then left sitting in a squad car for over six (6) minutes before she was transported from the scene.
- Sgt. Crane acknowledged that, in hindsight, his efforts to ensure that [REDACTED] was promptly and properly decontaminated were inadequate. He also acknowledged his familiarity with Policy 1.3 and the requirement within that policy that a subject against whom OC spray has been deployed is to be decontaminated as soon as feasible.

- Sgt. Crane acknowledged familiarity with the requirement, as outlined in Policy 1.3, that an observable injury to an arrestee is to be promptly photographed and documented. Sgt. Crane indicated that he did not arrange to have [REDACTED] injury photographed at the scene because he did not believe the injury was worthy of a photograph. However, he did acknowledge that the injury should have been photographed and he likewise expressed regret for having failed to do so.
- Following [REDACTED] arrest, Sgt. Crane reviewed and approved Officer Rush's arrest report.
- Sgt. Crane also completed a supplemental report documenting his actions at the scene and attached it to Officer Rush's report.
- As required by policy, Sgt. Crane completed a "Use of Force Incident Report" form and attached it to the arrest report when he reviewed and approved the incident report.
- Sgt. Crane later conducted a "use of force review" of the incident leading to [REDACTED] arrest.
- During Sgt. Crane's use of force review he read all of the police reports that were submitted and he watched the MVR video that was captured by Officer Rush's in-car camera.
- During Sgt. Crane's video review he primarily focused on the things that took place at the scene prior to his arrival
- Sgt. Crane watched the video depicting [REDACTED] arrest in its entirety twice and he watched excerpts of the video which depicted Officer Rush's use of force several additional times.
- Sgt. Crane did not observe or uncover any policy violations during his use of force review and he ultimately concurred with the force that Officer Rush had used.

Prior to further discussing Sgt. Crane's use of force review, I had him watch the video depicting [REDACTED] arrest several times. In doing so, I specifically directed his attention to Officer Rush's actions at 07:22:09 of the video. After reviewing the video several more time, Sgt. Crane then provided us with the following information:

- During Sgt. Crane's use of force review he did observe the actions of Officer Rush at 07:22:09 of the video.
- During Sgt. Crane's use of force review he formed the opinion that Officer Rush was engaged in "hand-fighting" with [REDACTED] at 07:22:09 of the video.
- Having further reviewed the video in question Sgt. Crane now viewed the conduct of Officer Rush at 07:22:09 of the video "much differently" than he did during his initial review.
- Having further reviewed the video in question, it was now "clear" to Sgt. Crane that Officer Rush was "lashing out" at [REDACTED] and engaged in behavior that went well beyond "hand-fighting" at 07:22:09 of the video.
- Having further reviewed the video in question Sgt. Crane was still not prepared to "100%" or "definitively" state that Officer Rush was "punching" [REDACTED] at 07:22:09 of the video, but it was clear to him that Officer Rush was "lashing out" at [REDACTED].
- Having further reviewed the video in question, Sgt. Crane believed that Officer Rush's actions were "consistent with how a punch is thrown." Sgt. Crane further indicated that he was unwilling to definitively classify Officer Rush's actions as a "punch" simply because it was not entirely clear to him whether or not Officer Rush made contact with [REDACTED] as he lashed out at her..
- When informed of Officer Rush's explanation for his actions at 07:22:09 of the video Sgt. Crane stated that the explanation was "inconsistent" with what the video showed.
- Sgt. Crane indicated he now had "definite questions" about Officer Rush's actions at 07:22:09 of the video, and he stated that he wished he would have sought an explanation from Officer Rush prior to approving the use of force.

- Sgt. Crane put forth a good faith effort to do a competent use of force review, but having further reviewed the video in question and given the matter additional consideration it was now clear to him that his review was inadequate.

REVIEW OF BOOKING PHOTOGRAPH AND INTAKE VIDEO

A copy of [REDACTED] booking photo was obtained during the course of this investigation. That photo is attached and does not depict any facial injuries.

A copy of the intake video was also obtained from the Champaign County Jail. The video was reviewed but nothing of relevance to this investigation was found during the review.

RELEVANT POLICY ISSUES AND DEPARTMENT RULES

During my investigation into this matter the following policy issues were examined:

USE OF FORCE

The use of force is governed by Champaign Police Department Policy 1.3, titled "Use of Force." The following excerpts from Policy 1.3 governed the officers' use of force in this instance.

1.3.1 FORCE NECESSARY TO ACCOMPLISH LAWFUL OBJECTIVES

- (A) State law and the City of Champaign have entrusted its police officers with the unique powers and authority designated to assist them in performing their duties. Officers, under certain circumstances, have the right to apply force, including lethal force, on another human being. Such application will be based upon the reasonable belief that such force is warranted and justified based upon current laws and the policies of this Department.
- (B) An officer may use force in the performance of his duties under the following circumstances:
1. To prevent or terminate the commission of an offense.
 2. In self defense or defense of another.
 3. To effect the arrest of an offender, including those resisting arrest or attempting to flee from arrest or custody.
 4. To prevent a person from injuring themselves.

1.3.4 USE OF LESS LETHAL WEAPONS

(B)(3) Oleo Resin Capsicum (OC) Spray: OC spray is intended to be used primarily against unarmed subjects who officers reasonably believe have indicated physically and/or verbally that they intend to resist arrest or assault an officer or other persons.

(B)(3)(c) Officers shall decontaminate or flush the eyes of a subject against whom OC has been deployed as soon as feasible following deployment.

1.3.5 MEDICAL AID AFTER USE OF FORCE INCIDENTS

(A) After any use of force incident, if an officer observes any injury or the person arrested or seized complains of any injury then the officer shall obtain medical assistance as soon as reasonably possible. Photos shall be taken of all observable injuries. In the event the injuries are in sensitive or private areas of the body, the shift supervisor shall request that appropriate medical

personnel assist with photo documentation. Injuries shall also be documented in appropriate Departmental reports.

1.3.7 REVIEWING USE OF FORCE INCIDENTS

(A) Each police report involving the use of force shall have a "Use of Force Incident Report" cover sheet attached to it. The cover sheet will be completed by the reviewing supervisor, and a copy of the report and cover sheet will be forwarded to the appropriate Deputy Chief through the chain of command and reviewed at each step.

(1) The report will be reviewed for any policy, training, weapon, or equipment issues related to the incident.

AUTHORITY AND RESPONSIBILITY

Policy 11.3, titled "Authority and Responsibility," establishes the accountability of delegated authority.

11.3.2 SUPERVISORY ACCOUNTABILITY

(A) To achieve effective direction, coordination, and control, supervisory personnel shall be accountable for the performance of employees under their immediate control. Supervisors are also responsible for providing guidance and assistance to their subordinates.

The following **Department Rules** are also relevant to this investigation:

RULE 1(B)(1) / GENERAL CONDUCT AND FITNESS – Employees shall be familiar with and obey orders and directives issued or authorized by the Chief of Police.

RULE 2(A)(1) / COMMUNICATION, INFORMATION, AND RECORDS – Employees shall, in departmental work product or departmental communication, transmit truthful, complete, and accurate information.

RULE 3(B)(1) / COURTESY – Employees shall be courteous in their conduct and communication with citizens and other City employees. Employees shall be tactful in the performance of their duties, control their tempers, and exercise reasonable patience and discretion. In the performance of their duties, employees shall not use harsh, rude, overbearing, abusive, violent, profane, or indecent language or conduct, and shall not express any prejudice or insulting language concerning race, sex, religion, politics, national origin, lifestyle, or similar personal characteristics.

RULE 5(A)(2) / GENERAL OPERATIONS – Each employee shall provide aid or furnish information consistent with police duty and in accordance with law and departmental directive.

RULE 5(D)(1) / PHYSICAL AND DEADLY FORCE – The use of physical force to accomplish a police task is restricted by law and departmental directive to the force which is reasonable and necessary under the circumstances.

FINDINGS

1. Officer Rush's manner of communication while initiating contact with [REDACTED] was not courteous and constitutes a violation of Department Rule 3(B)(1). Officer Rush made no effort to calm an obviously agitated individual whom he knew or had reason to believe was suffering from some form of mental illness. More significantly, it is my belief that the manner in which

Officer Rush initiated the contact set the tone for the contact and may well have escalated [REDACTED] response and behavior.

2. It is clear to me from viewing Officer Rush's MVR recording that he struck [REDACTED] in the shoulder and/or upper torso at the 07:22:09 mark of the recording.

During his fact-finding interview relative to this investigation, Officer Rush asserted that at the 07:22:09 mark of the recording he was reaching down with both hands in an effort to control [REDACTED] hands/arms. That explanation is not plausible and is also inconsistent with what the video shows. The video clearly shows that Officer Rush's left hand/arm remained posted, either on the ground or on [REDACTED] upper torso, as he drew back his right hand, so he clearly was not reaching with both hands/arms simultaneously. Officer Rush's torso can also be seen twisting slightly as he draws back his right hand, a movement which is consistent with a strike. Additionally, as Officer Rush drives his right hand downward and toward [REDACTED] in an accelerated fashion [REDACTED] can be seen raising her arm in what appears to be an effort to protect herself. Each of these movements effectively serve to undermine Officer Rush's explanation.

The strike delivered by Officer Rush was not reasonable or necessary under the circumstances and I find it to be in violation of Department Rule 5(D)(1).

3. A review of Officer Rush's official police report clearly shows that he failed to document the aforementioned strike in his official police report. Officer Rush's official police report did not constitute a truthful, complete, and accurate account of his behavior and I find his omission to be in violation of Department Rule 2(A)(1).
4. During his fact-finding interview relative to this investigation, Officer Rush failed to admit or acknowledge that he struck [REDACTED] during the course of her arrest. As previously documented, Officer Rush's account of his behavior was implausible and inconsistent with the video evidence. I do not believe that Officer Rush was truthful regarding his actions during his fact-finding interview, and I find that his oral statement likewise constitutes a violation of Department Rule 2(A)(1).
5. Although Officer Rush has attempted to excuse himself of responsibility for ensuring that [REDACTED] was promptly and properly decontaminated by indicating that he left the scene shortly after her arrest, the video evidence shows that Officer Rush remained on scene for four minutes and fifty-eight (4:58) seconds following [REDACTED] arrest. As the officer who deployed the OC spray, Officer Rush had an obligation to ensure decontamination and I find that he had adequate time to do so. In failing to ensure the timely decontamination of [REDACTED], Officer Rush violated Section 1.3.4(B)(3)(c) of the Use of Force policy and Department Rule 1(B)(1).
6. Sgt. Crane was the second officer on scene and the only supervisor to respond to this incident and he did not successfully discharge his duty to ensure that [REDACTED] was promptly decontaminated and/or relieved of the effects of OC spray. Sgt. Crane did not personally undertake any efforts to decontaminate [REDACTED] prior to her being placed in a squad car, and he also did not direct any officer at the scene to do so. Inexplicably, Sgt. Crane then allowed [REDACTED] to sit in a squad car for well over six (6) minutes without taking any steps to relieve her of the effects of OC spray. In the end, no effort was made to provide aid to [REDACTED] prior to her arrival at the Champaign County Jail. In failing to ensure the timely decontamination

of [REDACTED], Sgt. Crane violated Section 1.3.4(B)(3)(c) of the Use of Force policy and Department Rule 1(B)(1).

As the commanding officer on scene, Sgt. Crane was also obligated to ensure that the injury to [REDACTED] arm/elbow was properly documented and photographed. While by all accounts the injury was relatively minor, that fact did not relieve Sgt. Crane of the obligation, as outlined in Policy 1.3, to document and photograph the injury. Sgt. Crane did make note of the injury in his official police report, but he did not photograph (or arrange to have an officer photograph) the injury. Through this failure, Sgt. Crane also committed violations of Section 1.3.5(A) of the Use of Force policy and Department Rule 1(B)(1).

Lastly, as the reviewing supervisor in this case, Sgt. Crane was obligated to complete the first level supervisory review of the force used in this incident. Documents show and Sgt. Crane has admitted that he completed that review. In his account of the review, Sgt. Crane indicated that he took all necessary steps to ensure that an adequate review was completed. Despite that fact, Sgt. Crane failed to note what should have been an obvious concern. He also failed to note a policy violation and an inconsistency between Officer Rush's MVR recording and Officer Rush's account of the incident as detailed in his official police report.

In the end, Sgt. Crane approved of the force that Officer Rush used during the arrest of [REDACTED]. I do not concur with his approval. In light of that, it is my finding that Sgt. Crane failed to complete an adequate review of this use of force incident. His failure constitutes additional a violation of Section 1.3.7(A)(1) of the Use of Force policy and Department Rule 1(B)(1).

7. During his review of this incident, Lt. Shaffer noted that neither Sgt. Crane nor Officer Rush had a synched audio transmitter upon responding to the call involving [REDACTED].

In Officer Rush's case, further investigation into the issue involving his transmitter revealed the following:

- That he worked a five (5) hour callback shift immediately prior to the start of his normal shift on the night of May 25, 2014.
- Because of the callback shift, Officer Rush wound up working fifteen (15) consecutive hours that day.
- Officer Rush completed a system check at the beginning of his shift and took the necessary steps to ensure that his transmitter was synched and functioning properly during those recordings.
- A review of MVR recordings captured earlier in Officer Rush's shift revealed that his transmitter was functioning properly.
- Officer Rush's contact with [REDACTED] occurred near the conclusion of the fifteen (15) hour shift and all available evidence supports a finding that the battery in his transmitter failed to last for the duration of his extended shift.

In Sgt. Crane's case, further investigation into the issue involving his transmitter revealed the following:

- Sgt. Crane completed a system check at the beginning of his shift and took the necessary steps to ensure that his transmitter was synched and functioning properly.
- A review of MVR recordings captured earlier in Sgt. Crane's shift revealed that his transmitter was functioning properly earlier in his shift and throughout nearly two (2) hours of cumulative recording.

- All available evidence supports a finding that Sgt. Crane's transmitter failed due to battery failure or technical error.

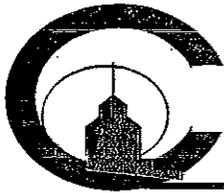
With regard to this issue, I find no policy or Department Rules violations on the part of either Officer Rush or Sgt. Crane.

DISCIPLINE HISTORY / OFFICER RUSH

Officer Rush has been employed with the Champaign Police Department since February 8, 2010, and his discipline history is summarized as follows:

<u>DATE</u>	<u>DISCIPLINE</u>	<u>EXPLANATION</u>
9/10/13	2-day Suspension	Multiple rules violations during his response to a domestic incident.
4/29/13	Counseling	Missed court.
12/15/12	Counseling	Use of force issue with a non-compliant subject.
9/27/12	Letter of Reprimand	Failed to use lights and siren during emergency response.
5/14/12	Counseling	Late for work.
2/9/12	Counseling	Discourtesy to witness.
1/30/12	Letter of Reprimand	Preventable accident.


In addition, Officer Rush is the subject of two pending internal investigations (14-1103 and 14-1104) involving multiple rules violation. In 14-1103, a one-day suspension was recommended. In 14-1104, a three-day suspension has been recommended.



City of Champaign

Responsive and Responsible Community Service

Police Department

82 E. University Avenue
Champaign, IL 61820
Ph. (217) 351-4545

Ms. Julia Rietz
Champaign County State's Attorney
101 E. Main, #2
Urbana, IL 61801

October 9, 2014

Ms. Rietz,

As required by law, I write to inform you of a recent disciplinary matter involving an officer of the Champaign Police Department. On August 8, 2014, Officer Matt Rush was charged with a violation of department policy wherein the offending behavior involved untruthful or deceptive representations. As you are aware, under *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v United States*, 405 U.S. 150 (1972) and its progeny, the Champaign Police Department is required to disclose such information regarding the untruthfulness of law enforcement officers to prosecutors.

Please feel free to contact me at my office in the event that you have any questions regarding this matter.

Sincerely,

Anthony Cobb
Chief of Police
Champaign Police Department



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Champaign, IL 61820
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Branch Supervisor
United State's Attorney's Office
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Urbana, IL 61801

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Champaign Police Department

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Police Department•82 E. University Avenue•Champaign IL 61820•(217) 403.7000 fax (217) 403-7022•www.ci.champaign.il.us

April 9, 2015

Ms. Julia Rietz
Champaign County State's Attorney
101 E. Main St. #2
Urbana, IL 61801

Ms. Rietz,

I am writing to inform you that Officer Matt Rush appealed his termination, effective August 8, 2014, to an arbitrator who issued the attached binding ruling. Please note this ruling is now the decision of record that will be conveyed in CPD's professional standards file and the pervious (attached) letter of a Brady violation against Officer Rush will no longer be reflected in our records. If you have any questions concerning this matter please contact my office.

Sincerely,

Anthony D. Cobb
Chief of Police

Cc: CPD Professional Standards
City Legal



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