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**CITIZEN REVIEW WORKING GROUP  
AGENDA  
08/18/16**

- I. Review & Discussion of CPD Internal Investigations
  
- II. Review & Discussion of an Internal Investigation Report
  
- III. Review & Discussion of a Citizen Complaint Report that involves Use of Force
  
- IV. Next Steps in the process

## MINUTES

Citizen Review Working Group  
August 18, 2016 – 10:00  
Champaign Police Department  
Multi-Purpose Room  
82 E. University, Champaign, IL

MEMBERS PRESENT:

Chief Anthony Cobb	Deputy Chief Jon Swenson
City Manager Dorothy David	Lieutenant Tod Myers
Bruce Brown	Rachel Joy
Michele Cooper	Pastor Keith Thomas
Brian Greear	Alissia Young
Laura Hall	

### TOPICS DISCUSSED:

1. Chief Cobb called the meeting to order and distributed the Agenda. Professor Dixon won't be able to attend the Thursday meetings but will be provided with the notes and a recording of the meeting to review. We talked about CPD investigations at the last meeting and Jon will go through that again briefly. At this meeting we will review and discuss a five year summary of the Department's Internal Investigations, a sample Internal Investigation Report, a sample Citizen Complaint Report that involves the use of force and talk about the next steps in the process.
2. Deputy Chief Swenson: At the last meeting this group indicated an interest in hearing more about the Freedom of Information Act and the Internal Investigation process. Laura Hall, the Assistant City Attorney, with us today, is going to be talking the Freedom of Information Act and subpoena power at our next meeting but the primary topic we will cover today is going to be the Internal Investigation process. The investigative process is basically the same for an internal investigation, a complaint investigation or a crime investigation where someone breaks into your house or robs a gas station. What primarily distinguishes an internal investigation from a complaint investigation is the source of the information about potential misconduct.
  - **Citizen Complaints** stem from a citizen who had a police contact and has some concern about that contact. In order for someone to file a Citizen Complaint they have to have standing to make a complaint.
  - **Internal investigations** stem from:
    - Citizens who have concerns about conduct but lack the standing to file a complaint. An example is someone walking by and observing an interaction between an individual and a police officer. That person then calls CPD and says he has a concern with what he observed and here's why, etc.
    - Co-workers having observed something or have information about an incident or misconduct.
    - Supervisors, through observation, information, review of a use of force incident, etc.
    - Outside Agency i.e. another law enforcement agency, the State's Attorney's Office, etc. An example of this kind of internal investigation is one of the handouts you have where

an issue with one of our officers was brought to us by a supervisor at the jail who notified a CPD supervisors asking that we investigate. Another example goes back to the Brandon Ward case where an incident was investigated as a Citizen Complaint, not investigated as thoroughly as it should have been, and brought to us by the State's Attorney's Office as a result of the attorneys viewing video in preparation of the case against Mr. Ward.

- Anonymous information received by the department through an email, phone call, letter, etc.

Like Citizen Complaint investigations, anytime an internal is initiated, the Chief of Police is made aware of it at the outset; he has a great deal of involvement in determining the direction of the investigation.

Our Citizen Complaint numbers for the last few years have been averaging 5 to 7 Citizen Complaints. Over the last 5 years there have been 40 internal investigations averaging 8 a year. We are initiating as many internal investigations as we are receiving Citizen Complaints. This demonstrates the Department's commitment to high standards of conduct, providing law enforcement services that are fair, effective and impartial, addressing inappropriate behavior and when and if necessary, discharging those employees who have demonstrated they are not fit for the profession.

As are Citizen Complaints, internals are conducted almost exclusively by the Office of Professional Standards although they could be assigned to a Lieutenant for investigation. They are taken very seriously and conducted at the upper levels of the department.

The two exceptions to the Office of Professional Standards investigating internal investigations:

- If criminal conduct is alleged and/or discovered, criminal investigations are conducted by the Deputy Chief of Operational Support (currently Troy Daniels). In that case, we would do two investigations, a criminal investigation he would be responsible for conducting or overseeing the investigation; simultaneously, or shortly following that criminal investigation, the Office of Professional Standards would do an internal. Those are treated differently and that'll be discussed later.
- The second exception would be if there is suspicion or allegation of sexual harassment and those investigations are conducted by the Human Resources Department, either by the Director himself or under his guidance.

#### **Internal Investigation Process:**

- As in Citizen Complaints, regardless of who investigates, Deputy Chief Swenson is ultimately responsible for the quality of the investigation that lands on the Chief's desk.
- Internal investigations include interviews of witnesses, witness officers, review of dispatch tickets, police reports, radio traffic recordings and any and all existing video and audio evidence.
- Not every internal investigation is focused on an officer. Civilian staff can also be the subject of an internal investigation.
- If the conduct is serious enough, the civilian employee or the officer is served with a notice informing them of the conduct being investigated and a date and time they will be interviewed giving them an opportunity to obtain representation for the interview.

- In every case the officer or employee who is the subject of the investigation is interviewed. The interview of an officer who is the subject of the internal investigation is conducted in conformance with the Police Officer Disciplinary Act.
- Employee representation at the interviews is usually in the form of a union rep, either through AFSCME on the civilian side or the Fraternal Order of Police on the sworn side. If the allegation(s) is of very serious conduct, an FOP attorney will attend, but usually, the employee/officer will be represented by a co-worker who is an FOP Labor Representatives on the sworn side or an AFSCME union rep on the civilian side.
- If there are allegations of criminal conduct, two simultaneous investigations are conducted, a criminal investigation and an administrative or internal investigation.
- Employees/officers are ordered to truthfully answer any questions focused on their employment including any criminal conduct allegations. Because an employee is compelled to disclose information regarding their criminal conduct in an internal investigation, that information cannot be used in a criminal case.
- If an employee/officer refuses to answer questions, it's considered insubordination and they can be punished for that.
- If an employee/officer doesn't answer truthfully that's an even bigger problem because it's next to impossible to sustain a career of law enforcement if your integrity is not intact. An officer would be unable to serve as a witness in court and there are many things that we will not allow an officer to do because of findings relating to integrity.
- All employees/officers interviewed during an internal investigation, are required to answer questions truthfully. There are serious repercussions if they fail to do so.
- The goal is to complete internal investigations with 45 days. The Chief of Police can grant exceptions for extenuating circumstances, i.e. a significant number of people to interview, etc.
- The command officer conducting the investigation summarizes findings and if there is sustained misconduct, they make a disciplinary recommendation that is communicated to the employee's immediate supervisor.
- The immediate supervisor reviews the investigation in its entirety and states whether they agree or disagree with the findings. If there is sustained misconduct they make a disciplinary recommendation. This process moves up through the chain of command from the Sergeant's level to the Lieutenant's level, the Deputy Chief and ultimately lands on the Chief's desk.
- The Chief is responsible for final disposition. He can agree or disagree on the findings. He also has the latitude to send the investigation back for further work, interview someone else, more thorough review of evidence, etc.
- If and when an employee is disciplined as the result of an internal investigation they have the right to appeal the discipline, first to the city manager and then there are provisions in the labor agreements with both AFSCME and the FOP to go through the arbitration process. The City Manager, just like the Chief, can uphold or overturn a finding and/or discipline. The City Manager can reduce or increase discipline at her discretion.

Chief Cobb asked for any Questions.

Michele Cooper: When you're making discipline decisions, is your legal counsel involved in that process?

Deputy Chief Swenson: Yes, Legal is involved if there's going to be significant discipline, particularly a lengthy suspension (15-30 days) or termination and is likely to be appealed.

Chief Cobb: The HR Director, Jason Hood, has also been sitting in on the Fact Finding and Pre-Disciplinary employee interviews to advise me and so that he can be kept informed.

Dorothy David: The HR Director, Jason Hood, also has a legal background with a law degree and came to his current position through Community Relations. Jason and Assistant City Attorney, Jennifer Bannon, work closely together. She (Dorothy) is aware of the investigation but doesn't know details until the employee appeals the decision to her level so that she remains impartial. The Chief of Police, Deputy Chief of Administration, Professional Standards Lieutenant, City Attorney, the subject employee, an FOP Representative and the subject employee's legal counsel are all included in the appeal hearing.

Chief Cobb: To clarify regarding criminal investigations, we allow the criminal investigation to take precedent over our internal investigation. Sometimes these investigations will not be concurrent and we would allow the criminal to go through the process before we proceed through the internal investigation. We've had a couple of high profile cases where we had to do this. Employees have rights just like any other citizens, and we want to give the criminal system the opportunity to determine if a crime occurred and hold the individual accountable, just like we would any other citizen. When the criminal case is complete, we would do our internal investigation, therefore the internal investigation may take longer than 45 days.

Deputy Chief Swenson: One advantage to that is that if the officer is found guilty, the resolution of the internal investigation becomes clear. If the officer has a felony conviction he/she cannot work as a police officer.

Chief Cobb: In cases like that we might ask an outside agency to investigate; something minor, but still of a significant criminal nature, we may do the investigation in-house and then send to the State's Attorney's Office for review and to determine what will happen on the criminal side before we move forward with the internal investigation.

Rev. Thomas: How do we find a balance between protecting the officer's rights and also those of the citizen when allegations are sustained when the officer is represented by the FOP?

Deputy Chief Swenson: The FOP not only represents the officer involved but the labor group as a whole. If they accept punishment that they think is out of line for behavior for one member and another member in the future engages in that same conduct, the FOP is left dealing with that precedent in future discipline situations.

Rev. Thomas: Once there's a finding that's been reached, there's an appeals process?

Deputy Chief Swenson: Yes

Rev. Thomas: Regarding appeals process, sometimes you can see that the sustained findings seem to be obvious, even in the public's view. But the perception would be that because you've got this big entity, the FOP, that's standing there beside you, it overrules what some would see as common sense or an obvious thing.

Dorothy David: Think of it as a due process, like being in a court. Both the state through the prosecution as well as the person being defended is entitled to representation, that's similar to what the FOP functions as. Because of the media and the way the high profile cases get portrayed, the FOP's role in this is made bigger, their power, if you will, is made bigger than it really is. The FOP is the agent of representation for the officer and they have an obligation file an appeal with me. The FOP represents the employee at my level. I review the full investigation and I'm allowed to ask for more information or further investigation. The FOP answers my questions and participates in the hearing. I rule on the evidence. In my term as City Manager, I have found that the management staff on the City side has always done a thorough and very strong investigation. There are times that I don't uphold a disciplinary decision but most of that time it's not conduct-based as much as there's language in the bargaining agreement, its things like time off violations or things where management applied it wrong. When they aren't happy with my decision, it goes to arbitration. At arbitration, the Arbitrator is like a third party judge. The City presents our case, similar to a trial and the FOP or whoever is representing the employee presents their case and then the arbitrator makes their ruling. If the City loses in arbitration and we can go to court and appeal the arbitrator's decision. The burden to win in court is pretty high. We have to prove that the arbitrator really erred in some significant fashion not that we just disagree with the arbitrator's ruling. We try to avoid arbitration because when you go to arbitration, you're turning it over to someone, and this is my completely biased opinion, which no longer has a vested role in the community or the department itself.

Rev. Thomas: Knowing who the players are, how do we prevent someone from having too much power in saying what happens at CPD. That's where my full concern is on whether it's balanced.

Deputy Chief Swenson: To add to what Dorothy said, one thing we haven't discussed is that you have an investigation and you sustain some findings of misconduct against an officer, before discipline is administered if it is going to be three days or more of a suspension, there's a hearing before the Chief called a Pre-Disciplinary Hearing. The officer comes to that, they usually have FOP representation and the employee is given an opportunity to present any additional facts or evidence that they want considered before the Chief makes a disciplinary decision and to present any mitigating facts that they want considered. Usually the FOP representative will say – hey look we have a 20 year employee here that has a minimal disciplinary history, yes, we agree that the officer is guilty of some misconduct here, but nobody was hurt, or the harm was minimal and we think something along these lines is appropriate. I can't recall any circumstances where the FOP has come in and said hey, you guys are just crazy this person doesn't need to be disciplined. It's not that, they're obviously trying to paint the conduct in a light that's most favorable to the officer but I think more times than not they do a very balanced job of that. The second thing I want to point out is we're going to get to the internal investigation that's in front of you in a minute but in that particular case, the employee whose involved there, wound up resigning before he was interviewed about that case and quite frankly the FOP deserves a fair amount of credit for that because that was not the only disciplinary case that officer was facing at that time and although I think that particular employee was inclined to dig his heels in to fight, one of the FOP attorneys sat down with him and said – here's what you need to realize that the effect of

your behavior and you dragging this out is on the rest of the membership and before we could interview that employee, he voluntarily submitted his resignation. There are times when the FOP takes a stance that's not only beneficial to the membership but beneficial to the City and the Department as well.

Dorothy David: To answer your question, our challenge is of course perception. The officers for the most part who work for CPD don't want officers with egregious conduct or people who aren't appropriate to the profession for two reasons. One, they have extreme pride in their work and it takes just one officer looking like they're not doing their jobs properly that before you know it, the public has a bad opinion of a whole department that is working very, very hard to serve the community. On an even more basic level, officers that don't follow policy and procedure put the public and other officers at risk. Your safety in the middle of a call is put at risk if there's another officer who isn't capable of doing their job well. That doesn't help with the perception issue, but I think that we, at the City have a pretty balanced relationship for the most part, I realize we've had some really high profile cases lately that don't make that so good but at least in my tenure it's been pretty good. One of the things, and I think it's part of what our charge is going to be here, is that in striking a balance to have some higher level of citizen involvement or citizen review or citizen transparency in this process is that once that we get into the disciplinary process still has to be based on the facts, based on the law, based on the collective bargaining agreement. The rights of the employees don't change. We can't create some citizen body that is going to be able to make a disciplinary decision for example. It still has to happen through management, through the chief and if the citizen body, even if they could be empowered, if we could negotiate into the union contract that the employees wouldn't care if citizens made those decisions, the citizens would still bear the burden under the law of making that decision based on the facts because that decision would still be able to be taken to an arbitrator so as we grapple with these issues of transparency and trust and perception, anything we do here we still have to fit into the traditional disciplinary process and the due process rights that the employees are entitled to by law which is going to make it challenging for us.

Chief: Any questions about 5 year summary?

Bruce Brown: Extending our conversation from last time about transparency, I think what feeds into public perception is an understanding of what is and is not acceptable conduct. I don't know if that's going to be the Citizen Review Board's role or not but in terms of making the public aware, basically what is acceptable and protected conduct for use of force by officers, just my opinion, I think having that information and judging it against specific incidents I think that kind of quells the fires somewhat. If there's an actual understanding of what is and is not an acceptable and protected conduct in use of force.

Chief Cobb: One thing we're always saying in law enforcement, the situation dictates tactics. There are boundaries in which the officer has to work within as they're dealing with a situation. All of our Policies and Procedures for our rules of engage, that's public. We make that available on our website. When an officer is involved in an incident and there's use of force involved with it. That incident is always going to be reviewed.

Bruce Brown: How can we convey that? I know that it's on the website but in the heat of the moment, nobody is going to the website and check policy.

Rachel Joy: And that's what we talked about last time, how to get that information out. Because that's really the issue is the perception that it's not available. That doesn't exist so it's about, what this group, somehow would that be a function of it, to really get that information out in creative ways.

DC Swenson: I think the challenge is that there are so many grey areas in police work whether it's force or how the law is interpreted. The court system doesn't even agree on interpretation of laws. When we talk to U of I Students/Athletes we tell them when they interact with the police, do what they tell you to do. Issues of misconduct are not going to be sorted out at the scene of an incident, bring those concerns to the police department afterwards.

Chief Cobb moved the discussion to the review of the example of an internal investigation: Internal Investigation 12-II01.

DC Swenson: Before we go into review of 12-II01, if you look at the five year summary, over the course of five years we had 40 internal investigations for an average of 8 a year. Twenty-three resulted in sustained findings or a 50% sustained rate. The national average is closer to 10%. \*\*\*\*1:30 or so.

Deputy Chief Swenson moved the conversation to the example investigative summaries. Primary purpose for providing these examples is to show the thoroughness that's involved and the lengths we go to document our video review, the number of interviews done in an attempt to make conclusive findings. The examples are not redacted but made more general i.e. referring to Lt C, Officer M, Complainant, etc. I also did not change any colorful language.

Regarding 12-II01, this is an incident at the Jail. As background, the officer who is subject to this investigation had an accidental or negligent discharge of his firearm while responding to a shots fired call as he reholstered his weapon. As a result of that discharge, he was required to go through remedial firearms training. The master firearms instructor who conducted the remedial training encouraged the officer to practice unholstering and reholstering his unloaded weapon. Policy requires officers to secure their weapons before entering the jail facility by locking their weapons in the trunk of their car or in the gun lockers mounted on the wall at the Sheriff's Office. This officer would secure his weapon in his trunk, remove the arrestee from the car and go through the booking process. He would return to his squad, obtain his weapon from trunk and do some quick draws unholstering and reholstering his weapon. The problem with this is that you don't do this with a loaded weapon and you don't do it in a correctional facility. There is extensive video monitoring at the jail and correctional staff start observing this behavior and word gets to a command officer at the jail who contacts a CPD supervisor who documents the conversation and passes it up the chain of command.

The other case committee members were provided is a citizen complaint from 2014, number 14-06. To summarize this case, an officer is on Main Street in front of a bar doing parking enforcement in an area that has historically been a problem. A bar patron emerges and draws the officer's attention to a fight inside the bar that is spilling outside. The bar patron gives the officer enough information to 1) identify the subject who started the fight and 2) enough probable cause to justify detention of the individual until he can do an on scene investigation. That individual (complainant) is ultimately arrested, not only for battery, but for resisting the

efforts of the officer to take him into custody. The complainant had \$383 on his person when he was arrested but alleged he had \$5200 in his pocket. By the time this investigation was completed it was determined that that complaint had absolutely no credibility. The complainant could not show receipt of that money, he had been sitting in his car drinking for a significant period of time, he was intoxicated but his behavior and the method for which he was paying for his drinks did not lend credibility that he was carrying this large sum of money. That is a 25 page investigation and Deputy Chief Swenson, the investigator in this case had approximately 100 hours on the investigation.

Chief Cobb: Second component to this complaint was excessive use of force.

Deputy Chief Swenson: Yes, the complainant also complained that the officer used an unreasonable amount of force to take him into custody. The review of all the video and interview of many witnesses helped us address that portion of the complaint. In addition, the fact that a sergeant responded to the scene because it was a use of force incident and began the investigation into the use of force immediately while subjects were still available was invaluable to the investigation.

Chief Cobb: This is the first case that occurred after we started requiring a sergeant respond to the scene of an incident where an officer used force to investigate the use of force immediately. We are really pleased that this requirement is working very well.

Bruce Brown: This was where you switched to the buddy system or is this an example of why you went towards to the dual officer approach as opposed to single officer?

Chief Cobb: Basically what we're saying is that because this case involved the use of force a sergeant came on scene and investigated the use of force, including documenting the use of force in a police report. Later when the citizen made a complaint, we had all that extra information in the report because of the supervisor's response to the scene and the information he documented in the report.

Bruce Brown: Could this officer have called for backup earlier in the incident or was everything fluid within a minute or two from the initial contact to when the officer and the bartender taking this guy down?

Deputy Chief Swenson: This individual was not cooperative with the verbal request the officer made of him and took a fighting stance against the officer. Until that point the officer did not feel that he needed back up.

Bruce Brown: Is there a procedure or policy that tells you when you have to turn your camera on or you don't.

Deputy Chief Swenson: Officers are required to activate their cameras at certain types of events; issuing parking tickets is not one of them. The officer was unable to get back to his squad to turn the camera on. The officers responding to his request for back up did so in an expedited manner. The squad cars are programmed to turn the cameras on when the red lights are activated or when the squad reaches 47 mph. When the cameras are activated they record the prior 30 seconds before activated (with no audio).

Michele Cooper: Do I understand correctly that City Council has approved body cameras?

Chief Cobb: Yes, we went through a study session asking for approval to obtain body cameras, a contract with the proposed vendor for body cameras goes before Council again on September 6 for approval. We will move forward with replacing our current in car camera system and adding body cameras.

Brian Greear: I know that as we proceed through this you're going to see some scenes that have video, some scenes that don't, and speaking from the officer perspective, a lot of time we get video because it automatically kicks on. If the video didn't automatically kick on we would probably have very little video or audio of any of these situations because when these situations occur, the officer could manually hit that button and turn the audio/video on but when responding to these calls and the incident is rapidly evolving, the last thing in my mind is – I need to step back, turn my audio on so we get all this recorded. There's too many things going on and that's the last thing that comes to my mind.

Reverend Thomas: It opens the door to perception.

Chief Cobb: The body camera system and squad camera system we're looking at has a lot of automatic triggers in it. The body camera system has its own audio system self-contained in the unit so when they walk away from the squad audio will be captured. Right now the audio is lost because it only works within a certain radius of the squad.

Deputy Chief Swenson: Some people ask why the cameras don't just run full time. There are problems with that. They're digital, they take incredible storage space which is expensive. We are going to be purchasing body cameras; we've only had them on a demonstration basis until now but right now we are generating so much squad car video we are getting ready to hire a full time or two part time people just to manage the videos. Brian mentioned earlier, a lot of the video/audio is generated automatically, sometimes the officer activates it, but at the conclusion of the incident where video is taken, an officer still has to go into the system to enter the information required to properly classify the video so that it is retained in the system for the property amount of time but in the back end of that, you get FOIA requests from people who had interaction with an officer and they want a copy of that. There's a court case involved and the State's Attorney's Office needs video, any variety of things that require it and so the storage space is incredibly expensive and the number of man hours that are taken to manage the video evidence is significant.

Chief Cobb: To get back to the original question – we do have policy that dictates when an officer must turn on their video. We're in the process of reviewing our policy with the addition of body cameras. Right now all traffic stops, any type of contact with a citizen where it is going to lead to enforcement in the public way we want them to get the video on. We want it on, there are extenuating circumstances that may keep them from doing that but the vast majority, 97-98% of the time we expect to see video. Most of the officers do a pretty good job of getting the video on.

Chief Cobb asked for any other feedback. There is plenty of information to read in the handouts distributed. Our next meeting is September 8. We're going to be talking about the FOIA

(Freedom of Information Act) requests as well as subpoena powers. Laura Hall from City Legal will assist us in that. I would also like to find some venues and some calendar dates to hold community dialogues. Chief Cobb asked for any further comments or feedback.

From the audience: Durl Kruse asked if there was going to be time for public comment in these meetings?

Chief Cobb asked the members of the committee if they would support comments from the public at these meetings. No one opposed this. Chief Cobb indicated Mr. Kruse could have five minutes to make his comments.

Mr. Kruse indicated he thinks the only reason this committee was formed is because of race, minority/citizen relations. He has the following concerns:

- It would be helpful to know what defines calls for service (86,897 in 2012)
- Felony and Misdemeanor Offenses should be broken down by race, gender and age.
- The 229 use of force incidents should be broken down by race, gender and age.
- Five citizen complaints for 86,000 calls for service seem beyond credibility.

Mr. Kruse distributed a handout regarding traffic stops which he feels are very important. The handout shows that historically African Americans are stopped about twice as much as they make up the driving population in Champaign i.e. 30-40% of traffic stops are of African Americans but the driving population is only about 16%.

Mr. Kruse indicated he is impressed with the process and procedures the police department has put in place and I have no criticism of the effort that have been made by the City Council and Police department in the last three or four years but believes the City is still lacking the opportunity for the public to have input.

Chief Cobb thanked Mr. Kruse for his comments and asked if there were any further comments?

Michele Cooper: The chart Mr. Kruse gave us is confusing to me. Can you explain the chart a little bit?

Mr. Kruse: Basically the chart comes from the IDOT Traffic Stop report where the police department reports traffic stops each year. It's broken down by race and it covers consent searches, actual stop numbers and dog sniffs. All of the stops done those particular years in Champaign between roughly 30-34% of the stops are of African American drivers and the number of consent searches and dog sniffs that are conducted during those traffic stops.

Chief Cobb asked for any other questions and announced the next meeting will be September 8, 2016.

MEETING ADJOURNED at 11:35 a.m.

Minutes taken by: Mary Mullen

Attachment A: Champaign Police Department Internal Investigations Summary

Attachment B: Champaign Police Department Sample Complaint Investigation

Attachment C: Champaign Police Department Sample Internal Investigation

## FIVE YEAR SUMMARY OF INTERNAL INVESTIGATIONS

	2011	2012	2013	2014	2015
Number of Internal Investigations	7	8	9	9	7
Sustained	5	5	3	6	4
Not Sustained	0	0	0	0	1
Exonerated	1	1	4	0	1
Unfounded	0	0	1	1	1
No Finding	1	2	1	2	0

### 2015

INTERNAL #	NATURE OF INVESTIGATION	DISPOSITION	DISCIPLINE / DISCIPLINARY ACTION
15-II01	Employee suspected of having an inappropriate relationship with a female, possibly on duty.	UNFOUNDED	No / None
15-II02	Money allegedly missing from the glove box of a towed vehicle.	NOT SUSTAINED	No / None
15-II03	Employee failed to promptly return a key to immediate supervisor.	SUSTAINED	Yes / Counseling
15-II04	Employee was the subject of a criminal investigation which was conducted by an outside agency.	SUSTAINED	Yes / Termination
15-II05	Administrative review of an incident involving the use of deadly force.	EXONERATED	No / None
15-II06	Personal items were missing from an employee's desk and believed to have been taken.	SUSTAINED	Yes / Termination
15-II07	Employee was suspected of reporting to work while under the influence of prescription medication.	SUSTAINED	Yes / Counseling

### 2014

INTERNAL #	NATURE OF INVESTIGATION	DISPOSITION	DISCIPLINE / DISCIPLINARY ACTION
14-II01	Employee was suspected of spending on-duty time at his girlfriend's residence.	SUSTAINED	Yes / 4-day Suspension
14-II02	Employee was alleged to have testified in an untruthful manner.	UNFOUNDED	No / None
14-II03	Employee failed to complete an accident report in a timely fashion.	SUSTAINED	Yes / 1-day Suspension
14-II04	Supervisory review of a use of force incident uncovered evidence of a policy violation.	SUSTAINED	Yes / 3-day Suspension
14-II05	Supervisory review of a use of force incident uncovered evidence that an officer did not fully report his use of force.	SUSTAINED	Yes / Termination reduced to a 30-day Suspension by Arbitrator
14-II06	An employee who was on restricted duty was suspected of engaging in personal activities which were inconsistent with medical restrictions.	NO FINDING	No / None
14-II07	An employee who was on restricted duty was suspected of engaging in personal activities which were inconsistent with medical restrictions.	NO FINDING	No / None
14-II08	Employee failed to complete numerous police reports in a timely fashion.	SUSTAINED	Yes / Discipline was included as a part of 14-II03, 14-II04, 14-II05
14-II09	Employee failed to properly report, investigate, and document a traffic stop.	SUSTAINED	Yes / Letter of Reprimand

**2013**

INTERNAL #	NATURE OF INVESTIGATION	DISPOSITION	DISCIPLINE / DISCIPLINARY ACTION
13-II01	Administrative review of an incident involving the use of deadly force against an aggressive pit bull.	EXONERATED	No / None
13-II02	Employee allegedly improperly released two impounded vehicles.	EXONERATED	No / None
13-II03	Employee was suspected of spending on-duty time outside of assigned work area.	SUSTAINED	Yes / Letter of Reprimand
13-II04	Employee failed to complete several police reports in a timely fashion.	SUSTAINED	Yes / 1-day Suspension
13-II05	Administrative review of an incident involving the use of deadly force against an aggressive pit bull.	EXONERATED	No / None
13-II06	Administrative review of a traffic stop during which the subject of the stop shot himself.	EXONERATED	No / None
13-II07	Employee had an off-duty altercation with a private investigator.	NO FINDING	No / None
13-II08	Employee inappropriately used credentials while off-duty.	SUSTAINED	Yes / Letter of Reprimand
13-II09	Administrative review of a use of force incident.	UNFOUNDED	No / None

**2012**

INTERNAL #	NATURE OF INVESTIGATION	DISPOSITION	DISCIPLINE / DISCIPLINARY ACTION
12-II01	Employee reportedly inappropriately drew his duty weapon while in the sallyport at the county jail.	NO FINDING	No / None
12-II02	Employee failed to complete several police reports in a timely fashion.	SUSTAINED	Yes / 4-day Suspension
12-II03	Administrative review of an incident involving the use of deadly force.	EXONERATED	No / None
12-II04	Employee suspected of inappropriate behavior while off-duty.	NO FINDING	No / None
12-II05	Employee was suspected of driving under the influence while off-duty and arrested.	SUSTAINED	Yes / Termination reduced to a 30-day Suspension by Arbitrator
12-II06	Supervisory review of a use of force incident uncovered evidence of a policy violation.	SUSTAINED	Yes / Letter of Reprimand
12-II07	Administrative review of an incident involving the use of deadly force.	SUSTAINED	Yes / 1-day Suspension
12-II08	Administrative review of an incident involving the use of deadly force.	SUSTAINED	Yes / Letter of Reprimand

**2011**

INTERNAL #	NATURE OF INVESTIGATION	DISPOSITION	DISCIPLINE / DISCIPLINARY ACTION
11-II01	Employee was suspected of driving under the influence while off-duty. (No arrest)	SUSTAINED	Yes / 3-day Suspension
11-II02	Employee was suspected of engaging in inappropriate conduct while off-duty.	SUSTAINED	No / Employee Resigned
11-II03	Supervisory review of a use of force incident uncovered evidence of a policy violation.	SUSTAINED	Yes / Letter of Reprimand
11-II04	Administrative review of an incident involving the use of deadly force.	EXONERATED	No / None
11-II05	Employee failed to conduct appropriate follow-up investigation.	SUSTAINED	Yes / Letter of Reprimand
11-II06	Employee complained of sexual harassment by another employee.	SUSTAINED	Yes / Letter of Reprimand
11-II07	Bulk item was believed to be missing from a storage area.	NO FINDING	No / None



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To: Chief Anthony Cobb  
From: Lt. Jon Swenson  
Date: 10/8/14  
Subject: Citizen Complaint #14-06

### **INCIDENT SUMMARY**

At approximately 2140 hours on the evening of Friday, September 19, 2014, Officer M. was on duty, in uniform, and out on foot in the 50 block of East Main Street conducting parking enforcement when a male subject, later identified as MR. T., emerged from the Derailed bar located at 57 E. Main Street and yelled, "Officer! Over Here!" When Officer M. turned his attention toward MR. T., MR. T. pointed to a male, later identified as COMPLAINANT, and stated, "That guy just punched a guy inside the bar."

Upon hearing MR. T.'s statement Officer M. ran towards COMPLAINANT and yelled, "Stop! Police!" COMPLAINANT responded by turning towards Officer M. and yelling, "The motherfucker hit me first." COMPLAINANT then added, "That guy was talking shit to me and hit me."

After informing COMPLAINANT that he was not free to leave, Officer M. stepped towards the doorway of Derailed and motioned for the victim, later identified as VICTIM, to step outside and speak with him. As he did so, COMPLAINANT yelled, "That's right motherfucker, come on out."

Officer M. turned, addressed COMPLAINANT, and directed him to step back. COMPLAINANT responded by walking towards Officer M. and assuming an aggressive, bladed stance. Officer M. again directed COMPLAINANT to step back and, when he did not comply, also pushed him backwards. When COMPLAINANT persisted in his efforts, Officer M. pushed him backwards again.

Due to COMPLAINANT's behavior, Officer M. ordered COMPLAINANT to place his hands behind his back. COMPLAINANT ignored the order and continued to yell at VICTIM. Officer M. then pushed COMPLAINANT towards his squad car and again ordered him to place his hands behind his back. When COMPLAINANT ignored that order, Officer M. again ordered COMPLAINANT to place his hands behind his back. Again, COMPLAINANT did not comply. He instead placed his hands on the trunk of Officer M.'s squad car.

Officer M. then grabbed COMPLAINANT by the arm while simultaneously ordering him to place his hands behind his back. COMPLAINANT stiffened his arms in an effort to overcome handcuffing and also pushed back towards Officer M. Officer M. then placed COMPLAINANT in a headlock and, while attempting to take him to the ground, radioed a request that additional units to respond to the scene.

As Officer M. was requesting that additional units respond to the scene, COMPLAINANT stuck his leg out and attempted to trip Officer M. to the ground. As COMPLAINANT did so MR. T. stepped forward and offered to assist Officer M. Because COMPLAINANT was becoming increasingly combative, Officer M. accepted MR. T.'s offer.

With MR. T.'s help, Officer M. was able to take COMPLAINANT to the ground. However, even after being taken to the ground COMPLAINANT continued to resist handcuffing by stiffening his arms and refusing to place his hands behind his back.

COMPLAINANT also attempted to raise his head and torso up while on the ground. Despite COMPLAINANT's resistance, Officer M. and MR. T. were able to contain COMPLAINANT on the ground until other officers arrived to assist. Officer F. was the first to arrive on scene, and with her assistance COMPLAINANT was handcuffed.

Following COMPLAINANT's arrest he was searched for identification, weapons, and contraband and then placed into the back of Officer M.'s squad car. Among COMPLAINANT's possessions were a wallet, identification, and \$384.00 in United States Currency.

Following COMPLAINANT's arrest, several witnesses were identified and interviewed. Through those interviews probable cause was developed to arrest COMPLAINANT for battering VICTIM.

Following his arrest, COMPLAINANT was transported to the Champaign County Satellite Jail. Officer M. completed an Arrest Without Warrant (AWOW) charging COMPLAINANT with Battery and Resisting/Obstructing a Peace Officer and left COMPLAINANT in the custody of correctional staff.

### **COMPLAINT INTAKE**

On Saturday, September 20, 2014, COMPLAINANT came to the Champaign Police Department and met with Sgt. R. for the purpose of filing a citizen complaint stemming from his arrest on the previous evening. In the course of filing his complaint, COMPLAINANT made the following allegations:

1. That Officer M. used an unreasonable amount of force in accomplishing his arrest; and
2. That COMPLAINANT had \$5,000.00 in cash in his pocket which was missing following his arrest.

### **FOLLOW-UP COMMUNICATION WITH COMPLAINANT**

I received the packet documenting COMPLAINANT's complaint on the morning of Monday, September 22, 2014. After reviewing the associated police report and the contents of the complaint packet I attempted to reach COMPLAINANT by telephone at his listed cell number. My attempt to reach COMPLAINANT was unsuccessful, but I did leave a voice mail message for him asking that he contact me at my office at his earliest convenience.

COMPLAINANT returned my call approximately ten (10) minutes later. Upon speaking with COMPLAINANT I identified myself and informed him that I was aware that his arraignment was scheduled for that afternoon. I also told him that I would be investigating his complaint and asked him if he could make himself available to meet with me either prior to or following the hearing. COMPLAINANT responded by stating that he was in the midst of retaining an attorney and did not feel comfortable meeting and/or speaking with me without his attorney present. COMPLAINANT then claimed that he had suffered a broken rib during the course of his arrest. I responded by asking COMPLAINANT whether or not he had sought medical treatment for his injury; he indicated that he had.

I then informed COMPLAINANT that in order for me to fully investigate his complaint it would be helpful if he could provide me with the following:

- A signed medical release authorizing me to obtain and review medical records related to the diagnosis and treatment of his broken rib; and
- Any documentation relating to his receipt of the \$5,000.00 cash in question.

COMPLAINANT indicated that he would potentially be willing to provide me with a signed medical release through his attorney. However, he also stated that it was going to be difficult for him to provide me with any documentation related to the \$5,000.00 he had in his possession at the time of his arrest since that money was paid to him, in cash, for the installation of an HVAC system. COMPLAINANT provided me with no further details concerning his receipt of the money.

I concluded my conversation with COMPLAINANT by again providing him with my name and office number. I also asked him to have his attorney, once retained, contact me as soon as possible. He agreed to do so.

On Monday, September 22, 2014, I mailed the attached Citizen Complaint Response Letter to COMPLAINANT. In that letter I reiterated my request that COMPLAINANT provide me with a signed medical release and any documentation relating to his receipt of the \$5,000.00 cash in question.

As of the date of this memorandum COMPLAINANT has yet to provide me with a signed medical release and/or any documentation related to his receipt of the \$5,000.00 he claims to have been carrying at the time of his arrest.

### **PHOTOGRAPHS OF INJURIES**

During COMPLAINANT's arrest he sustained a scrape/abrasion underneath of his chin and an abrasion to his left ear.

Following COMPLAINANT's arrival at the Champaign County Satellite Jail, Officer M. photographed his injuries. Copies of those photographs are attached to this memorandum for review.

### **TIMELINE AND REVIEW OF SQUAD CAR VIDEOS**

Upon checking the video server for any and all video recordings associated with COMPLAINANT's arrest on September 19, 2014, I located three (3) videos which had been classified under file number C14-8439. Those videos belonged to Officers M. (transport video), F. (on scene video), and H. (on scene video)

Through my review of those recordings, the dispatch ticket, and associated police reports, I was able to document the following statements and activities and establish the following timeline of events. Please note that the documentation of officer and suspects statements is not intended to serve as a complete transcript of on-scene dialogue and that the listed times are approximate.

<u>TIME</u>	<u>OBSERVATION</u>
21:40:34	Officer M. is flagged down by MR. T. at Derailed. MR. T. reports that COMPLAINANT just battered another patron.
21:40:55	Officer H.'s squad video begins recording.
21:40:56	Officer F.'s squad video begins recording.
21:41:39	Officer M. contacts METCAD and reports that the suspect is resisting arrest. Officer M. also requests that back-up units expedite their response.

<u>TIME</u>	<u>OBSERVATION</u>
21:41:58	Officer F. arrives on scene.
21:42:27	MR. T. stands up and it appears that COMPLAINANT has been handcuffed.
21:42:29	Officer F. notifies METCAD that COMPLAINANT has been handcuffed and is in custody.
21:42:33	Officer H. arrives on scene.
21:44:03	COMPLAINANT is assisted to his feet by Officer M. and walked to the back of Officer M.'s squad car. It appears that COMPLAINANT is briefly searched prior to being placed in the transport area of the squad.
21:44:38	Sgt. P. arrives on scene.
21:44:45	Officer H. appears to pick some items up off of the sidewalk in the area where COMPLAINANT was taken into custody. It also appears that he then places those items on the trunk of Officer M.'s squad car.
21:44:50	Officer M. states: "He was getting all aggressive with me and I told him to put his hands behind his back cause he was getting in my face . . . I'm good . . . had a patron help me, we were struggling, man. I told him, he gets all aggressive and in my face, I told him to put his hands behind his back and he started pushing back over here and trying to get his hands, and he's just clenching up like this and I kept telling him to put his hands behind his back. Then I went to take him down and the other guy in there gave me a hand because this guy was starting to fight . . . I said yeah help me and he helped."
21:45:26	Officer M.'s squad video begins recording. (Initial view is looking out the front windshield).
21:45:55	Sgt. P. opens and enters the driver's door to Officer M.'s squad car, reaches in, and activates the camera.
21:46:02	Officer M.'s squad video begins recording the transport area.
21:49:37	Sgt. P. and Officer H. appear to be counting money at the trunk of Officer M.'s squad car. Numerous citizens are observed in the immediate area and standing on the adjacent sidewalk. Sgt. P. states: "I count \$361.00."
21:49:40	Officer H. asks: "You count the loose money, too?"
21:49:42	Sgt. P. states: "No, I did not. I thought it was all together."
21:49:44	Officer H. states: "Yeah, this was in his pocket I guess."
21:49:46	Sgt. P. asks: "How much is that?"
21:49:47	Officer H. states: "Uh, I just dropped a bunch on ones in there. This is ten right here, I think. I just dumped a bunch . . . fifteen here. I just dumped a handful of these, all these ones in here. That was all in there."

<u>TIME</u>	<u>OBSERVATION</u>
21:50:00	Sgt. P. states: "Go ahead and count it."
21:50:01	Officer H. states: "Sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two."
21:50:12	Sgt. P. asks: "Twenty-two?"
21:50:13	COMPLAINANT states: "I had \$5,200.00 in my wallet. You better have it all in there. I earned it from Jorgenson's."
21:50:22	Officer H. states: "Make sure that's all of it. Yep. Twenty-two and change."
21:50:25	Sgt. P. states: "Alright."
21:52:00	COMPLAINANT appears to be attempting to slide his handcuffed wrists behind and underneath of his legs. The attempt is unsuccessful. As he is doing so, COMPLAINANT states: "Can't do it. Too tight."
21:52:23	COMPLAINANT states: "Go ahead and keep going through my shit. Keep digging through it man, you fucking dirty cop."
21:53:27	Officer M. enters his squad car and sits in the driver's seat.
21:53:29	COMPLAINANT states: "You better have \$5,200.00 in that wallet, man."
21:53:33	Officer M. states: "You have \$383.00. It was counted."
21:53:34	COMPLAINANT states: "No. You better have \$5,200.00 in there."
21:53:37	Officer M. states: "\$383.00."
21:53:38	COMPLAINANT states: "\$5,200.00. You're going to fucking prison, dirty cop. \$5,200.00 you better have in that wallet. You're going to prison, motherfucker."
21:54:02	Officer M. asks: "Where's his ID, Officer H.?"
21:54:04	Officer H. states: "In his wallet."
21:54:16	COMPLAINANT states: "I don't care what you counted here. You fucking cops were counting it out back. You're going to prison, man. You fucking counted \$5,200.00."
21:54:30	COMPLAINANT states: "Yeah. Douchebag. Talk all your shit you want. Mr. Douchebag."
21:55:17	COMPLAINANT states: "Fucking douchebag bitch."
21:55:24	COMPLAINANT states: "Yeah, walk away. Fucking dirty cop."
21:55:28	COMPLAINANT states: "Why don't you take some more cash, for your dirty little town."

<u>TIME</u>	<u>OBSERVATION</u>
21:55:45	Officer F. leaves the scene.
21:55:47	Officer H.'s squad video concludes.
21:55:48	COMPLAINANT states: "Fucking pussy. Lucky you got your little uniform on right now."
21:55:55	Officer M. asks: "Are you threatening me, sir?"
21:55:57	COMPLAINANT states: "I'm not threatening you."
21:55:58	Officer M. asks: "Then what did you mean by . . . ?"
21:56:00	COMPLAINANT states: "I really don't care what you do. You fucking stole \$5,200.00. You said \$300.00? Is that what you said?"
21:56:05	Officer M. states: "You have \$383.00."
21:56:06	Officer F.'s squad video concludes.
21:56:07	COMPLAINANT asks: "You said what?"
21:56:08	Officer M. states: "\$383.00."
21:56:09	COMPLAINANT states: "Yeah. \$5,200.00, man. Yeah, fucking thieves."
21:56:36	COMPLAINANT states: "\$5,200.00. Yeah, fucking amazing how fucking \$5,000.00 disappears."
21:56:36	Officer M. advises METCAD that he is en route to the Champaign County Jail with his prisoner.
21:57:01	Officer M. states: "I'm just curious as to what you meant by 'I'm lucky I have my uniform on'?"
21:57:03	COMPLAINANT states: "I have no idea what you're talking about."
21:57:06	Officer M. states: "Okay."
21:57:09	COMPLAINANT states: "You guys threatened me outside the bar. You have no fucking right to steal my cash and then fucking put me in jail. That guy threatened me in the bar."
21:57:27	COMPLAINANT states: "Go ahead and tape it all."
22:03:59	COMPLAINANT asks: "How much did you say I have in my wallet?"
22:04:01	Officer M. states: "\$383.00."
22:04:02	COMPLAINANT states: "\$383.00 out of \$5,200.00. Good. You guys have a good fucking payday, man."
22:04:18	COMPLAINANT states: "Good fucking payday."
22:04:38	Officer M. asks: "You still live in Clifton?"
22:04:40	COMPLAINANT states: "No."

<u>TIME</u>	<u>OBSERVATION</u>
22:04:41	Officer M. asks: "Where do you live?"
22:04:43	COMPLAINANT states: "Does it matter? I'm down here."
22:04:48	Officer M. states: "I have to make sure your address is correct for court documents."
22:04:50	COMPLAINANT states: "I ain't gotta talk to you man, just fucking bring me in there and we'll talk about it."
22:04:57	Officer M. pulls up to the intercom at the satellite jail and advises Master Control that he has a prisoner in custody.
22:05:25	Officer M. pulls his squad into the sallyport at the satellite jail.
22:05:33	Officer M.'s camera screen goes blank.
22:07:40	Officer M.'s squad recording concludes.

### **INTAKE VIDEO / CHAMPAIGN COUNTY SATELLITE JAIL**

On Monday, September 22, 2014, I contacted Captain C. of the Champaign County Sheriff's Office and formally requested a copy of all jail video related to COMPLAINANT's intake at the Champaign County Jail on September 19, 2014. Captain C. indicated that he would have a copy of the video prepared and then contact me when it was ready to be picked up.

On the morning of Tuesday, September 23, 2014, I received a voice mail message from Lt. C. indicating that the video stemming from COMPLAINANT's intake was at the Champaign County Satellite Jail and ready to be picked up. I responded to the jail later that morning and upon doing so took custody of a DVD containing a copy of all recordings related to COMPLAINANT's intake.

I later reviewed the DVD and found that it contained four separate recordings. Those recordings were captured by the following cameras: Sallyport Entry; Inner East Sallyport; Inner West Sallyport, and; Intake. I also found that the DVD contained video recordings only (no audio).

Through my review of the recordings I was able to document the following timeline of events. Please note that all listed times are approximate.

<u>TIME</u>	<u>OBSERVATION</u>
22:05:14	The east bay door to the sallyport opens.
22:05:23	Officer M. pulls his squad car into the sallyport.
22:05:34	The east bay door to the sallyport closes.
22:05:43	Officer M. opens the driver's door of his squad car.
22:06:34	Officer M. exits his squad car and secures his duty weapon in the trunk of his squad car.
22:07:05	Officer M. opens the front passenger door of his squad car.
22:07:23	The door between the sallyport and the intake room opens.

<u>TIME</u>	<u>OBSERVATION</u>
22:07:25	Officer M. removes a baseball cap and other items from the front passenger seat of his squad car.
22:07:27	Officer M. opens the rear passenger door of his squad car. He appears to reach into the vehicle to unfasten COMPLAINANT's seat belt. COMPLAINANT then exits the squad car and is escorted into the intake room by Correctional Officer B.
22:07:46	COMPLAINANT is searched by C/O B.
22:07:53	Officer M. visually inspects the transport area of his squad car.
22:07:57	Officer M. enters the intake room.
22:08:28	The door between the sallyport and the intake room closes.
22:09:05	C/O B. removes COMPLAINANT's handcuffs.
22:11:55	COMPLAINANT shows C/O B. the injury to his chin.
22:13:41	Officer M. gives what appears to be COMPLAINANT's identification to C/O B.
22:13:50	C/O B. opens COMPLAINANT's wallet, removes the money from it, and then places the money on the intake room desk. COMPLAINANT is seated in a chair adjacent to the intake desk as C/O B. removes the money.
22:16:45	C/O B. counts the money she removed from COMPLAINANT's wallet. After counting the money, C/O B. places it into an envelope. It appears that C/O B. then seals and signs or initials the envelope.
22:18:15	Officer M. walks out of the intake room and into the jail.
22:25:30	Officer M. enters the intake room from the jail.
22:39:15	C/O B. places all of COMPLAINANT's possessions in a large paper sack.
22:43:35	Officer M. photographs COMPLAINANT's injuries.
22:45:31	Officer M. leaves the intake room, returns to his squad car, and then departs.

### **VIDEO EVIDENCE / DERAILED**

On Wednesday, September 24, 2014, I contacted the manager of Derailed, J.R., by telephone.

Upon contacting J.R., I identified myself and explained that I was investigating a citizen complaint stemming from an arrest which occurred immediately outside of Derailed at approximately 2140 hours on the evening of September 19, 2014. I then inquired as to whether or not Derailed was equipped with a video system which may have captured the arrest.

J.R. informed me that Derailed was equipped only with an interior video system. J.R. further informed me that, although there was no exterior video camera, he believed it was possible that the interior video system may have captured some of

the arrest activity since there was at least one interior camera pointed towards the large picture window located along the front wall of the business. I asked J.R. if he would carefully review the interior video from the date/time in question in an effort to determine whether or not the arrest, or any portion of it, had been captured. J.R. agreed to do so and then stated that he would call me back when his review was complete.

On Monday, September 29, 2014, J.R. contacted me by phone and informed me that he had completed his review of the interior video at Derailed. J.R. further informed me that his review of the video failed to disclose any footage related to the arrest activity that occurred outside of Derailed on the evening of September 29, 2014.

### **INTERVIEW OF MR. T.**

On Wednesday, September 24, 2014, I conducted an in-person interview with MR. T. regarding this investigation. Upon interview, MR. T. provided me with the following information:

- On Friday, September 19, 2014, at approximately 2130 hours, MR. T. entered Derailed with his wife, MRS. T.
- Upon entering Derailed, MR. T. and his wife met with three of her co-workers to have drinks. The co-workers were identified as R.S., J.S., and K.D.
- After entering Derailed, MR. T. observed two individuals, later identified as VICTIM and COMPLAINANT, sitting at the bar together.
- MR. T. did not know and was not previously acquainted with either VICTIM or COMPLAINANT.
- While in Derailed, MR. T. observed VICTIM and COMPLAINANT "pushing each other." MR. T. initially didn't pay particular attention to VICTIM and COMPLAINANT as they pushed each other because he believed they were acquainted and just playing around.
- Shortly after VICTIM and COMPLAINANT began pushing each other a bartender, later identified as J.V., approached VICTIM and COMPLAINANT and warned them to stop.
- VICTIM and COMPLAINANT then separated, but immediately afterwards COMPLAINANT punched VICTIM in the face two times without provocation.
- VICTIM and COMPLAINANT were then told by the bartenders that they had to leave. At that time VICTIM and COMPLAINANT then separated and began gathering their belongings.
- As VICTIM gathered his belongings he turned his back to COMPLAINANT. When VICTIM did so, COMPLAINANT "sucker punched" VICTIM in the back of the head.
- MR. T. observed that there were only two female bartenders on duty and, out of concern for their safety, he then approached COMPLAINANT to make sure that he left the bar without causing further problems.
- Upon approaching COMPLAINANT, MR. T. told him that he needed to leave. When COMPLAINANT walked towards the door MR. T. followed him out of the bar.
- When MR. T. followed COMPLAINANT out the front door of the bar he saw an officer, later identified as OFFICER M., in front of the High Dive.
- Upon seeing Officer M., MR. T. yelled to get his attention. Once he had Officer M.'s attention, MR. T. informed Officer M. that COMPLAINANT had just punched another patron in the bar.
- Officer M. immediately responded to that information by moving to detain COMPLAINANT.
- In the course of detaining COMPLAINANT, Officer M. told him that he was not free to leave and he directed him back towards the entrance to Derailed.
- COMPLAINANT was "not cooperative" and did not follow the directions given to him by Officer M.

- Officer M. ultimately told COMPLAINANT that he “was under arrest” and then directed him to place his hands behind his back. Upon doing so Officer M. then attempted to handcuff COMPLAINANT.
- COMPLAINANT resisted efforts to handcuff him by stiffening his arms and refusing to place his hands behind his back.
- As COMPLAINANT resisted handcuffing he also placed his leg out in front of Officer M. in what MR. T. perceived to be an effort to trip Officer M.
- At some point during COMPLAINANT’s resistance, Officer M. used his police radio to request assistance.
- Due to COMPLAINANT’s resistance, MR. T. asked Officer M. if he needed assistance. Officer M. replied “yes,” and MR. T. then moved to assist him.
- MR. T. then assisted Officer M. in taking COMPLAINANT to the ground where he could be more easily controlled.
- Even after being taken to the ground, COMPLAINANT continued to resist efforts to handcuff him.
- Once COMPLAINANT was taken to the ground, Officer M. and MR. T. “basically just held him there” until other officers arrived to assist.
- At one point while COMPLAINANT was being held on the ground MR. T. observed him reach towards Officer M.’s duty weapon. When COMPLAINANT did so, MR. T. tightened his grasp on COMPLAINANT.
- MR. T. continued to assist Officer M. in holding COMPLAINANT to the ground until he was relieved by a female officer who arrived on scene.
- Almost immediately after the female officer arrived on scene COMPLAINANT was successfully handcuffed.
- MR. T. described COMPLAINANT’s arrest as “nothing more than a wrestling match.”
- The only force that MR. T. observed Officer M. use during the course of COMPLAINANT’s arrest was the effort he engaged in to take COMPLAINANT to the ground. MR. T. did not see Officer M. punch or strike COMPLAINANT or use any other type of force against him.
- MR. T. believed that Officer M. conducted himself in an appropriate, professional manner throughout his contact with COMPLAINANT.
- MR. T. was not aware of COMPLAINANT having suffered any injuries during his arrest, but believed that any injuries COMPLAINANT may have suffered would have resulted solely from his resistance.
- MR. T. sustained minor injuries during COMPLAINANT’s arrest, including scratches to his hands and a “strawberry” to his knee.
- MR. T. remained outside of Derailed until COMPLAINANT was placed into the back of a nearby squad car.
- MR. T. estimated that approximately one (1) to two (2) minutes elapsed between the time that COMPLAINANT was handcuffed and the time that he was placed in the back of the squad car.
- MR. T. saw no evidence to support COMPLAINANT’s claim that he was carrying a large sum of money at the time of his arrest.
- MR. T. did not believe that the struggle that he and Officer M. had with COMPLAINANT was sufficient to have caused any items to fall from COMPLAINANT’s pockets.
- As evidence of that belief MR. T. noted that he had a wallet, keys, and a cell phone in his pockets during the struggle with COMPLAINANT and that they all remained in place throughout the struggle with COMPLAINANT.
- Following COMPLAINANT’s arrest, MR. T. did not see any of COMPLAINANT’s belongings on the sidewalk in the area where COMPLAINANT was arrested.
- MR. T. did not witness an(y) officer remove an(y) item(s) from COMPLAINANT’s pockets following his arrest.
- MR. T. estimated that there were approximately eight (8) to ten (10) people standing outside of Derailed during the time that COMPLAINANT was arrested, handcuffed, and placed in to the back of the squad car. The only two individuals in that group that MR. T. could identify were H.E. and J.V.

- MR. T. was certain of the fact that his wife and her co-workers remained inside of the bar during the entirety of this incident and thus were not direct witnesses.
- MR. T. believed COMPLAINANT to be intoxicated at the time of his arrest.
- MR. T. classified COMPLAINANT's claim that Officer M. used excessive force to accomplish the arrest as "without merit."
- Due to the number of people immediately present during and following COMPLAINANT's arrest, MR. T. found it "highly unlikely" that anyone on scene, including the involved officers, could have committed an undetected theft of any of COMPLAINANT's possessions.
- At no time during this incident did MR. T. see a white envelope, bank envelope, or large sum of money.
- MR. T. believed COMPLAINANT's claim that he either lost a large sum of money or had it taken from him following his arrest was "completely lacking in credibility."

### **INTERVIEW OF H.E.**

On Wednesday, September 24, 2014, I conducted an in-person interview with H.E. regarding this investigation. Upon interview, H.E. provided me with the following information:

- H.E. is employed as a bartender at Derailed and she was on duty and working in that capacity on the evening of Friday, September 19, 2014.
- VICTIM is a regular customer at Derailed. H.E. is acquainted with VICTIM through her employment at Derailed and she has served him on a number of previous occasions.
- H.E. was not previously acquainted with COMPLAINANT prior to this incident.
- On September 19, 2014, VICTIM entered Derailed at about 1630 hours. Upon doing so he sat at the bar.
- On September 19, 2014, COMPLAINANT entered Derailed at approximately 1930 hours. Upon doing so he took a seat at the bar next to VICTIM.
- Although VICTIM and COMPLAINANT interacted as they sat at the bar together, H.E. did not believe that they were previously acquainted.
- H.E. believed that VICTIM and COMPLAINANT were both under the influence of alcohol at the time of this incident. Both were consuming beer on the evening in question, but H.E. could not recall how much beer either of them consumed.
- Through personal observation, H.E. was aware that prior to their altercation another bartender, J.V., had twice warned VICTIM and COMPLAINANT to "watch their language."
- H.E. had no idea what started or who instigated the altercation between VICTIM and COMPLAINANT.
- During the altercation between VICTIM and COMPLAINANT, H.E. observed COMPLAINANT punch VICTIM twice. However, she never observed VICTIM strike or punch COMPLAINANT.
- Following their altercation, VICTIM and COMPLAINANT were both directed to leave the bar by J.V.
- COMPLAINANT walked out of the bar first and was followed by H.E. and another patron, MR. T.
- H.E. later learned from speaking with MR. T. that he followed COMPLAINANT out of bar out of concern that COMPLAINANT might cause further problems given that she (H.E.) and J.V. were both female and the only two employees on duty at the time.
- When MR. T. stepped outside with COMPLAINANT he yelled to get the attention of an officer who was engaged in parking enforcement immediately outside of Derailed. MR. T. then informed the officer, OFFICER M., that COMPLAINANT had battered another patron.
- In response, Officer M. immediately moved to detain COMPLAINANT.

- Upon detaining COMPLAINANT, Officer M. directed him back towards the entrance to Derailed.
- Officer M. then attempted to question COMPLAINANT about what had happened inside of the bar. COMPLAINANT was “not cooperative” and refused to answer Officer M.’s questions.
- Officer M. addressed COMPLAINANT in a calm, polite, and professional manner and he made several more attempts to gather information from COMPLAINANT and gain his cooperation. COMPLAINANT, however, remained uncooperative and did not respond to questioning.
- After repeated attempts to gain COMPLAINANT’s cooperation, Officer M. cautioned COMPLAINANT that “he was making things difficult” and “risking a night in jail.”
- Following Officer M.’s admonishments, COMPLAINANT “squared off” and “moved towards” Officer M.
- In response to COMPLAINANT’s movement, Officer M. reached out to grab COMPLAINANT by the arm.
- COMPLAINANT then made an attempt to flee but Officer M. physically prevented him from doing so by grabbing him by the arm.
- After grabbing COMPLAINANT by the arm, Officer M. directed COMPLAINANT to place his hands behind his back and attempted to handcuff him.
- COMPLAINANT resisted attempts to handcuff him “very hard” and it quickly became apparent that Officer M. was struggling to control COMPLAINANT.
- Because of the difficulty that Officer M. was having in attempting to control and handcuff COMPLAINANT, MR. T. stepped forward and offered to assist Officer M.
- Officer M. accepted MR. T.’s assistance and together Officer M. and MR. T. were then able to wrestle COMPLAINANT to the ground.
- COMPLAINANT continued to resist efforts to handcuff him even after being taken to the ground so Officer M. and MR. T. held COMPLAINANT on the ground and simply waited until other officers could arrive to assist.
- Approximately thirty (30) seconds after COMPLAINANT was taken to the ground a female officer (Officer F.) arrived on scene. Upon Officer F.’s arrival COMPLAINANT was successfully handcuffed.
- At no time during COMPLAINANT’s arrest did H.E. see Officer M. or MR. T. do anything more than wrestle COMPLAINANT to the ground.
- At no time during COMPLAINANT’s arrest did H.E. witness Officer M. or MR. T. punch or strike or use any other type of force against COMPLAINANT.
- H.E. believed that Officer M. and MR. T. acted properly under the circumstances and at no time did she observe either engage in behavior that she deemed unreasonable or excessive.
- H.E. remained on the sidewalk outside of Derailed following COMPLAINANT’s arrest. During that time she witnessed COMPLAINANT being searched and placed in the back of a nearby squad car.
- H.E. believed “approximately six” other individuals were immediately present on the sidewalk outside of Derailed during and after COMPLAINANT’s arrest. H.E. could only identify two of those individuals – MR. T. and J.V. – by name. H.E. believed that MR. T. was there for the entire time but that J.V. was only there “briefly before returning to the bar.
- H.E. could not recall which officer searched COMPLAINANT following his arrest, but she did recall that he was searched and that the search was completed while COMPLAINANT was still on the ground.
- During that search the officer placed the items found in COMPLAINANT’s possession next to him on the ground.
- When the officers stood COMPLAINANT up and escorted him to the nearby squad car his possessions were carried to and then placed upon the trunk of the squad car that COMPLAINANT was placed in.
- The only items that H.E. could specifically recall having been taken from COMPLAINANT following his arrest were a hat and a cell phone.

- At no time before, during, or after COMPLAINANT's arrest did H.E. see him in possession of a white envelope, bank envelope, or large sum of cash.
- H.E. did not see a white envelope, bank envelope, or large sum of money on the ground following COMPLAINANT's arrest.
- To H.E.'s knowledge no white envelope, bank envelope, or large sum of money was found in the bar area following COMPLAINANT's altercation with VICTIM. H.E. was certain that no such item was ever turned in to bar staff.
- COMPLAINANT paid H.E. for several of the drinks that he ordered and consumed on the evening in question. On each occasion COMPLAINANT paid for his drink with a twenty dollar (\$20.00) bill.
- H.E. stated that "in no way, shape, or form" did any of the officers, or MR. T., use excessive force in accomplishing COMPLAINANT's arrest.
- H.E. was unaware of COMPLAINANT having suffered any injury during his arrest, but stated that any injury he may have suffered could only have been caused by his resistance.
- Due to the number of people immediately present during and following COMPLAINANT's arrest, H.E. believed it was "very unlikely" that anyone on scene, including the involved officers, could have taken any of COMPLAINANT's possessions without it being noticed by at least one of the bystanders.

### **INTERVIEW OF J.V.**

On Thursday, September 25, 2014, I conducted an in-person interview with J.V. regarding this complaint. Upon interview, J.V. provided me with the following information:

- J.V. is employed as a bartender at Derailed and she was on duty and working in that capacity on the evening of Friday, September 19, 2014.
- J.V. began her September 19, 2014 shift at Derailed at 2100 hours.
- VICTIM is a regular customer at Derailed. J.V. is acquainted with VICTIM through her employment at Derailed and she has served him on a number of previous occasions.
- J.V. has previously been employed at other downtown establishments and believed that she may have served COMPLAINANT while working elsewhere, but she does not know COMPLAINANT and had not previously served him at Derailed.
- When J.V. began her shift at 2100 hours VICTIM and COMPLAINANT were already seated next to each other at the bar. J.V. also noted that there were approximately eight (8) other customers in the bar at the time her shift began.
- Between the time that her shift began and the time that the altercation between VICTIM and COMPLAINANT started, J.V. served COMPLAINANT two beers. Another bartender, H.E., accepted payment for both beers from COMPLAINANT.
- J.V. could not recall how many drinks she served VICTIM between the time her shift began and the time that the altercation between VICTIM and COMPLAINANT started.
- J.V. believed that VICTIM and COMPLAINANT were both impaired by alcohol at the time of their altercation.
- Between the time that her shift began and the time that the altercation between VICTIM and COMPLAINANT started, J.V. twice warned COMPLAINANT about his language. Some of the language that J.V. warned COMPLAINANT about was directed towards VICTIM, but some of it was also racial in nature and "inappropriate for the setting."
- After warning COMPLAINANT the second time, J.V. stepped out from behind the bar to wait on customers who were seated away from the bar. As she was waiting on those customers J.V. looked over and saw COMPLAINANT "push" VICTIM.

- In response to that observation, J.V. approached COMPLAINANT and VICTIM, stepped between them, and stated to COMPLAINANT, "You're out of here."
- As COMPLAINANT began gathering his belongings, VICTIM turned away from him. When VICTIM did so, COMPLAINANT punched him in the side/back of the head.
- J.V. again told COMPLAINANT that he needed to leave. As she did so another patron, MR. T., approached and followed COMPLAINANT out of the bar.
- J.V. followed COMPLAINANT and MR. T. as they exited the bar.
- When MR. T. stepped outside of the bar he encountered and drew the attention of an officer who was standing near the front of the business. That officer was later identified as OFFICER M. J.V. overheard MR. T. inform Officer M. that COMPLAINANT had "just punched another patron."
- Officer M. stepped forward to detain COMPLAINANT and spoke with him in a calm, professional manner.
- COMPLAINANT was not cooperative with Officer M., and very early on during the contact J.V. heard Officer M. radio for assistance.
- J.V. then re-entered the bar.
- After re-entering the bar J.V. watched the contact between COMPLAINANT and Officer M. through the large window located along the front of the business. While J.V. was unable to overhear the conversation between them, it was nonetheless apparent to her that COMPLAINANT still was not cooperating with Officer M.
- As the contact progressed, J.V. observed Officer M. grab COMPLAINANT by the arm and then attempt to handcuff him.
- COMPLAINANT immediately began physically resisting Officer M.'s efforts to handcuff him. Although resistant, COMPLAINANT was not "assaultive" towards Officer M.
- As Officer M.'s struggle with COMPLAINANT continued, MR. T. stepped forward to assist Officer M.
- With MR. T.'s assistance, Officer M. "took COMPLAINANT to the ground."
- Even after being taken to the ground, COMPLAINANT continued to resist efforts to handcuff him.
- Officer M. and MR. T. held COMPLAINANT to the ground until back-up could arrive.
- A female officer (Officer F.) was the first to arrive on scene, and upon her arrival COMPLAINANT was secured in handcuffs.
- J.V. estimated that approximately two (2) minutes elapsed from the time that Officer M. initiated contact with COMPLAINANT until COMPLAINANT was secured in handcuffs.
- During that time J.V. did not see Officer M., Officer F., or MR. T. do anything that concerned her or that she deemed unreasonable or excessive. J.V. specifically mentioned that she did not see anyone strike or punch COMPLAINANT or use any other type of force against him.
- J.V. stepped back outside of the bar following COMPLAINANT's arrest when Officer F. requested to speak with her. After giving Officer F. a short statement, J.V. returned to the bar.
- During her interactions with COMPLAINANT, J.V. saw no evidence or indication that COMPLAINANT was carrying a large quantity of cash and she "highly doubts" COMPLAINANT's claim that he was carrying in excess of \$5,000.00 that evening.
- J.V. did not see any of the involved officers search COMPLAINANT following his arrest.
- J.V. estimated that there was a group of "about six" people immediately present during and after COMPLAINANT's arrest. The only two people in the group that J.V. could identify were MR. T. and H.E.

- Given the number of people present and their proximity to COMPLAINANT during and following his arrest, J.V. found it “hard to believe” that someone could have taken money from COMPLAINANT without it having been noticed.
- When J.V. returned to the bar as Officer M. was initiating contact with COMPLAINANT she did not see a white envelope, bank envelope, or any quantity of money on the bar floor or in the area where VICTIM and COMPLAINANT had their altercation and no such item was ever turned over to bar staff following this incident.
- J.V. spoke with VICTIM at Derailed on the evening of Tuesday, September 23, 2014. At that time VICTIM indicated to J.V. that he had “virtually no recollection” of the events of the evening of September 19, 2014. VICTIM further indicated that he had recently begun taking prescription medication which, he found, did not mix well with alcohol and significantly impaired his ability to recall this incident.

### **INTERVIEW OF VICTIM**

During the course of this investigation I made repeated attempts to reach VICTIM at his listed cell phone number. None of my calls were ever answered. I also left at least three (3) voice mail messages for VICTIM, each of which served as a request for VICTIM to contact me at my office at his earliest convenience. To date I have yet to hear from VICTIM.

I also visited VICTIM’s listed place of residence in an attempt to speak with him. VICTIM either was not home or refused to answer the door because no one answered the door after I knocked on it several times.

The police report indicates that VICTIM listed the University of Illinois as his current place of employment so I also attempted to contact VICTIM through his employer. In the course of doing so I learned that VICTIM retired from the University of Illinois in December 2006.

As the date of this report VICTIM has yet to contact me, and as a result of his failure to respond I have been unable to interview him regarding this investigation.

### **INTERVIEW OF OFFICER H.**

On October 2, 2014, I conducted an in-person interview with Officer H. regarding this investigation. Prior to the interview I provided Officer H. with a written document (which is attached) ordering him to respond truthfully and fully to all questions bearing on his employment. At Officer H.’s request, an FOP representative was present during the interview.

Upon interview, Officer H. provided me with the following information:

- Officer H. is currently assigned as a North District patrol officer on the Evening Shift and he was on duty, in uniform, and working in that capacity on the evening of September 19, 2014.
- At approximately 2140 hours that date, Officer H. responded to Derailed to assist Officer M. as he investigated a battery.
- As Officer H. was responding to Derailed, Officer M. broadcast information to indicate that a subject was resisting him and he asked that the officers responding to assist him “step it up.”
- In response to that information Officer H. responded to the scene using his emergency equipment (lights and siren).
- Officer H. arrived on scene a short time later, but by the time of his arrival the subject who had been resisting Officer M. had already been taken into custody. That subject was later identified as COMPLAINANT.

- At the time of Officer H.'s arrival COMPLAINANT was in handcuffs, lying on the sidewalk in front of Derailed, and being searched incident to arrest by Officer M.
- Officer H. did not assist with the search of COMPLAINANT, but he did observe it.
- Officer H. specifically recalled Officer M. having removed the following items from COMPLAINANT's pockets during the search incident to arrest: a wallet; some loose currency (primarily one dollar bills); a black "flip" cell phone; a tri-fold bus or train travel brochure; and miscellaneous paperwork.
- After locating the wallet, loose currency, and cell phone, Officer M. placed those items in a baseball cap which was sitting on the ground next to COMPLAINANT.
- Upon removing the tri-fold brochure and miscellaneous paperwork from COMPLAINANT's pockets Officer M. placed those items next to the baseball cap.
- At one point while Officer M. was searching COMPLAINANT an unknown female bystander attempted to pick up COMPLAINANT's cell phone. Officer H. noticed the attempt and prevented the female from doing so.
- Following his search of COMPLAINANT, Officer M. escorted COMPLAINANT to his squad car and placed him in the back seat.
- As Officer M. escorted COMPLAINANT to the car, Officer H. picked up the baseball cap and contents, tri-fold brochure, and miscellaneous paperwork. He then placed those items on the trunk of Officer M.'s squad car.
- Sgt. P. arrived on scene following COMPLAINANT's arrest and he ultimately inventoried the contents of COMPLAINANT's wallet.
- Officer H. was standing right next to Sgt. P. while he inventoried the contents of COMPLAINANT's wallet.
- Sgt. P. located a quantity of United States Currency in COMPLAINANT's wallet. Sgt. P. counted the United States Currency as Officer H. stood next to him and determined that there were miscellaneous denominations totaling \$361.00 in COMPLAINANT's wallet.
- At Sgt. P.'s direction, Officer H. counted the loose currency that had been placed in the baseball cap.
- Sgt. P. stood right next to Officer H. as he counted the loose currency.
- Officer H. recalled that the loose currency he counted totaled \$22.00. Officer H. described the loose currency as "mostly ones," but he believed that there was at least one (1) five dollar (\$5.00) bill amongst the loose currency.
- All of the money that Officer H. and Sgt. P. counted – which totaled \$383.00 – was placed in COMPLAINANT's wallet.
- After the money was counted, Sgt. P. placed COMPLAINANT's wallet and other possessions on top of the "duty bag" which was located on the front passenger seat of Officer M.'s squad car.
- Officer M. was seated in his squad car when Sgt. P. placed the items in Officer M.'s squad car.
- A short time later Officer F. approached Officer M. as he sat in his squad car and asked for COMPLAINANT's name. Officer M. was unable to provide that information at that time so Officer F. turned to COMPLAINANT and asked him for his name. COMPLAINANT refused to provide his name.
- In response to COMPLAINANT's refusal to provide his name, Officer H. retrieved COMPLAINANT's wallet from the front passenger seat of Officer M.'s squad car. Upon doing so he removed COMPLAINANT's identification from the wallet and displayed it to Officer F. Officer H. then placed COMPLAINANT's identification back in his wallet and placed the wallet back on top of Officer M.'s duty bag.
- At no time while retrieving COMPLAINANT's identification did Officer H. access or remove money from COMPLAINANT's wallet.
- At no time during his presence at the scene of this incident did Officer H. observe any officer use force against COMPLAINANT.

- At no time during his presence at the scene did Officer H. observe COMPLAINANT to be in possession of any money other than what has been previously described in this statement.
- At no time during his presence at the scene did Officer H. observe a white envelope, bank envelope, or other quantity of money.
- Officer H. noted that there were “between six and seven” bystanders immediately present upon his arrival at the scene, and Officer H. believed that those bystanders remained on scene up until the time he departed the scene.
- In Officer H.’s opinion it would have “very difficult” for an officer or bystander at the scene to have taken any of COMPLAINANT’s possessions without it having been noticed.
- At no time during his presence at the scene did Officer H. note any injury to COMPLAINANT.
- At no time during this incident did Officer H. hear COMPLAINANT complain of injury.
- Officer H. believed that COMPLAINANT was “impaired by alcohol” at the time of his arrest but his contact with COMPLAINANT was insufficient to determine whether or not COMPLAINANT was intoxicated.

### **INTERVIEW OF OFFICER F.**

On October 1, 2014, I conducted an in-person interview with Officer F. regarding this investigation. Prior to the interview I provided Officer F. with a written document (which is attached) ordering her to respond truthfully and fully to all questions bearing on her employment. At Officer F.’s request, an FOP representative was also present during the interview.

Upon interview, Officer F. provided me with the following information:

- Officer F. is currently assigned as a North District patrol officer on Power Shift and she was on duty, in uniform, and working in that capacity on the evening of September 19, 2014.
- At approximately 2140 hours that date, Officer M. contacted METCAD by radio and notified the dispatcher that he was being flagged down by an individual at Derailed who was reporting a battery. At that time Officer F. responded to assist.
- As Officer F. was responding to Derailed, Officer M. requested by radio that the other responding units “step it up.” Officer M. further indicated that a subject was resisting arrest.
- Officer F. was only a short distance away at the time of Officer M.’s radio transmission, but in response to it she activated her squad car’s lights and siren and responded on an expedited basis.
- The activation of emergency equipment by Officer F. also caused the mobile video recording system in her squad car to activate.
- Officer F. arrived on scene a short time later and upon her arrival she found that Officer M. and a subject later identified as MR. T. were holding a subject on the ground on the sidewalk in front of Derailed.
- The subject being held on the ground was later identified as COMPLAINANT.
- When Officer F. approached to assist, she observed that COMPLAINANT was lying face down and that MR. T. was on top of him and using his body weight to hold him down.
- At no time did Officer F. see Officer M., or MR. T., do anything more than hold COMPLAINANT on the ground. She did not see Officer M. or MR. T. strike or punch COMPLAINANT or use any other type of force against him.
- As Officer F. moved to assist with handcuffing COMPLAINANT, Officer M. informed her that MR. T. was helping him because of COMPLAINANT’s resistance.

- Officer F. was able to handcuff COMPLAINANT's right wrist and after she did so Officer M. was able to handcuff COMPLAINANT's left wrist.
- Officer H. arrived on scene at about the time COMPLAINANT was handcuffed and taken into custody.
- After COMPLAINANT was handcuffed Officer F. began identifying and interviewing the victim and witnesses. Officer F. identified and interviewed H.E. (witness/bartender), J.V. (witness/bartender), and VICTIM (victim).
- As Officer F. spoke with the victim and witnesses, Officer M. stood COMPLAINANT up, escorted him to his squad car, and placed him in the back seat.
- Following COMPLAINANT's arrest, Officer F. did not see any item(s) on the ground in the area where COMPLAINANT was arrested.
- Officer F. did not observe the search of COMPLAINANT incident to his arrest. Officer F. was uncertain as to who conducted the search and she had no knowledge as to what was found pursuant to the search.
- After taking statements from the victim and witnesses, Officer F. approached Officer M. as he sat in his squad car. At that time Officer F. provided the victim and witness information and statements to Officer M. and she asked him for COMPLAINANT's name.
- When Officer M. indicated that he did not know COMPLAINANT's name, Officer F. looked at COMPLAINANT and asked him for his name. COMPLAINANT refused to provide that information.
- Officer M. then asked Officer H. where COMPLAINANT's identification was located. When Officer H. indicated that COMPLAINANT's identification was located in his wallet, Officer M. handed COMPLAINANT's wallet to Officer H.
- Officer H. then retrieved COMPLAINANT's identification from his wallet, displayed COMPLAINANT's identification to Officer F., placed COMPLAINANT's identification back in the wallet, and handed the wallet back to Officer M. Officer H. did not remove any money from the wallet and no money was visible to Officer F. during this time.
- At no time during Officer F.'s contact with COMPLAINANT did she ever observe him to be in possession of a white envelope, bank envelope, or large quantity of cash.
- At no time while she was present at the scene did Officer F. observe a white envelope, bank envelope, or large sum of cash.
- At no time during Officer F.'s contact with COMPLAINANT did she observe any injury to him or did he complain of injury.
- The duration of Officer F.'s contact with COMPLAINANT was insufficient to allow her to form an opinion as to whether or not COMPLAINANT was intoxicated at the time of his arrest.
- During the course of her interview with VICTIM, Officer F. did form the opinion that he was highly intoxicated.

### **WRITTEN STATEMENT / SGT. P.**

On September 26, 2014, Sergeant P. submitted a written statement regarding this investigation. Sgt. P.'s memorandum reads as follows:

On September 19, 2014, I was working as an evening shift supervisor when I heard three officers respond to an incident at Derailed Bar, located at 57 East Main Street, Champaign, Illinois. Initially, I heard Officer M. state, via radio transmission, that he was flagged down at the bar regarding a battery. I heard Officer F. and Officer H. state they were en route to the bar to assist Officer M. Officer M. was flagged down at approximately 2140 hours.

At approximately 21:41:30, Officer M. broadcast that he needed additional officers to expedite their responses due to a resistive subject. At the time, I was driving southbound on Neil Street at the intersection of Interstate 74 Westbound on-ramp. I activated my vehicle's emergency lights and sirens and began driving towards the bar, driving southbound on Neil Street. At approximately

21:42:43, I heard Officer F. state that the officers at the bar were secure. I deactivated my vehicle's emergency lights and sirens and returned to driving in a non-emergency manner. Officer H. then reiterated that officers on scene were secure. I stopped my vehicle's audio/video system and intended to return to normal patrol duties.

As I approached the downtown area, I decided to stop by the bar and ensure the officers did not need any assistance. I arrived at the bar at approximately 21:44:48 and observed Officer M., Officer H., and Officer F. were still on scene, on the sidewalk in front of the bar. I did not observe the COMPLAINANT, so I assumed he was already secured inside of one of the squad cars. Since it appeared the majority of the incident was over, I did not activate my squad car's audio/video equipment.

I exited my vehicle and observed Officer H. and Officer F. were speaking to patrons and/or employees near the entrance of the bar. I then observed that COMPLAINANT was secured in the rear seat of squad car #49. I contacted Officer M. and asked him what occurred. Officer M. briefed me on the basic facts, including the fact that COMPLAINANT resisted his efforts and had to be taken to the ground in order to be secured in handcuffs. Based on what I learned from Officer M., I decided I did not need to conduct an in-depth on-scene use of force investigation.

I then approached the rear driver's door of squad car #49 and opened the door to speak with COMPLAINANT. While I was opening the door, I observed the audio/video system in squad #49 was not activated. I then closed the door and activated the audio/video system in squad #49, ensuring that the rear camera and audio was activated. While I was doing so, I observed COMPLAINANT to be intoxicated and angry, so I decided not to speak with him at that time.

I told Officer M. that I had activated his audio/video system for him. I observed a wallet and some paperwork on the trunk of squad #49, which I assumed were COMPLAINANT's belongings. I opened the wallet and observed a visible \$100 bill. I then counted the currency, observing a total of \$361.00. I placed the currency back into the wallet at that time and placed the wallet back on the trunk. Officer H. then said that COMPLAINANT had some loose money on him and placed it in the wallet. I do not know where the loose money originated from. When I asked Officer H. how much money it was, he did not know. I asked Officer H. to count the loose money he had placed in the wallet. Officer H. counted the loose money and stated it was \$22.00. I let Officer M. know that COMPLAINANT had a total of \$383.00 with his property.

I left a short time later and do not have any further information at this time. Please notify me if you need any more details regarding this incident.

### **INTERVIEW / OFFICER M.**

On October 2, 2014, I conducted an in-person interview with Officer M. regarding this investigation. Prior to the interview I provided Officer M. with a written document (which is attached) ordering him to respond truthfully and fully to all questions bearing on his employment. At Officer M.'s request, an FOP representative was also present during the interview.

Upon interview, Officer M. provided me with the following information:

- Officer M. is currently assigned as a North District patrol officer on the Evening Shift and he was on duty, in uniform, and working in that capacity on the evening of September 19, 2014.

- At approximately 2140 hours that evening Officer M. was in the process of writing a parking ticket for a vehicle that was illegally parked in the 50 block of East Main Street when he heard a male yell, "Officer! Over here!"
- When Officer M. turned his attention to the male, who was later identified as MR. T., MR. T. pointed to a white male who was walking eastbound away from the Derailed Bar and stated, "That guy just punched another guy."
- The white male towards whom MR. T. pointed was later identified as COMPLAINANT.
- Officer M. ran towards COMPLAINANT and then yelled, "Stop! Police!"
- In response, COMPLAINANT turned towards Officer M. and stated, "The motherfucker hit me first!"
- Officer M. instructed COMPLAINANT to walk towards him and after he did so COMPLAINANT became "belligerent" and stated, "That guy was talking shit and hit me."
- Officer M. then informed COMPLAINANT that he was not free to leave and stepped towards the doorway of Derailed and motioned for the victim, later identified as VICTIM, to step outside to speak with him. As Officer M. did so, COMPLAINANT began yelling, "That's right motherfucker, come on out."
- In response to COMPLAINANT's behavior, Officer M. turned towards COMPLAINANT and ordered him to step back.
- COMPLAINANT responded to that order by assuming an aggressive, bladed stance. When COMPLAINANT did so Officer M. again ordered him to step back and he also pushed COMPLAINANT away from him.
- COMPLAINANT then re-approached Officer M. and as he did so Officer M. again ordered him to step back and then again pushed him away.
- Due to COMPLAINANT's aggressive behavior, Officer M. directed COMPLAINANT to place his hands behind his back. COMPLAINANT ignored the order and continued to yell towards VICTIM.
- Officer M. then pushed COMPLAINANT towards his squad car and again instructed him to place his hands behind his back. COMPLAINANT also ignored that order.
- Officer M. then issued a third order directing COMPLAINANT to place his hands behind his back. COMPLAINANT failed to comply with that order and instead placed his hands on the trunk of Officer M.'s squad car.
- When COMPLAINANT refused to comply with the third order, Officer M. grabbed him by the bicep and attempted to pull his arm behind his back. COMPLAINANT responded by stiffening his arms and pushing backwards.
- In response to COMPLAINANT resistance, Officer M. placed COMPLAINANT in a headlock and attempted to force him to the ground. When that attempt was unsuccessful, Officer M. used his radio to ask that other responding officers expedite their response.
- As Officer M. continued to struggle with COMPLAINANT, COMPLAINANT placed his leg out in front of Officer M.'s leg in an attempt to trip Officer M. to the ground.
- When COMPLAINANT attempted to trip Officer M., MR. T. stepped forward and offered to help Officer M. Officer M. accepted the offer.
- Working together, Officer M. and MR. T. were able to force COMPLAINANT to the ground.
- Once on the ground, COMPLAINANT continued to resist handcuffing by stiffening his arms.
- MR. T. responded by placing his body weight on top of COMPLAINANT and he and Officer M. then just held COMPLAINANT on the ground until back-up officers could arrive.
- Officer F. was the first back-up officer to arrive on scene and with her assistance COMPLAINANT was secured in handcuffs.
- After COMPLAINANT was secured in handcuffs Officer M. searched him incident to arrest.
- Officer H. arrived on scene at about the time that the search of COMPLAINANT was conducted and Officer M. believed that Officer H. may have assisted him with the search.

- During the search of COMPLAINANT, Officer M. recalled finding COMPLAINANT's wallet and some miscellaneous paperwork.
- Upon locating those items, Officer M. removed them from COMPLAINANT's pockets and then placed them in a baseball cap which belonged to COMPLAINANT and was sitting on the ground next to him.
- Officer M. did not open COMPLAINANT's wallet or inspect the contents of it at that time.
- Officer M. did not recall finding any loose currency in COMPLAINANT's pockets but he believed that Officer H. may have.
- After COMPLAINANT had been searched Officer M. stood him up, escorted him to his squad car, and placed him in the rear passenger seat.
- As Officer M. escorted COMPLAINANT to his squad car Officer H. picked up the baseball cap containing COMPLAINANT's belongings and carried it to Officer M.'s squad car where he then placed it on the trunk.
- After placing COMPLAINANT in the back seat of his squad car Officer M. conducted an on-scene investigation and interviewed several individuals.
- Following his on-scene investigation, Officer M. entered his squad car. While seated in his squad car, Sgt. P. approached him. Upon approaching, Sgt. P. reached through the open window of the front passenger side door of Officer M.'s squad car and placed all of COMPLAINANT's possessions on the front passenger seat. At that time Sgt. P. also advised Officer M. that there was \$383.00 in COMPLAINANT's wallet. (Note – The money in COMPLAINANT's wallet was later counted by correctional staff at the Satellite jail and at that time COMPLAINANT's wallet was actually found to contain \$384.00).
- While Officer M. and COMPLAINANT were both seated in the squad car COMPLAINANT repeatedly alleged that he had approximately \$5,000.00 in cash on his person at the time of his arrest. When informed by Officer M. that his wallet was found to contain \$383.00, COMPLAINANT then repeatedly alleged that one or more of the officers on scene had stolen the money from him.
- While Officer M. and COMPLAINANT were both seated in the squad car Officers F. and H. approached and spoke to Officer M. through the open window of the front passenger side door to his squad car. Upon approaching, Officer F. asked for COMPLAINANT's name. When Officer M. indicated that he did not know COMPLAINANT's name, Officer F. looked at COMPLAINANT and asked him for his name. COMPLAINANT refused to provide that information.
- Officer M. then asked Officer H. where COMPLAINANT's identification was located. When Officer H. indicated that COMPLAINANT's identification was located in his wallet, Officer M. handed COMPLAINANT's wallet to Officer H. Officer H. then retrieved COMPLAINANT's identification from his wallet, displayed COMPLAINANT's identification to Officer F., placed COMPLAINANT's identification back in the wallet, and handed the wallet back to Officer M.
- Officer H. did not remove any money from the wallet during this time and Officer M. did not observe any of the money that was located in COMPLAINANT's wallet at that time.
- Officer M. ultimately transported COMPLAINANT to the Champaign County Satellite Jail.
- While COMPLAINANT was at the Champaign County Satellite Jail he reported to Officer M. that he had sustained a scratch underneath of his chin and was bleeding from his ear. After being informed of those injuries Officer M. photographed them.
- Officer M. believed that the scratch to COMPLAINANT's chin was likely caused by one of two things – either by the strap/band of his watch when he placed COMPLAINANT in a headlock, or by COMPLAINANT's continued resistance after being taken to the ground by Officer M. and MR. T.
- Officer M. had no idea how COMPLAINANT sustained the injury to his ear.

- Officer M. detected an odor of alcohol on COMPLAINANT's person during his contact with him and believed that he was impaired by alcohol.
- Officer M. indicated that his report was true and accurate to the best of his recollection.
- Officer M. denied using any force against COMPLAINANT that was not documented in his police report and specifically stated that he did not punch, kick, or in any manner strike COMPLAINANT.
- At no time during Officer M.'s contact with COMPLAINANT did he ever observe him to be in possession of a white envelope, bank envelope, or large quantity of cash.
- Officer M. never saw a white envelope or bank envelope at any time while at the scene and he also had no knowledge of anyone else doing so either.
- The only money that Officer M. knew COMPLAINANT to possess was the money that was in COMPLAINANT's wallet at the time the wallet was given to him by Sgt. P.
- At no point in time did Officer M. access or count the money that was in COMPLAINANT's wallet.
- Officer M. adamantly denied losing any money possessed by COMPLAINANT or committing any type of theft against him.

### **COMPLAINT FINDINGS**

1. ALLEGATION #1 - That Officer M. used an unreasonable amount of force in accomplishing COMPLAINANT's arrest on September 19, 2014.

#### **FINDING #1 - UNFOUNDED**

The standards for making a determination as to the reasonableness of the force used by Officer M. in accomplishing COMPLAINANT's arrest are found within Illinois Compiled Statutes and relevant sections of Champaign Police Department Policy 1.3, titled "Use of Force."

#### 720 ILCS 5/7-5 – Peace Officer Use of Force in Making Arrest

"A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. The officer is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest."

The following sections of Policy 1.3 are relevant to this complaint:

Section 1.3.1(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.

Section 1.3.1(B)(1)(c): An officer may use force in the performance of his duties to effect the arrest of an offender, including those resisting arrest or attempting to flee from the arrest of custody.

The evidence in this case makes clear the fact that at approximately 2140 hours on September 19, 2014, Officer M. was summoned by a witness (MR. T.) to investigate a battery which had just occurred inside of Derailed. The evidence also makes clear the fact that when MR. T. summoned Officer M. he

simultaneously provided Officer M. with enough information to legally justify the detention and arrest of COMPLAINANT.

Upon being notified of the battery, Officer M. appropriately acted to detain COMPLAINANT. Witness statements support Officer M.'s contention that COMPLAINANT was not cooperative during the detention. Officer M. further contends that he made reasonable attempts to gain the cooperation of COMPLAINANT during efforts to detain him. Witness statements also support that contention.

During his contact with Officer M., COMPLAINANT took an aggressive, bladed stance and walked towards Officer M. Officer M. responded to COMPLAINANT's behavior by telling him to step back and then pushing him backwards. COMPLAINANT then re-approached Officer M.; as he did so he was again pushed backwards.

By this point in the contact it was apparent to Officer M. that he was not going to gain COMPLAINANT's voluntary compliance so he commanded COMPLAINANT to "turn around and place his hands behind his back." When COMPLAINANT ignored the command Officer M. pushed him towards the back of his squad car and repeated the command. COMPLAINANT failed to comply with that command and instead placed his hands on the trunk of Officer M.'s squad car.

Officer M. then moved to handcuff COMPLAINANT. As he did so, COMPLAINANT stiffened his arms in an attempt to prevent handcuffing. COMPLAINANT then pushed himself backwards and towards Officer M. As COMPLAINANT did so, Officer M. placed him in a "headlock" and unsuccessfully attempted to force him to the ground.

When Officer M. was unsuccessful in his attempt to take COMPLAINANT to the ground he contacted METCAD by radio and asked that additional units expedite their response.

As Officer M.'s struggle with COMPLAINANT continued, COMPLAINANT placed his leg out in front of Officer M.'s in an attempt to trip him. When COMPLAINANT did so, MR. T. asked Officer M. if he needed help. Because COMPLAINANT was becoming increasingly combative, Officer M. accepted MR. T.'s offer for help.

Officer M. and MR. T. then forced COMPLAINANT to the ground. However, even after being taken to the ground COMPLAINANT continued to resist arrest by stiffening his arms and refusing to place his hands behind his back.

A short time later Officer F. arrived on scene. Upon her arrival, and despite COMPLAINANT's continued resistance, COMPLAINANT was eventually secured in handcuffs.

In both his written report and his interview regarding this investigation, Officer M. indicated that he used physical controls, a headlock, and engaged in efforts to take COMPLAINANT to the ground during the course of accomplishing COMPLAINANT's arrest. Officer M. also denied using any force that was not documented in his police report. The witness statements are consistent with and support Officer M.'s version of events.

Additionally, although COMPLAINANT sustained minor injuries during his arrest, the evidence strongly supports a finding that those injuries were caused solely as a result of his resistance.

It is my finding that the force used by Officer M. in accomplishing COMPLAINANT's detention and arrest was reasonable and appropriate under the circumstances. There is absolutely no evidence to support COMPLAINANT's assertion that he was the subject of excessive force and this allegation is therefore deemed unfounded.

ALLEGATION #2 - That COMPLAINANT had \$5,000.00 in cash in his pocket which was missing following his arrest.

### FINDING #2 - **UNFOUNDED**

Despite my requests, COMPLAINANT failed to provide me with any sort of documentation to substantiate the claim that he possessed in excess of \$5,000.00 in cash at the time of his arrest.

In addition, COMPLAINANT has made conflicting statements about the source of the money in question. At 21:50:13 hours, while seated in the back of Officer M.'s squad car, COMPLAINANT was captured on audio/video making the following statement: "I had \$5,200.00 in my wallet. You better have it all in there. I earned it from Jorgenson's." However, when I spoke with COMPLAINANT by telephone on September 22, 2014, I asked him to provide me with any documentation he might have relating to his receipt of the money in question. COMPLAINANT responded to my request by stating that it would be difficult for him to provide me with any sort of documentation for the money since he received it, in cash, as payment for the installation of an HVAC system.

I conducted an internet search for "Jorgenson's" and learned that it was a heating and cooling business serving the southeastern region of Wisconsin with a corporate office located in New Berlin, Wisconsin. On October 7, 2014, I called Jorgenson's corporate office and spoke with an officer manager, D.L. After identifying myself and explaining the purpose of my call, I asked D.L. if COMPLAINANT had ever been employed by Jorgenson's. D.L. indicated that she had been employed continuously by Jorgenson's for the past seven (7) years and was certain that COMPLAINANT had not been employed at the business during that time.

None of the witnesses in this case, including the two bartenders who waited on COMPLAINANT, saw any evidence to support COMPLAINANT's claim that he was carrying a large sum of money. COMPLAINANT did not display any large sums of money while in Derailed, he was not seen in possession of a white envelope or bank envelope, and no such item was found in the bar following COMPLAINANT's altercation with VICTIM.

Similarly, none of the four (4) officer who were at the scene of COMPLAINANT's arrest observed him to be in possession of a white envelope, bank envelope, or large sum of cash. No such item was found in his possession during the search incident to his arrest, and no such item was found in or around the area where COMPLAINANT was arrested.

By all accounts there were between six (6) and ten (10) bystanders immediately present during the arrest, search, and custody of COMPLAINANT. Given the number of bystanders immediately present, I can't help but agree with the witness and officer assessments that it would have been very difficult for anyone, including an officer, to have committed an undetected theft of COMPLAINANT's money, or other possessions, under those circumstances.

The bulk of the money that COMPLAINANT possessed was counted by Sgt. P. at the scene, in the presence of Officer H. A smaller sum of loose currency was counted by Officer H. at the scene, in the presence of Sgt. P. A theft under

those circumstances would have required a conspiracy between Sgt. P. and Officer H., and there is simply no evidence to support that theory.

At 21:50:13 hours – when COMPLAINANT stated, “I had \$5,200.00 in my wallet. You better have it all in there. I earned it from Jorgenson’s.” – Sgt. P. and Officer H. had yet to complete the count of the money found in COMPLAINANT’s possession at the time of his arrest. The officers had also yet to inform COMPLAINANT how much money was found in his wallet. When COMPLAINANT made that statement he was seated in the back of the squad car, facing forward, while the officers were standing at the trunk of the very same squad car counting his money. COMPLAINANT was unable to see the officers, witness the count, or see anything that would cause him to even suspect a theft, so there was no basis for him to even make the allegation at that time.

COMPLAINANT on more than one occasion also referred to the officers on scene as “dirty cops” before he had any objective reason for making that reference or suspecting a theft. COMPLAINANT had absolutely no basis for making that reference at the time.

The timing of COMPLAINANT’s statements effectively serve to undermine the credibility of his claim and cause me to call into question his motives.

For these reasons, and the others outlined above, this allegation is also deemed unfounded.

#### Attachments

Memorandum / Sgt. R. (9/20/14)  
Citizen Complaint / COMPLAINANT  
Sworn Affidavit / COMPLAINANT  
Citizen Complaint Intake Form  
Dispatch Ticket #142620581  
Police Report #C14-8439  
Citizen Complaint Response Letter  
Photographs of Injuries / COMPLAINANT  
Memorandum / Sgt. P. (9/26/14)  
Acknowledgement / Officer F. (10/1/14)  
Acknowledgement / Officer H. (10/2/14)  
Acknowledgement / Officer M. (10/2/14)  
DVD Containing MVR Videos  
DVD Containing Champaign County Satellite Jail Videos



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

To: Chief Anthony Cobb  
From: Lt. Jon Swenson  
Date: 9/3/12  
Subject: Internal Investigation / 12-II01

### **NOTIFICATION:**

On Monday, June 11, 2012, CCSO Corrections Lieutenant C. contacted Sgt. M. by telephone and informed him that he had been alerted by his staff that Officer 1 had recently been observed doing “quick draws” with his loaded duty weapon in the sallyport of the Champaign County Satellite Jail. After being alerted to the activity by staff, Lt. C. personally reviewed the video recording captured during Officer 1’s most recent prisoner intake and corroborated the information that had been provided to him. In speaking with Sgt. M., Lt. C. expressed concern over Officer 1’s behavior given the obvious safety issue(s) involved.

Sgt. M. later met with Lt. C. at the Champaign County Satellite Jail. At the time of that meeting Lt. C. showed Sgt. M. videos captured during two of Officer 1’s recent prisoner intakes; the first was from June 11, 2012, and the second was from May 15, 2012. Both videos depicted Officer 1 drawing his loaded duty weapon from his holster, two times, in the sallyport of the Satellite Jail. Lt. C. indicated that he believed that further searching on his part might uncover additional videos depicting Officer 1 engaged in the same behavior, and he indicated that he was willing to search the system upon the request of Champaign Police Department command personnel.

### **VIDEO EVIDENCE:**

On Wednesday, June 13, 2012, I contacted Captain Allen Jones of the Champaign County Sheriff’s Office and formally requested that a search of the video system at the Satellite Jail be completed in an effort to determine whether or not there were additional videos depicting Officer 1 drawing his weapon in the sallyport. A short time later I received a phone call from Lt. C.. Lt. C. informed me that the Satellite Jail’s video system had videos on file dating back to May 12, 2012, and he asked me to provide him with a log of any and all dates that Officer 1 would have transported a prisoner to the county jail between May 12 and June 13, 2012. I later provided a log to Lt. C. indicating that Officer 1 had transported at least one prisoner to the Satellite Jail on the following dates; May 15, May 25, May 26, June 1, and June 11.

On Thursday, June 21, 2012, I responded to the Champaign County Satellite Jail and obtained a compact disc containing recordings of all five of Officer 1 prisoner transports. I later reviewed all five recordings and made the following observations:

May 15, 2012 at approximately 0306 hours – Following his prisoner intake, Officer 1 exited the booking area and entered the sallyport. Officer 1 immediately proceeded to the trunk of his squad car and accessed both his duty weapon and his back-up weapon. Officer 1 secured his back-up weapon first and then secured his duty weapon. After securing his duty weapon, Officer 1 quickly drew and presented his duty weapon twice. There

were no other persons or vehicles present in the sallyport at the time, but it should be noted that his behavior was plainly observable to a correctional officer and an inmate, both of whom were still present in the booking area at that time.

May 25, 2012 at approximately 2354 hours – Following his prisoner intake, Officer 1 exited the booking area and entered the sallyport. After speaking briefly with another Champaign police officer who was present in the sallyport and waiting to book another prisoner, Officer 1 proceeded to the trunk of his squad car and accessed both his duty weapon and his back-up weapon. After securing both weapons, Officer 1 entered his squad car and departed. Officer 1 did not draw his duty weapon on this occasion.

May 26, 2012 at approximately 2316 hours – Following his prisoner intake, Officer 1 exited the booking area and entered the sallyport. Officer 1 immediately proceeded to the trunk of his squad car and accessed both his duty weapon and his back-up weapon. Officer 1 secured his back-up weapon first and then secured his duty weapon. After securing his duty weapon, Officer 1 quickly drew and presented his duty weapon one time. There were five vehicles in the sallyport at the time, as well as an Urbana police officer who was standing outside of his car waiting to book another prisoner. It was evident from viewing the video that the Urbana police officer did not see Officer 1 draw his duty weapon.

June 1, 2012 at approximately 0111 hours – Following his prisoner intake, Officer 1 exited the booking area and entered the sallyport. Officer 1 immediately proceeded to the trunk of his squad car and accessed both his duty weapon and his back-up weapon. Officer 1 secured his back-up weapon first and then secured his duty weapon. After securing his duty weapon, Officer 1 quickly drew and presented his duty weapon twice. No other persons were present in the sallyport at the time, but there were five vehicles in the sallyport.

June 11, 2012 at approximately 0307 hours – Following his prisoner intake, Officer 1 exited the booking area and entered the sallyport. Officer 1 immediately proceeded to the trunk of his squad car and accessed both his duty weapon and his back-up weapon. Officer 1 secured his back-up weapon first and then secured his duty weapon. After securing his duty weapon, Officer 1 quickly drew and presented his duty weapon twice. There were no other persons or vehicles present in the sallyport, but his behavior was clearly observed by a correctional officer and an inmate, both of whom were present in the booking area at that time.

## **HISTORY:**

On October 16, 2010, Officer 1 had an accidental discharge with his duty weapon while on duty. The accidental discharge occurred as he re-holstered his duty weapon after responding to a report of “shots fired” in the area of Beardsley Avenue and Elm Street.

Following his accidental discharge, Officer 1 was directed to complete remedial firearms training. Officer 1 successfully completed remedial firearms training on October 22, 2010. The remedial training was administered by Officer 2. Officer 2 is a Master Firearms Instructor and a member of the department’s firearms training cadre.

During the remedial training session, Officer 2 “diagnosed” Officer 1 as having an issue with the removal of his duty weapon from its holster. In response to that diagnosis, Officer 2 ran Officer 1 through a series of presentation drills and then

required Officer 1 to successfully complete “50 to 100” presentations during “live fire”.

At the conclusion of the training, Officer 2 discussed with Officer 1 the need for him to “practice on his own”. Officer 2 specifically encouraged Officer 1 to complete “dry-fire exercises to increase his competence with his weapon”.

Following the remedial training session, Officer 2 completed a “Remedial Firearms Training Log” which includes a written summary of the training. A copy of that log and summary is attached to this report.

### **INTERVIEW OF OFFICER 2:**

On June 13, 2012, I interviewed Officer 2 regarding this investigation. The purpose of the interview was to specifically determine what instruction Officer 2 had given Officer 1 as it pertained to the practice of presentation drills.

In response to specific questions from me, Officer 2 provided me with the following information:

- Given that Officer 1’s remedial firearms training session occurred close to two years prior, Officer 2 could not specifically recall the details of his conversation with Officer 1 concerning presentation drills.
- Officer 2 has been a long-time firearms instructor and his habit/practice is to instruct officers to work with a dry (unloaded) weapon unless they are practicing presentation drills at the range.
- In addition, Officer 2 specifically instructs officers to store all ammunition in a separate room or location while practicing presentation drills. The purpose of storing the ammunition in a separate location is to prevent officers from negligently or accidentally working with a loaded weapon.
- Officer 2 expressed a high level of confidence that he had provided Officer 1 with those instructions during their remedial training session on October 22, 2010.

### **INTERVIEW OF SGT. V.:**

On Wednesday, June 27, 2012 I interviewed Sgt. V. in regards to this investigation. Sgt. V. is a 9+ year employee of the Champaign County Sheriff’s Office, and she is currently assigned as a supervisor on the midnight shift at the Satellite Jail.

In response to specific questions from me, Sgt. V. provided me with the following information:

- Sgt. V. has never personally witnessed Officer 1 draw his duty weapon in the sallyport at the Satellite Jail.
- On the morning of June 11, 2012 Sgt. V. learned that Officer 1 had drawn his weapon in the sallyport of the Satellite Jail earlier in the shift. Sgt. V. learned of the incident through conversation with another correctional officer. After learning of Officer 1’s behavior, Sgt. V. reviewed video of the intake and corroborated the information which had been reported to her.
- Sgt. V. was very concerned about the behavior of Officer 1 and believed that it was a safety issue so she reported the incident to her immediate supervisor, Lt. C..
- In her 9+ years of employment with the Sheriff’s Office, Sgt. V. has never seen or heard of another officer drawing his/her weapon in the sallyport.
- The accepted practice for the handling of weapons at the Satellite Jail is for officers to place their gun(s) and other weapons either in the trunk of

their squad or in an approved gun locker prior to the removal of a prisoner from their squad car. Only after all weapons have been secured are prisoners permitted to be removed from the squad. Following intake, officers are expected promptly re-secure their weapons and depart. Weapons should not be re-secured while there are prisoners out on foot in the sallyport.

- Sgt. V. has neither witnessed nor been informed of any other behavior on the part of Officer 1 that has caused her concern.

### **INTERVIEW OF CORRECTIONAL OFFICER G.:**

On Wednesday, June 27, 2012 I interviewed Officer G. in regards to this investigation. Officer G. is a 10+ year employee of the Champaign County Sheriff's Office, and she is currently assigned to the midnight shift at the Satellite Jail.

In response to specific questions from me, Officer G. provided me with the following information:

- Officer G. has personally witnessed Officer 1 draw his duty weapon in the sallyport at the Satellite Jail.
- The first occasion on which Officer G. witnessed Officer 1 draw his weapon in the sallyport of the Satellite Jail occurred in late 2010 or early 2011.
- Officer G. has since observed Officer 1 draw his weapon in the sallyport of the Satellite Jail "at least five times".
- It is common practice for Officer 1 to draw his weapon in the sallyport, and Officer G. has observed Officer 1 do so following every prisoner intake that she has completed for him.
- On the morning of June 11, 2012, Officer G. observed Officer 1 draw his weapon in the sallyport of the Satellite Jail following an intake. Officer G. was in the booking area with an inmate at the time she made the observation
- During her 10+ years of employment at the Sheriff's Office, Officer G. has never seen or heard of another officer drawing their weapon in the sallyport.
- Officer G. found Officer 1's habit of drawing his weapon in the sallyport to be highly unusual, but she did not discuss her observation(s) with a supervisor until asked.
- Officer G. has neither witnessed nor been informed of any other behavior on the part of Officer 1 that has caused her concern.

### **INTERVIEW OF OFFICER 1:**

Officer 1 resigned during the course of this investigation and as a result was never formally interviewed.

### **DISCIPLINARY RECOMMENDATION:**

In light of Officer 1's resignation, disciplinary action will not be taken and therefore no disciplinary recommendation is submitted for consideration.

June 14, 2012 Memorandum placing Officer 1 on Investigative Leave  
June 15, 2012 E-mail  
June 15, 2012 Request for CCSO Records  
July 3, 2012 Fact-Finding Notice  
July 5, 2012 E-mail  
July 11, 2012 Fact-Finding Notice  
August 21, 2012 Fact-Finding Notice  
Interview Questions  
October 17, 2010 Memorandum  
October 17, 2010 Memorandum  
October 17, 2010 Memorandum  
October 18, 2010 Memorandum  
Remedial Firearms Training Records  
Policy Statement 1.4 (Weapons Requirements and Proficiency)  
Department Rules  
PPM Records  
Investigative Checklist  
DVD Recording