



City Manager's Office • 102 N Neil St • Champaign IL 61820 • (217) 403-8710 • fax (217) 403-8980 • www.ci.champaign.il.us

News Release

Date: May 2, 2012
Time: 10:00 a.m.

Contact: City Manager Steve Carter
Steve.Carter@ci.champaign.il.us
(217) 403-8710

Police Chief Anthony Cobb
Anthony.Cobb@ci.champaign.il.us
(217) 403-6912

Internal Investigation Finds Policy Violations Associated with June 5 Arrest *Police Chief Pledges to Make Changes to Citizen Complaint Review Process*

Champaign, IL—This morning, Champaign City Manager Steve Carter, Police Chief Anthony Cobb and Deputy Chief Troy Daniels held a news conference to announce the findings of the internal investigation regarding the June 5, 2011 arrest of a Champaign citizen. At the news conference, City Officials discussed the citizen complaint appeal, the investigation process and findings. Chief Cobb also presented changes he has made in department personnel assignments and procedures to address issues identified in the investigation and to improve customer service within the agency.

“This has been a long process, but the citizen and the officers were entitled to a thorough review of the incident. It was important that this investigation be fair and unbiased. This internal investigation is the first, truly comprehensive review of the facts related to this incident.” said City Manager Carter. “Citizens are typically required to submit appeals of complaint decisions within 30 days; however, I became aware of information which made it reasonable to consider the appeal after the deadline. The City maintains confidentiality of citizen complaints, but because information about this complaint was made public, it was necessary that the results and findings of this investigation be made available for public review,” he added.

-More-

In February, Carter assembled an internal team of Police command staff to reinvestigate the citizen complaint, utilizing personnel who had not been involved in the prior investigation. The investigative process included a review of police reports, in-car video, and interviews with 20 people including the complainant, witnesses and police officers.

The following summarizes the findings from the appeal investigation.

- The stop, arrest and use of pepper spray were reasonable
- Courtesy and handcuffing violations occurred while the citizen was in custody
- The manner used for removal from the squad car was not justified
- The citizen complaint was not thoroughly investigated

Police Chief Anthony Cobb stated that the City has initiated the progressive disciplinary process for employees who violated department policies. The investigation report also recommends that officers within the department receive training on proper complaint and use of force reporting and investigation, the removal of subjects from cars, proper handcuffing technique with the involvement of multiple officers, and the proper handling of pepper spray canisters.

Chief Cobb also spoke about changes he is making to improve the citizen complaint process. The Police management team is taking additional steps to provide better oversight of the complaint process, develop an early warning system to alert Administration when multiple complaints are filed against an officer and to regularly review Professional Standards cases.

“I am honored to serve with the men and women of the Champaign Police Department who provide high-quality police services daily. Police officers are human and mistakes will occur. But it is imperative that I and my command staff take steps to keep mistakes at a minimum. Unlike other professions, a mistake in law enforcement can be life altering.” Chief Cobb added, “Since being appointed Chief, I immediately made changes to the citizen complaint process to require all complaints to be submitted to my office within one business day. I will ensure the complaints are addressed and resolved in a timely manner consistent with my expectations, departmental policy, and mission.” he added.

A copy of the investigative report is attached.

APPEAL INVESTIGATION REPORT

INVESTIGATION ASSIGNED. In response to the citizen complaint appeal, City Manager Steve Carter assigned members of the Champaign Police Department command staff to examine the previous use of force and complaint investigation reviews of the incident which occurred on June 5, 2011. The examination was to include recommendations on any noted policy violations, as well as any tactical or training issues. Deputy Chief Troy Daniels, Lieutenant Jon Swenson, and Lieutenant Michael Paulus were tasked with conducting this appeal investigation. None of these assigned command officers were involved in the original incident or the previous complaint investigation.

INVESTIGATION COMPLETED. This investigation began with a thorough review and analysis of all police reports and video related to the arrest of the complainant. Interviews were conducted with twenty people, including officers, witnesses, and the complainant. All of the command officers responsible for the initial investigation were asked to describe their actions, and the automated log which recorded the names of the command officers viewing the video, as well as the date they viewed it, was examined. The pepper spray manufacturer and a nationally recognized pepper spray training expert were also consulted.

HISTORY OF CAMPUS PROBLEMS. For some time prior to the contact with the complainant on June 5, 2011, the Champaign Police Department dealt with numerous incidents of aggravated batteries to individuals on Campus. The victims of these attacks suffered injuries ranging from mild to severe, and some required medical treatment. Additionally, there has been a history of large, often unruly, crowds of people milling around Campus at bar closing, and those circumstances typically required a significant officer presence in the Campus area at bar closing. Many of these individuals had consumed alcohol, and many of them were intoxicated and susceptible to being victimized. Others engaged in disorderly behavior which sometimes compromised public peace and order.

POLICE RESPONSE TO DISORDER. In response to the above-described Campus environment, officers and shift supervisors had been directed to focus their efforts on identifying suspects and/or possible suspects in the aggravated batteries. Those efforts often involved the use of Terry Stops of problem individuals and the enforcement of traffic, ordinance, and/or State violations, to include "minor" offenses such as loitering and pedestrian violations.

CALL FOR SERVICE ON GREEN STREET. During the early morning hours of June 5, 2011 the Champaign Police Department responded to numerous calls for service on campus. Those calls included fight calls, battery calls, and welfare checks. One particularly pertinent call involved a fight which began in the area of Fourth and Green Streets and ultimately moved over to the area of Fifth and Green Streets. This call was dispatched at 2:13 am. It was noted on the dispatch ticket that four or five subjects were actively fighting and that a crowd of 50-60 people had gathered in the immediate area.

DETAILED REVIEW OF THE INCIDENT. Several officers responded to the area of Fifth and Green Streets for this reported fight. The only squad car video of the incident was captured by the officer who is the primary focus of this complaint (hereafter referred to as

“the primary officer”). The primary officer’s squad car camera began recording during his response to the fight, when he was on Fourth Street and used his emergency lights to get through the intersection of Fourth Street and Springfield Avenue. The camera continued to record until he later arrived at the Champaign County Correctional Center with the person who filed the complaint (hereafter referred to as “the complainant”). It should be noted that the camera footage was recorded with the InfraRed filter on, which causes the footage to appear in black/white. This normally occurs when the camera senses a low light level and automatically adjusts to capture better quality video.

Approximately 30 seconds after the primary officer’s camera began video recording it began audio recording. This is normal and occurs as the result of a camera feature which captures the previous 30 seconds of video each time the camera is activated. Music can be heard in the background on the recording. There is no policy that prevents an officer from listening to the radio while on duty; therefore it was an approved activity.

One of the on-scene officers provided information during his interview indicating that when he responded to the area of Fifth Street and Green Street for the large fight call he saw approximately two-hundred people in and around the intersection, and a group of people at the northeast corner of the intersection who were “screaming at the top of their lungs.” This officer stated that one person in particular drew attention to himself by screaming louder than the others. When asked if he eventually learned the identity of this person, this officer stated he later learned that the person he observed screaming louder than the others was the complainant in this matter.

The primary officer arrived at the scene of the fight after the larger crowd began breaking up, and his squad car camera captured a number of people walking away from the area north of the intersection of Fifth and Green Streets. The audio picked up someone swearing at the police, but the source of those statements is unclear. The primary officer then re-entered his squad and drove east on Healey Street to Sixth Street, where he turned south and drove to the intersection of Sixth and Green Streets. From there the primary officer traveled west on to Green Street to the 400 block of East Green, where the complainant is first observed on the squad video at 02:24:02 hours.

As the complainant came into view of the camera he was observed walking with three males and a female. Two officers walked behind the complainant, in the same direction, and were only a short distance behind. One of these officers was carrying an OC fogger canister. That officer responded to the fight call at Fifth and Green Streets, and he had the OC fogger canister with him due to the number of persons reportedly involved in that fight. The primary officer changed the direction of his camera to capture the contact with the complainant, and as the officers walked behind the complainant the complainant appeared to be talking or yelling at the officers or someone behind them. One of these officers later stated in his interview that he was able to smell the odor of an alcoholic beverage coming from the complainant while standing approximately five feet away from him. This officer additionally stated that he had to tell the complainant to keep moving three or four times before the complainant finally walked westbound on Green Street and started to leave the area.

As the two officers walked behind the complainant and the four others with him, the complainant continually turned around and attempted to walk back to the east. At 02:24:33, the complainant could be seen walking back to the east before a female intervened and stopped him. One of the two officers could be seen speaking with the complainant as well. The female ultimately put her hand over the complainant's mouth and started to walk westbound with him on Green Street. The two officers held their position and watched the complainant and the members of his group walk westbound until 02:25:15 hours.

As the complainant and his group walked down Green Street, the complainant continued to yell and wave his arms about. At 02:25:15 hours, the two officers walked towards the complainant and the others with him. The female who had previously been observed stopping the complainant and putting her hand over his mouth walked back to the east and at that point the two officers approached the complainant and had a short conversation with him.

One of these officers indicated that his conversation with the complainant stemmed from the complainant's attempts to walk back to the east toward the location of the reported fight. The officer wanted to prevent the complainant from doing so, so he directed the complainant to resume walking westbound out of the area. According to the officer, the complainant responded by swearing at and challenging both officers. At approximately this time the primary officer shined his squad car's spotlight on the complainant, and the complainant was observed standing with one male and one female.

At 02:26:06 hours the two officers walked eastbound as the complainant and the other two individuals walked westbound on Green Street.

At 02:26:22 hours the primary officer is overheard saying "yeah" to someone. During an interview, one of the officers who had been following the complainant and the group with him stated that he signaled, asked, or told the primary officer to keep an eye on the complainant and his group. In his interview, the primary officer recalled only that he was advised by one of the two officers that they needed no assistance. The primary officer did not recall being asked to keep an eye on the complainant or the group with him.

During a separate interview, the other officer who had been following the complainant and his group provided descriptions of the scene at Fifth and Green Streets and the behavior of those present in a manner which was entirely consistent with the first officer's statement. The officer specifically stated that the complainant was clearly agitated, that he yelled profanities, and that he seemed to be focused on the officers present and whether they could or could not order him to move along. The officer stated that when it became apparent that their presence was aggravating the situation rather than mitigating it, they decided to stop following the complainant and his group to see if the complainant would calm down and move along on his own. When that did not happen both officers re-engaged the complainant and again directed him to move along. When the complainant continued westbound again the two officers returned to the corner of Fifth and Green Streets to deal with a large group that was still present at that location.

As the complainant and his group walked westbound, the primary officer re-directed his squad car camera back towards the front of his squad car and he proceeded to the intersection

Green and Fourth Streets. At 02:26:33 hours the green light for traffic on Fourth Street and the red "Don't Walk" signal prohibiting pedestrians from crossing Fourth Street are both clearly illuminated.

At 02:26:39 hours a male and female walking with the complainant are observed walking in the crosswalk, westbound, across Fourth Street.

The primary officer stated in his interview that his attention was drawn specifically to the intersection when he heard the "chirping of tires." In response to what he heard, the primary officer looked up and noted that on the south side of the intersection one vehicle had partially entered into the intersection and another car, immediately behind it, had come very close to striking it. The primary officer then looked to the north crosswalk and at that time observed the complainant and others with him in the crosswalk. At that time the pedestrian warning signal was blinking, which meant that pedestrians were prohibited from crossing at that time.

At 02:26:42 hours the primary officer activated his emergency lights and pulled over to the northwest corner of the intersection of Fourth and Green Streets. The primary officer drove into the crosswalk, which required a male with the complainant to stop in order to avoid contact with the squad car. At 02:26:46 hours the squad car camera clearly shows the complainant, the male, and the female with the complainant crossing Fourth Street against the "Don't Walk" signal.

At 02:26:51 hours the primary officer stopped his squad, exited, and called out to the complainant and the two individuals with him by stating, "Guys, step up to my car here." The complainant looked at the primary officer but, along with the female, continued to walk westbound on the sidewalk. There are four uninvolved females on the northwest corner of the intersection who block the view of the primary officer's contact with the complainant momentarily, and the male in the white shirt and the female who had previously been walking with the complainant can no longer be observed.

At 02:26:55 hours the primary officer again told the complainant and the female, "Step up to my car." The primary officer is observed carrying a 16 oz. canister of OC spray. At 02:26:55 hours the complainant continued to walk away from the primary officer and stated something to the effect, "I am not stepping up to the car." The backup officer simultaneously pulled his squad into the adjacent parking lot entrance off of Green Street, blocking the complainant's westbound path of travel in the process.

The primary officer jogged towards the complainant, and at 02:26:59 hours the primary officer again told the complainant, "Step up to my car." The complainant turned towards the primary officer and responded, "I'm not. Bro' don't mace me." The primary officer took hold of the complainant's left arm by grabbing the complainant's wrist with his left hand and his right hand was behind the complainant's left shoulder. The primary officer is still holding his OC fogger in his right hand at that time.

At 02:27:01 hours the complainant asked the primary officer, "Why are you touching me? I am trying to figure out why are you touching me?" At 02:27:03 hours, the primary officer walked the complainant back towards the front of his squad car as the backup officer

approached from behind and walked towards the primary officer and the complainant. The primary officer told the complainant, "Because I told you to step up to my car." The female that had been walking with the complainant is observed at that time behind the primary officer, in the adjacent parking lot, and the complainant replied to the primary officer, "You didn't tell me shit."

At 02:27:05 hours the primary officer said to someone to the right of the camera view, "You too." It is presumed that he is speaking to the male who had been seen crossing Fourth Street with the complainant and the female. This male, however, is not seen on camera.

At 02:27:06 hours the complainant told the primary officer, "I don't understand what the fuck I'm doing." At 02:27:08 the primary officer, while standing with the complainant at the front of his squad car, told the complainant, "Put your hands on my car."

At 02:27:09 hours the complainant told the primary officer, "Don't mace me man. Hey let my fucking arm..." At that time the complainant's right hand was on the hood of the squad car and the complainant's left arm was moving between an area ranging from a few inches above his waist to approximately shoulder level.

At 02:27:10 hours the complainant's right hand came up off the squad car so that both hands were now at about chest level. The primary officer sprayed the complainant with a 1 to 1.5 second burst of OC spray. This occurred from a distance of approximately 3 to 4 inches. The burst initially hit the complainant on the side of his left jaw and then moved up to his eye level.

Approximately 19 seconds elapsed during the time that the primary officer stopped his squad, first told the complainant, the female, and the male to "Step up to my car", and then deployed the OC spray. Approximately 9 seconds elapsed from the time of the primary officer's first physical contact with the complainant until his deployment of the OC spray.

The backup officer took about five steps from the time that the complainant was sprayed until he made physical contact with the complainant's right arm. Several individuals are heard yelling and screaming during this time, and at 02:27:13 hours the backup officer pointed to the north. The backup officer then yelled "Get Back!" The backup officer later stated in his interview that his statement and actions were in response to a group of five or six people who were encroaching upon the primary officer.

At 02:27:14 hours the primary officer looked to his left and then deployed a short burst from his OC fogger to the north and east. This burst of OC spray lasted approximately 1 to 1.5 seconds. The primary officer later stated in his interview that there was a group in "excess of six people" moving closer to him as he physically held on to the complainant, and this second burst of OC was directed specifically towards two males in front of that group who were closest to him. According to the primary officer, both males ran from the area after being sprayed.

At 02:27:15 hours the female previously seen with the complainant is observed on the sidewalk, behind the primary officer. Also seen behind the primary officer is a male with what appears to be a cell phone pointed towards the primary officer and the backup officer.

As of 02:27:16 hours the primary and backup officers have pulled the complainant's arms behind his back. The primary officer still had the OC canister in his right hand. At 02:27:19 hours, the primary officer changed his left hand grip on the complainant's wrist to better control the complainant's left hand as he attempted to put the OC canister on the hood of the squad next to the complainant's head.

At 02:27:22 hours the complainant told the officers, "Stop doing my motherfucking arms like that, I'm not doing anything." The primary officer responded, "Stop resisting," and as he did so the OC fogger fell towards the primary officer and the front of the squad car. This caused the primary officer to stop reaching for his handcuffs in order to grab the OC canister.

At 02:27:27 hours the complainant continued to protest the actions of the officers and told them, "Ya'll some punk ass motherfuckers. I swear before God. That shit is crazy man."

At 02:27:28 hours the backup officer, who only seconds before was observed coughing due to the lingering effects of the OC spray, handcuffed the complainant's right wrist. At this time a third officer walked into the view of the camera frame. The third officer appeared on the right side of the camera, between the primary officer and a group of people who had gathered and were yelling and screaming at the officers.

At 02:27:31 hours the backup officer reached his left hand towards the wrist that the primary officer had control of. What he actually did was grab the primary officer's left hand and start to put the handcuff on him. The primary officer responded by pulling his left hand away and then telling the backup officer, "You're getting me." The complainant's left wrist was then elevated in order to handcuff his left wrist.

At 02:27:34 hours the complainant yelled at the officers, "My motherfucking arm is breaking! Stop doing that to me! Stop twisting my motherfucking arm!" At 02:27:36 hours the third officer took control of the OC fogger and the handcuffing was completed. The complainant protested that his left arm was being twisted and he turned to his right to speak/yell at the backup officer. At 02:27:36 the backup officer, who had hold of the complainant's hand, leaned towards the complainant's face and told him, "Shut the fuck up." It should be noted that at this time both the primary officer and the third officer are looking towards the complainant and the backup officer.

At 02:27:38 hours, after the backup officer swore at the complainant, the complainant turned towards the backup officer and told the backup officer, "No, you shut the fuck up! I ain't doing nothing!"

The primary officer then grabbed the complainant's left arm and shoulder and lifted him off of the hood of the squad car. The backup officer simultaneously took his left hand and pushed the complainant's head onto the hood of the squad car. This was clearly picked up by the primary officer's audio transmitter.

At 02:27:40 hours the complainant lifted his head and upper torso off of the hood of the car and yelled, "I hope you all are recording this shit!" At 02:27:41 hours the backup officer retracted his left hand quickly from the complainant's head and pulled it down to his left side.

The total time from when the primary officer first stepped out of his squad and told the complainant and the others "Step up to my car" until the complainant was lifted off of the hood of the squad car was approximately 50 seconds. The time between the primary officer's first physical contact with the complainant and the primary officer's efforts to lift the complainant off of the hood of the squad car was approximately 40 seconds. From the time that the complainant was first sprayed by the primary officer until the complainant was pulled off of the squad car, approximately 31 seconds elapsed.

At 02:27:56 the complainant was placed in the back of the primary officer's squad car, and shortly after being seated the complainant complained that his eyes were burning due to the OC spray. At 02:28:41 hours the primary officer left the arrest scene to move to a more secure area to conduct a search of the complainant, to retrieve his identification, and to decontaminate him from the effects of the OC spray.

At 02:28:53 hours, in response to a statement by the complainant that he had done nothing wrong and could not be taken to jail, the primary officer stated, "I tried to stop you legally and you resisted me."

At 02:29:05 hours the primary officer pulled over to the curb and exited his squad to speak with a supervisor. The primary officer informed the sergeant that the complainant and others who were with him had been walking down the street "jaw jacking." The primary officer further stated, "They cross into traffic and stop the oncoming traffic from going. I tried to stop him and he continues to walk away and says he doesn't need to get stopped. So I walk him back over where he resists. He had another guy with him that took off. Let me find out who it is and his criminal history and then determine what to do with him in the parking lot over there. He's been sprayed too."

At 02:30:03 hours the primary officer re-entered his squad and drove the complainant to the parking lot next to the Post Office in the 300 block of East Green Street. Upon arrival, the complainant demanded to know where he was being taken. At 02:30:07 hours the primary officer began reciting the Miranda warning to the complainant. The complainant became more agitated and interrupted the primary officer by telling him, mistakenly, that the primary officer was required to read him his rights before placing him in handcuffs.

At 02:30:24 hours the primary officer asked the complainant if he had his identification with him; the complainant did not answer but instead responded by demanding to speak with one specific officer; however, this specific officer was not in the parking lot at that time, and he did not respond to the scene to speak with the complainant.

At 02:30:38 hours the primary officer exited the squad car, opened the rear passenger side door, and told the complainant, "Don't come out of the car." The complainant told the

primary officer since he had done nothing wrong he did not have to give him his identification.

At 02:31:03 hours the complainant told the primary officer that he would provide his ID to the primary officer but that the primary officer could not touch him. The primary officer directed the complainant to grab his ID and asked that he listen to him. The complainant continued to protest to the primary officer. At 02:31:24 hours the primary officer closed the rear passenger door and activated the rear seat camera.

At 02:31:28 hours the primary officer opened the rear passenger door again. As he did so, the complainant moved away from the primary officer, towards the center of the back seat, and continued to demand to speak with the same specific officer. At 02:31:34 hours the primary officer directed another officer (hereafter referred to as "the assisting officer") who had responded to assist him, to "Pull him through."

At 02:31:36 hours the assisting officer opened the rear driver's side door. In response, the complainant moved back towards the primary officer and stated, "Take me to jail! No, take me to jail!"

At 02:31:37 hours the primary officer leaned into the rear passenger side door of the squad car and placed his hands on the front of the complainant's neck. As the primary officer pushed the complainant toward the driver's side of the squad car (where the assisting officer stood by), the primary officer's hands are clearly seen at the complainant's neck. The primary officer then pushed the complainant out of the rear driver's side door, and the complainant ended up on the ground.

At 02:31:40 hours the primary officer exited the rear passenger side door of the squad car. The "extraction" of the complainant from the rear seat of the vehicle was accomplished in between 2.5 and 3 seconds.

During this time the complainant complained that the primary officer had choked him. The complainant specifically stated, "He's choking me! Let me go! He just tried to fucking touch me! He just tried to choke in the back of the car!" The complainant continued to protest the officer's actions until approximately 02:31:55 hours. From the time the primary officer directed the assisting officer to "pull him through" until the complainant was extracted and secured by the officers, approximately 18 seconds elapsed.

At 02:32:37 hours, in response to the complainant's complaint about being choked by the primary officer, the sergeant stated to the complainant that he "Didn't have to act like this." The complainant continued to complain to the sergeant that there was no reason to choke him in the backseat of the car. At 02:33:03 hours the sergeant replied to the complainant, "Well grabbing you by the neck and choking you are two different things."

At 02:33:19 hours the primary officer began the decontamination process by wiping the complainant's face with an antimicrobial pad. The primary officer also obtained a bottle of water for the complainant and used it to rinse the complainant's face and minimize the effects of the OC spray.

At 02:38:17 hours the complainant complained about having his hands behind his back and the primary officer told him, "That's the thing; you did not comply with my commands to begin with." The complainant responds that he had done nothing wrong, and the primary officer replied, "You never gave me a chance to tell what for."

At 02:40:38 hours the complainant was placed back into the transport area of the primary officer's squad car and the door was shut. The complainant, who continued to suffer from the effects of OC spray, asked that the primary officer roll down the rear windows. The primary officer did so, and at 02:40:58 hours informed the complainant that the windows were down as far as they would go.

At 02:44:44 hours the primary officer asked the complainant if he wanted more water and opened the door of the squad door to provide it. At 02:44:59 hours, the primary officer secured the complainant into a seat belt. When the complainant asked why he was going to jail, the primary officer responded, "Resisting a Peace Officer." The complainant remarked, "That's crazy."

At 02:45:12 hours the primary officer responded by stating, "It is. Here's the thing. You could have jaw jacked all the way home and nobody would have done anything. But I told you to stop and come back." The complainant replied, "But I didn't understand why you told me to come back. I didn't do nothing wrong." At 02:45:24 the primary officer closed the squad door and, as the complainant asked bystanders to arrange for bond money, then informed the complainant, "You stopped traffic."

At 02:45:52 hours the sergeant asked the primary officer how the backup officer had hurt his hand. The primary officer informed the sergeant, "He (the complainant) was fighting on the hood of the car."

At 02:46:24 hours the primary officer left the parking lot and drove to the Champaign County Correctional Center. At 02:50:11 hours, the complainant asked the primary officer, "Why did you feel you need to jump in the car and choke me?" The primary officer responded, "You mean push you out the other side so I could get your ID?"

A short discussion between the complainant and the primary officer regarding the manner used to remove the complainant from the squad car and the complainant's failure to provide his ID when it was requested then followed.

At 02:54:20 hours the primary officer arrived at the Champaign County Correctional Center. The rear seat camera stopped recording, but the audio continued to record.

While the complainant was still in the back of the squad car, at approximately 03:05:49 hours, the primary officer spoke with the backup officer by phone and inquired as to the extent of his injuries. According to the backup officer's statement, while he was on the phone with the primary officer he was advised by a doctor that his hand was broken. The primary officer is heard saying, "We will then charge appropriately." The video stopped at 03:09:26 hours.

OFFICERS' ACTIONS COMPARED TO POLICY. The standards used to determine whether or not there were any violations come from Champaign Police Department policies. The Use of Force Policy specifically references the findings of the United States Supreme Court in *Graham v Connor*, which states, "the reasonableness of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than the 20/20 vision of hindsight." The Supreme Court further stated, "The calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments in circumstances that are tense, uncertain, and rapidly evolving."

The actions of the officers during the detention, arrest, and custody of the complainant were compared to the standards set forth in policy. In addition, the thoroughness of the original complaint investigation was compared to policies which govern how citizen complaints are to be investigated and reviewed. The following summarizes the recommended findings from this appeal investigation.

STOP, ARREST AND USE OF PEPPER SPRAY WERE REASONABLE. After some period of observation of the complainant's behavior, the primary officer saw the complainant walk across Fourth Street against a pedestrian signal. According to the primary officer's statement, the complainant's actions stopped traffic and required an oncoming motorist to brake abruptly in order to avoid an accident. Consequently, the primary officer had sufficient legal authority to order the complainant back to his squad car. The complainant did not comply with the primary officer's order, and he continued to walk away and engaged in verbal protest. When the primary officer jogged up to the complainant and began to escort him back to his squad car, the complainant asked why he was being detained. (Note: Standing on its own, this inquiry does not constitute resisting arrest.) The primary officer responded by telling the complainant that it was because he did not comply with his commands. As the primary officer physically escorted the complainant to the front of his squad car, the complainant demonstrated verbal and physical resistance to the primary officer's instructions which caused the primary officer to reasonably believe that it was necessary to use pepper spray both to defend himself and accomplish the arrest. The officer had probable cause to arrest the complainant for resisting and obstructing his legitimate law enforcement efforts.

COURTESY AND HANDCUFFING VIOLATIONS. Shortly after the complainant was handcuffed, the backup officer used profane language in addressing the complainant, and the backup officer also pushed the complainant's head down onto the hood of the squad car. The backup officer's discourteous statement is not defensible, and his actions show an inappropriate use of discretion. This is not the manner in which Champaign Police Officers are expected to treat persons in custody. Also, neither the primary officer nor the backup officer double-locked the handcuffs or checked them for tightness prior to the complainant's initial transport as required by policy.

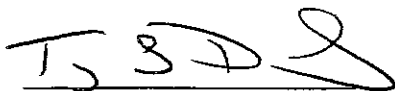
MANNER USED FOR REMOVAL NOT JUSTIFIED. Following the arrest of the complainant, the primary officer did not use sufficient dialogue to explain to the complainant the reason for his detention or make sufficient attempts at verbal persuasion to persuade the complainant to exit his squad car voluntarily. The complainant's demeanor made it difficult for the officers to effectively communicate with him, and his refusal to provide the officer

with his identification was not helpful. However, this does not diminish the expectation that officers will attempt to use verbal persuasion, dialogue, and courtesy to gain voluntary compliance whenever possible. The primary officer pushed the complainant on his neck and then out of the back of his squad car without first directing or requesting that the complainant exit the car voluntarily. No exigent circumstances were present that either necessitated or justified the complainant's removal from the back of the squad car in the forcible manner in which it was accomplished. The sergeant was present for this removal and did not adequately supervise the officers under his immediate control or give them appropriate guidance, and by policy he is accountable for their performance.

COMPLAINT NOT THOROUGHLY INVESTIGATED. Errors in the initial review of this matter were made by others higher in the chain of command, including immediate supervisors and officers in administrative positions. Department policy required that a thorough investigation into the allegations be conducted and documented, and the assigned command officers did not adequately accomplish this. Policy also required any command officer who investigated or reviewed this investigation to identify deficiencies in their employee's job performance, and that did not occur. Due to those failings, a subsequent review, which resulted in these findings, became necessary.

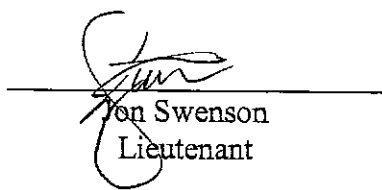
RECOMMENDATIONS. Officers should receive appropriate discipline for policy violations. Training should be provided on proper complaint and use of force reporting and investigation. Training should also be provided regarding the removal of uncooperative subjects from cars, proper handcuffing technique with the involvement of multiple officers, and the proper handling of pepper spray canisters.

Prepared by:



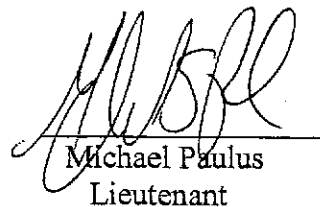
Troy Daniels
Deputy Police Chief

5/1/12
Date



Jon Swenson
Lieutenant

5/1/12
Date



Michael Paulus
Lieutenant

5/1/12
Date