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THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No. ALJ-30-0489-AP

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SC Court of Appeals

E. Shawn Sorrell.....Appellant,

vs.

South Carolina Department of Public Safety.....Respondent.

RECORD ON APPEAL
VOLUME 2 OF 2

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INDEX TO RECORD ON APPEAL

Order of Deborah Brooks Durden, Filed July 12, 2012	1
Notice of Assignment, dated September 26, 2011	10
Motion for Enlargement of Time, dated December 12, 2011	11
Motion for Enlargement of Time, dated November 8, 2011	12
Notice of Appearance and Substitution of Counsel, dated October 21, 2011	13
Notice of Appeal, dated September 23, 2011	15
State Employee Grievance Committee Final Decision, dated August 26, 2011	18
Letter of Heather Kever, dated April 12, 2011	26
State Employee Grievance Committee Ruling on Objections, dated April 12, 2011	27
Letter of Terry M. Baggott, dated March 3, 2011	32
Letter of John A. O'Leary, dated February 23, 2011	34
Letter of John A. O'Leary, dated February 23, 2011	36
Letter of Rachel D. Erwin, dated February 17, 2011	40
Letter of John A. O'Leary, dated February 14, 2011	42
Ruling on Objection, dated February 3, 2011	44
Letter of Rachel D. Erwin, dated December 3, 2010	45
Letter of John A. O'Leary, dated November 17, 2010	49
Letter of Joseph C. Miller, dated July 25, 2011	50
Letter of Joseph C. Miller, dated July 21, 2011	51
Letter of Joseph C. Miller, dated July 6, 2011	52
Letter of Joseph C. Miller, dated May 12, 2011	53
Letter of Rachel D. Erwin, dated April 13, 2011	54
Letter of Joseph C. Miller, dated March 2, 2011	55
Letter of Joseph C. Miller, dated February 8, 2011	56
Letter of Joseph C. Miller, dated February 8, 2011	57
Email of M. Malissa Burnette, dated February 7, 2011	58

Letter of Joseph C. Miller, dated November 29, 2010	60
Letter of M. Malissa Burnette, dated November 23, 2010	61
Letter of John A. O'Leary, dated November 23, 2010	63
Letter of Herbert Cooper, dated March 25, 2011	64
Letter of M. Malissa Burnette, dated March 8, 2011	66
Letter of Rachel D. Erwin, dated March 7, 2011	68
Letter of Reynolds H. Blankenship, Jr., dated February 23, 2011	69
Letter of M. Malissa Burnette, dated February 18, 2011	70
Letter of Reynolds H. Blankenship, Jr., dated February 17, 2011	72
Letter of Rachel D. Erwin, dated February 17, 2011	73
Letter of Patrick J. Frawley, dated June 24, 2011	74
Letter of Terry M. Baggott, dated June 24, 2011	76
Letter of Patrick J. Frawley, dated June 23, 2011	78
Letter of Terry M. Baggott, dated June 23, 2011	80
Letter of Patrick J. Frawley, dated June 22, 2011	82
Transcript of Record, date recorded on March 22, 2011	83
Appeal of Termination Hearing, date recorded on June 27, 2011	133
Appeal of Termination Hearing, date recorded on August 8, 2011	433
State Employee Grievance Committee List of Witnesses for Employing Agency	571
State Employee Grievance Committee List of Witnesses for Appellant	572
State Employee Grievance Committee List of Representatives for Appellant	573
State Employee Grievance Committee List of Representatives for Employing Agency	574
Exhibit Sheet, dated June 27, 2011	575
Committee's Exhibit 1	576

Appellant's Exhibit 1, dated March 2, 2011	708
Appellant's Exhibit 2, dated March 28, 2010	721
Appellant's Exhibit 3, dated February 18, 2008	722
Appellant's Exhibit 4, dated March 22, 2008	723
Agency's Exhibit 1	727
Agency's Exhibit 2, dated May 3, 2010	728
Agency's Exhibit 3, dated May 17, 2010	731
Agency's Exhibit 4, dated April 27, 2010	734
Agency's Exhibit 5, dated April 26, 2010	735
Certificate of Counsel, dated November 29, 2012	738

1 chance to -- just give us a summary of what the
2 facts were now that you've had a chance to refresh
3 your memory.

4 A. The student alleged that Officer
5 Sorrell, while he was on duty with BPS at the
6 Criminal Justice Academy, yelled at him if he heard
7 his instructions to get inside the building. The
8 student said Officer Sorrell then said he'd better
9 move when he told him or he could go to jail for
10 disobeying a police officer. Officer Sorrell then
11 reached for his handcuffs while making this threat.

12 Officer Sorrell also allegedly
13 threatened to prevent the student from graduating
14 the following week. According to the student,
15 Officer Sorrell told him he has had, quote, mouth
16 problems, unquote, his entire life and it was going
17 to cause his family to, quote, go without, unquote.

18 The student described Officer Sorrell as
19 being on, quote, power trip, unquote, and he tries
20 to, quote, make everyone bow down to him, unquote.
21 The student has seen Officer Sorrell use his baton
22 to turn off a TV and lights, and believes he does
23 this just to display his weapon. And the student
24 commented someone needs to, quote, get a handle,
25 unquote, on Officer Sorrell before someone got hurt.

222

1 Q. And I believe you indicated that you did
2 not conduct an investigation, but that the
3 department took some action as a result of that
4 incident?

5 A. That's correct.

6 Q. Does your report indicate what that
7 action was?

8 A. He was removed from the Criminal Justice
9 Academy and at the time that this memo was written
10 in April of 2010, had not returned. And he was also
11 recommended to go to counseling. And of what
12 nature, I do not know.

13 Q. In the course of your investigation into
14 the incident, did you determine whether or not there
15 were any reports or complaints filed in reference to
16 the complainants with other police departments?

17 In other words, did you determine that
18 anyone had filed a complaint with the Richland
19 County Sheriff's Department or the city of Columbia
20 in reference to the activity that had transpired?

21 A. They initially did because the parents
22 did not -- apparently did not know or understand
23 where Officer Sorrell was employed.

24 Q. But no other individuals complained
25 about their conduct to those agencies that you're

1 aware of?

2 A. No, I'm not, I'm not aware of that.

3 Q. So initially the complaint went to
4 another police agency before it arrived with the
5 Department of Public Safety?

6 A. That's right.

7 Q. Is that uncommon or do you --

8 A. Not at all.

9 Q. -- have you encountered that before?

10 A. Not at all.

11 Q. And I mean is that -- why does that, I
12 guess, occur?

13 A. Well, the general public doesn't -- a
14 lot of folks don't understand the difference between
15 a state trooper, a county deputy, and a city police
16 officer. So when they're upset with the highway
17 patrol, they call the sheriff's department. We
18 receive the complaints on the sheriffs, deputies,
19 and city policemen in our office all the time. So
20 it works both ways.

21 Q. So it's not uncommon, I guess, for a
22 complaint to kind of start somewhere else, people do
23 not realize --

24 A. It happens quite a bit.

25 Q. Okay. Let me go back to -- you said you

224

1 gave -- when Mr. Sorrell came in, you gave him a
2 computer and allowed him a chance to type his
3 statement, correct?

4 A. That's correct.

5 Q. Did you at any point direct him what he
6 had to put in?

7 Did you tell him what he had to put in
8 his statement or was he left to type it on his own?

9 A. He was left to type it on his own, but
10 he had, for lack of a better word, the cheat sheet
11 to help him address the issues I needed addressed.
12 He could put it in whatever words he wanted.

13 Q. And let me ask you this: You stated
14 that when an individual is under investigation
15 they're notified by your department that an
16 investigation is being conducted.

17 A. That's correct.

18 Q. Okay. When you speak with that
19 individual or speak with other individuals, other
20 employees who may be interviewed, are they
21 instructed to keep confidential the information that
22 they're referring to you or anything that you're --

23 A. They are. Sometimes it is stressed
24 under -- there are situations that warrant it to be
25 signed on an official form that we have, where you

1 are instructed to not discuss this with anyone else.
2 Most of the time they are verbally advised, keep
3 this to yourself.

4 Q. And is it, in fact, a violation of the
5 department policy to then go out and discuss
6 something once you've been advised?

7 A. Yes, it is.

8 Q. And are you aware that -- of an instance
9 in which that had transpired in the past with
10 Mr. Sorrell?

11 A. Years ago, yes.

12 MS. ERWIN: That's all I have,
13 Mr. Chairman.

14 MR. COOPER: Mr. O'Leary.

15 CROSS-EXAMINATION

16 BY MR. O'LEARY:

17 Q. Just a couple of questions. The last
18 incident you were talking about, about February of
19 '08, I think, did you ever see any of the underlying
20 documents on that?

21 A. The underlying as in?

22 Q. As in the reports that were actually
23 made by our client concerning that particular
24 incident in February of '08?

25 A. I don't remember. I remember seeing the

Transcription of Proceedings on June 27, 2011 - October 25, 2011

226

1 letter that the academy student wrote, but I can't
2 recall if I saw anything from Mr. Sorrell.

3 Q. Okay. So you didn't really do that
4 other investigation at all, you just got the letter
5 from the student himself that made the complaint?

6 A. The department got the letter from the
7 student. It was just incorporated in my report. It
8 had already been addressed.

9 MR. O'LEARY: Okay. We're probably
10 going to have to put these back -- put him back up
11 and put these documents there because he doesn't
12 have any knowledge of it.

13 BY MR. O'LEARY:

14 Q. Are you aware that on February 14th of
15 '08 there was a shooting at a university dorm.

16 A. University of South Carolina?

17 Q. No, University of Illinois.

18 A. No, sir.

19 Q. Were you aware that there was a threat
20 made that night on a phone call that came into the
21 academy?

22 A. No, sir.

23 Q. Okay. So essentially you don't know any
24 of the underlying facts about why he --

25 A. No, sir. No.

1 Q. At the time the academy -- at that
2 point, the academy was several dorm wings and the
3 outer doors had to be secured, correct?

4 A. Yes, sir.

5 Q. Okay. And they're supposed to come in
6 through a central focal point, like a cafeteria, and
7 then fan on out to the different areas; isn't that
8 correct?

9 A. Yes, sir.

10 Q. And what happened in that case, that a
11 student was out there smoking, he was told to come
12 in so they can lock those doors and he didn't come
13 in and he complained. Isn't that essentially what
14 happened?

15 A. Essentially, yes, sir. That's what it
16 looks like.

17 Q. Okay. He wanted to smoke a cigar out
18 there and he said, come in, we got to lock these, he
19 didn't come in, and he got mad.

20 A. I assume so. I don't know.

21 Q. Okay. Just a couple questions. On the
22 ticket that was issued in this case, you're aware
23 that the tickets actually have agency at the top,
24 like South Carolina Department of Public Safety on
25 the top of that?

Transcription of Proceedings on June 27, 2011 - October 25, 2011

228

1 A. Yes, sir.

2 Q. So if somebody looked at that ticket,
3 they would know that was -- one of the agencies was
4 involved, probably the primary one?

5 A. Yes, sir. They should know, but as I
6 stated earlier, the general public does not know the
7 difference between state, city, and county.

8 Q. And it's kind of compounded by the fact
9 that they're put into a county detention center,
10 correct?

11 A. Yes, sir.

12 Q. And that sort of muddies the waters?

13 A. It does.

14 Q. Okay. Now, when he -- let me ask you
15 this. Let me just kind of run a couple of things by
16 you. If somebody is in the process of being
17 arrested, patted down and arrested, if they resist,
18 that could turn into a felony; isn't that true?

19 A. Yes, sir.

20 Q. Okay. But that's if somebody actively
21 resists the arrest that the officer is trying to
22 effectuate, correct?

23 A. That's correct.

24 Q. Let me ask you this: If an officer
25 walks up to a car, hypothetically walks up to a car

1 and he sees, let's say crack or cocaine in the car,
2 four people in the car, they don't cooperate and say
3 whose it is, they all go to jail, don't they?

4 A. That's officer discretion.

5 Q. It's officer discretion, okay.

6 And you said on the video that he -- you
7 could see him hitting her feet to spread them a
8 little further?

9 A. Used her -- used his foot to guide or
10 move hers.

11 Q. But wasn't kicking her or anything?

12 A. No, sir.

13 Q. Okay. And that on the video you saw
14 those people actively running around and throwing
15 the balloons the very beginning; isn't that true?

16 A. I think I described it as horsing
17 around.

18 Q. Horsing around. Yeah, I think that's
19 the word you used in your report.

20 And did this officer, when he saw that
21 on the TV screen inside, was it wrong for him to
22 respond, to check this out?

23 A. No, sir.

24 Q. Okay. And is it a little unusual at
25 2:30 or 2:45 in the morning to have adults out there

Transcription of Proceedings on June 27, 2011 - October 25, 2011

230

1 in the street, on Main Street, doing this?

2 A. Probably so.

3 Q. And you don't have any idea of how --
4 how the sound level was. That video doesn't have
5 any sound?

6 A. No sound.

7 Q. And it's a video that's time activated
8 so it's sort of like an old time -- it's like
9 watching an old fashion movie.

10 A. Like I said earlier, I'm not sure what
11 the exact terminology is, but it's almost a frame by
12 frame.

13 Q. Whose video is that? The DPS's or is
14 that the Lottery Commission?

15 A. The Lottery Commission's.

16 Q. Lottery Commission's. Now, when you
17 were interviewing him, do you recall kind of
18 criticizing him a little by calling him a BSA?

19 A. I don't -- I couldn't call it
20 criticizing. Mr. Sorrell and I have crossed paths
21 before.

22 Q. What's BSA mean, just out of curiosity?

23 A. A bullshit artist.

24 Q. But you did use that word with him,
25 correct?

1 A. I might have said BSA.

2 Q. But it wasn't really hostile between you
3 two, was it?

4 A. No, sir. Like I said, we have crossed
5 paths before. He knows me and I know him. There
6 was nothing...

7 Q. You gave -- you said you gave him a
8 cheat sheet to try to fill this stuff out. How does
9 that work?

10 A. When I went through the complaint, the
11 witness statements, there was a lot of material we
12 needed to cover.

13 Q. That you wanted answered?

14 A. Exactly. And to be fair to Mr. Sorrell,
15 I gave him -- I don't know if cheat sheet is a good
16 word to use in this environment, but I need
17 Questions A, B, C, D, and E answered. And I don't
18 think it's fair for me to tell him, here, I need you
19 to tell me everything that happened and I'll be back
20 in a minute. I was trying to help him.

21 Q. Okay. Would it be unreasonable for an
22 officer to not accept the word of the person they're
23 trying to search or they're trying to arrest as to
24 whether they could sit down on the ground or
25 anything like that?

232

1 Would that be unreasonable?

2 A. That's not unreasonable.

3 Q. That's not unreasonable, is it?

4 A. No, sir.

5 Q. Because he doesn't know that person from
6 Adam, correct?

7 A. That's correct.

8 Q. And as to the fact that the balloons
9 themselves, there's no way the officer would even
10 know what's in those balloons, correct?

11 A. That's correct.

12 Q. Now, I can't even read my writing, so...

13 A. I have the same problem.

14 MR. O'LEARY: Okay. No further
15 questions.

16 MS. ERWIN: Nothing further.

17 MR. COOPER: Questions from the panel?
18 I ask if it witness can be excused?

19 MR. O'LEARY: Can I just ask just one
20 thing? Is it possible -- yeah, he can be excused,
21 but can we show the video at this point in time? Or
22 do you want me to just put it through him or how do
23 you want to do that? I'd like to have it shown if
24 you don't mind. And I think since he's here, we can
25 still do it because he actually saw the video.

234

1 see if there are any other witnesses.

2 MR. GANJEHSANI: Now might be a good
3 time to talk about the remainder of the day.

4 MS. ERWIN: We've got a couple more -- I
5 mean, several more, but I mean, a couple I think we
6 might just get through today, if we can. The
7 problem is I had told him earlier I didn't think --
8 we had several witnesses left on his list and they
9 have to work tonight, so I wanted to kind of give
10 him the chance to get some relief, but we've asked
11 him to come back. If we can go ahead and get them
12 done. They should be very brief.

13 MR. GANJEHSANI: I want to hear both of
14 you say they're going to be brief.

15 MR. O'LEARY: Well, I don't know. I
16 mean, we'll have rebuttal, we got to put a rebuttal
17 witness in. So that's another -- that's right,
18 4:00, 4:15 right now, roughly.

19 MS. ERWIN: I don't think by any means
20 we're going to get through all the witnesses today,
21 let me state that.

22 MR. O'LEARY: Okay. As long as we're
23 clear on that. Do as many as you want, try to put
24 them in.

25 MR. GANJEHSANI: All right. I guess

1 MS. ERWIN: He's done testifying. I
2 mean, I think Mr. O'Leary will have to do that in
3 his rebuttal.

4 MR. O'LEARY: Do you have any problems
5 putting it in now or do you just want to leave it?

6 MR. GANJEHSANI: We don't need this
7 witness here to authenticate it.

8 MR. O'LEARY: Okay. No, I just wanted
9 to at some point show the video.

10 MR. GANJEHSANI: Okay. I'm concerned
11 about this witness' -- he's free to leave?

12 MR. O'LEARY: Yeah.

13 MS. ERWIN: Yes. We don't need to go
14 back to him.

15 MR. GANJEHSANI: Could you formally
16 excuse him?

17 MR. COOPER: For this record, the
18 witness is excused.

19 MR. GANJEHSANI: We keep looking at him
20 and talking about the video, I just want to make
21 sure he knew he could leave.

22 MR. O'LEARY: Well, I don't normally do
23 it without somebody actually sitting in the chair.

24 MR. GANJEHSANI: I know, I know.

25 MS. ERWIN: He's going to go check to

1 we're going to watch the DVD now?

2 MR. COOPER: Okay. Do we dim the light
3 at all?

4 MS. ERWIN: If we can do the witness. I
5 mean, if he's here, I'd like to do this witness so
6 we can get him done.

7 MR. O'LEARY: That's fine, I'll hold off
8 on the video. Whatever is easiest for everybody.
9 We can just put a witness up and that way we can
10 excuse another one.

11 THE VOICE 1: Should we go ahead and
12 talk about the next day or how that's going to work
13 before all these other witnesses?

14 MR. COOPER: All right. We're not going
15 to look at the video right now, but we're going to
16 get the next witness.

17 MR. O'LEARY: But we would like to have
18 the video today before we leave, if we could.

19 MR. GANJEHSANI: How long is the video?

20 MR. O'LEARY: What do you think? Eight
21 minutes or so?

22 MR. SORRELL: It's an eight-minute
23 video, but we can skip from second 18 to 4:20, so
24 that cuts it in half. It's about a four-minute.
25 Not long at all.

Transcription of Proceedings on June 27, 2011 - October 25, 2011

236

1 MR. COOPER: How many witnesses do you
2 want to call today?

3 MS. ERWIN: If we can get these two
4 done, I mean, I'm really thinking they can be brief
5 and we can be through. I mean, I'm certainly not
6 trying to hamper Mr. O'Leary from doing anything he
7 needs to do.

8 MR. COOPER: Why don't we do the two
9 witnesses to make it useful, use some resources. We
10 don't want them sitting around, then we'll look at
11 the video.

12 MR. O'LEARY: That's fine, that's fine.
13 That's the best way.

14 MR. GANJEHSANI: While Joseph is getting
15 the next witness, we'll at least attempt to start
16 talking about when we're going to be able to all
17 reconvene. So why don't we do that. We can go off.

18 (A recess transpired.)

19 MR. COOPER: All right. Just to remind
20 you to speak clearly to make sure you're picked up
21 by the microphones in the room and to advise you the
22 binder on the desk I'm showing you contains
23 information that may be used during the proceedings
24 and these pages are numbered in the upper right-hand
25 corner.

1 And officer, could you please state your
2 full name?

3 MR. HARRIS: Marvin E. Harris. Excuse
4 me, Marvin Eugene Harris, III.

5 MS. ERWIN: Thank you, Mr. Chairman.

6 MR. COOPER: We're on the record.

7 MARVIN E. HARRIS
8 being first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ERWIN:

11 Q. Mr. Harris, you are employed by the
12 Bureau of Protective Services; is that correct?

13 A. Yes, ma'am.

14 Q. Okay. And were you working on the
15 evening of March the 28th, 2010 when the incident
16 occurred with Mr. Sorrell and the three individuals
17 outside the Lottery Commission?

18 A. I was.

19 Q. And where were you assigned that evening
20 in the --

21 A. I was actually at the State House.

22 Q. Okay. And did you hear Mr. Sorrell
23 radio or notify that he had an incident that was
24 going on?

25 A. Yes, ma'am.

238

1 Q. Okay. And what exactly did you hear on
2 the radio transmission?

3 A. Officer Sorrell requested -- said he had
4 people possibly throwing bottles at one of the
5 buildings we were posted at.

6 Q. And did you respond to the location?

7 A. Not technically, no, ma'am. I was on
8 the grounds. There was -- Officer Rogerson was
9 closer. I sent him because he'd be the first person
10 to get there. As I was en route to the scene, they
11 both contacted me and said they were okay and they
12 had it under control. So all I did was actually
13 rode by, did not physically stop at that time.

14 Q. Did you at some point come to the scene
15 once the individuals were handcuffed?

16 A. As I rode by, like I stated earlier, I
17 proceeded -- as what we have in patrol -- I
18 proceeded patrol. I believe I had to actually drop
19 off a package at the governor's mansion that night.
20 I stopped there, was taking care of the business
21 when -- and I don't remember if it was Officer
22 Sorrell or Officer Rogerson, called me and said they
23 needed an extra pair of handcuffs, could I help
24 them. I said yes, I'll be there in just a few
25 minutes. Then I proceeded back on the scene.

1 Q. Okay. And when you arrived, I guess
2 some individuals were handcuffed and then others
3 were not?

4 A. Yes, correct.

5 Q. Okay. At that point, the individuals
6 had already been placed under arrest, correct?

7 A. I presume so.

8 Q. Okay. Did you recall one of the
9 witnesses inquiring about what exactly disorderly
10 conduct was?

11 A. I do not.

12 Q. Do you --

13 A. I was kind of being distracted by the
14 little security guard that was at the building. I
15 was also trying to stay away and let him do his
16 duty. But since there was the two officers there, I
17 was on the scene, but I was not interfering in any
18 way since they seemed to have had it under control.

19 Q. Okay. Let me ask you to refer -- if
20 you'll look at Page 66 in that document. Is that a
21 copy of the statement that you provided in response
22 to the investigation?

23 A. It looks to be, yes.

24 Q. Okay. Did you make -- or in your
25 statement, did you indicate -- let me ask you

240

1 specifically to look at that second paragraph, about
2 one, two, three, four -- six lines down. You
3 indicated Mr. Sorrell responded to an inquiry one of
4 the complainants had made. Can you read that
5 sentence?

6 A. You're referring to Sorrell responded by
7 stating --

8 Q. Yes.

9 A. -- that he speaks very clear English.
10 And when he gave an order, she needed to comply.

11 Q. And that's in response to one of the
12 complainants inquiring about?

13 A. Yes, ma'am. I believe it was the
14 female. I'm not sure of the names, but I believe it
15 was the female. He was on the other side of the
16 room. I was on one side, he was on the other, and
17 she was talking to him in kind of a low voice, just
18 inquisitive. And he did state, ma'am, when I
19 speak --

20 MR. O'LEARY: Objection.

21 THE WITNESS: -- very clear English.

22 MR. COOPER: Until the ruling is
23 determined.

24 MR. O'LEARY: I don't know if he was
25 talking about my client, which isn't hearsay, or if

1 he's talking about the other officer.

2 MR. GANJEHSANI: Can you just rephrase
3 that?

4 MR. O'LEARY: Rephrase that.

5 BY MS. ERWIN:

6 Q. Who made -- when you indicated that the
7 statement was speaking very clear English, who made
8 that statement?

9 A. Mr. Sorrell.

10 Q. Okay.

11 A. Officer Sorrell.

12 Q. Okay. What was the general demeanor of
13 the three individuals once you arrived?

14 A. Lackadaisical -- don't know if that's
15 quite right. They were humble.

16 Q. Do you remember indicating in your
17 statement that you indicated surprise that there
18 were three individuals being arrested?

19 A. I don't remember exactly just being
20 surprised it was three, but yes, I mean once the
21 proceed -- once I got there and found out afterwards
22 they were already handcuffed and what was taking
23 place, yeah, I kind of thought it was a little bit
24 over, but I was not there, so I could not make an
25 educated decision on what he was doing. From what I

242

1 was being told, it seemed a little bit over the top.

2 Q. And you believe -- and your statement
3 actually indicates that they were being arrested
4 because the female would not follow direction, was
5 being disobedient?

6 MR. O'LEARY: Objection.

7 BY MS. ERWIN:

8 Q. The first sentence of the last
9 paragraph.

10 A. No personal knowledge for that.

11 MR. GANJEHSANI: Ms. Erwin.

12 BY MS. ERWIN:

13 Q. Officer Harris, can you read the first
14 sentence of the last paragraph on that first page,
15 Page 66?

16 A. Sorrell told me the reason they were
17 being arrested is because the female would not
18 follow the direction, was being disobedient to him.

19 Q. Okay. And I think you -- you said your
20 impression was once you got full understanding of
21 the facts, everything that had transpired, it was
22 your belief that arresting all three individuals was
23 excessive?

24 A. Yes, ma'am.

25 Q. Officer Harris, let me ask you: You

1 actually transported Ms. Swanson?

2 A. Yes, ma'am. I believe that's her name.

3 Q. Okay. And her demeanor during the
4 transport?

5 A. Apologetic.

6 MS. ERWIN: Okay. That's all I have.

7 CROSS-EXAMINATION

8 BY MR. O'LEARY:

9 Q. Okay. Just a couple of questions. You
10 got the original call, but you were delivering
11 something to the governor's office or the governor's
12 mansion?

13 A. No, sir. I'm the supervisor for the
14 night, so the call had actually came to me and I
15 sent it to them accordingly.

16 Q. Okay. And at some point you got a call
17 for some extra cuffs, correct?

18 A. Yes, sir.

19 Q. And then you took the cuffs over.

20 A. Yes, sir.

21 Q. And that would indicate to you that
22 someone was arrested if they needed the cuffs?

23 A. Yes, sir.

24 Q. So the arrest was already effectuated by
25 the time you got there?

Transcription of Proceedings on June 27, 2011 - October 25, 2011

244

1 A. By the time I got there, yes, sir.

2 Q. And your car had a video camera,
3 correct?

4 A. Yes, sir.

5 Q. And I think isn't it the DPS policy to
6 transport females, you have to call in the mileages
7 and have the video cameras and all that?

8 A. Yes, sir.

9 Q. For assurances for the safety of the
10 female?

11 A. Yes, sir, correct.

12 Q. Now, you said you might -- you thought
13 it might have been excessive, but you don't know any
14 of the facts that surrounded it, do you?

15 A. Not the total, no.

16 Q. And you weren't there at the time?

17 A. No, sir.

18 Q. And it's standard policy if you arrest
19 somebody to pat down the people you arrest, namely
20 the males, correct?

21 A. Yes, sir.

22 Q. Now, were you aware that the female had
23 not been patted down?

24 A. No, sir, I was not.

25 Q. Did you call -- did anybody call a

1 female officer to come over and pat her down at that
2 point?

3 A. Not at that point. Not until we got to
4 the jail.

5 Q. And did you put her into your patrol car
6 and transport her?

7 A. I believe myself and Sorrell put her in
8 the car.

9 Q. Didn't have any trouble getting her in
10 and out, did you?

11 A. No, sir.

12 Q. You weren't there very long, were you?
13 I'm not trying to trick you, I just don't know.

14 A. Oh, no. I'm just trying to get a --
15 maybe 10 minutes. Just enough time from...

16 Q. To pick her up to transport her?

17 A. Well, actually, I believe it was enough
18 time where he was still writing up the tickets.

19 Q. Okay. And then you transported her to
20 the Richland detention center. Did Sorrell go at
21 the same time with the two male subjects?

22 A. If it wasn't right at the end, it was
23 very shortly after.

24 Q. And then when you get to the jail, you
25 just drop them off with the jail people, take your

Transcription of Proceedings on June 27, 2011 - October 25, 2011

246

1 cuffs, sign them in and then leave, right?

2 A. Sort of.

3 Q. Sort of, okay.

4 A. No, I mean, yes, we do go in depending
5 on how busy they are in the booking. I believe I
6 actually stayed until he arrived with his two and I
7 think we left together.

8 Q. And the reason that you probably stayed
9 was that they can't take them into the jail unless
10 there's some kind of a document to put them in jail,
11 right, namely a ticket in this case?

12 A. That, and once you're locked in, you
13 can't leave until they let you out.

14 Q. Okay. Did you talk to her on the
15 transport at all?

16 A. Yes, sir. I tried make conversation
17 with everybody.

18 Q. Did you turn the video camera on her to
19 try to key in on her during the transport?

20 A. Yes, sir.

21 Q. Did you have the audio on?

22 A. Yes, sir.

23 Q. Do you recall suggesting to her to bring
24 a complaint against this officer?

25 A. If she feels she has the right to. She

1 said she felt she was unjust -- I said, well, then
2 that will be decided if you want to file a complaint
3 and it will be followed up.

4 Q. Did you tell her where to go to file a
5 complaint?

6 A. I don't recall telling her where to go.
7 I think the only thing I did state to her, she was
8 trying to keep her name clear and I stated, well, if
9 you would like, pretrial intervention is also a form
10 of a way to also clear your record. Nothing was
11 said as far as what she needs to do precisely. I
12 was just giving her some options if she felt that
13 she was unfairly treated.

14 Q. Was that on all your video recording?

15 A. That was on the recording. What else is
16 on there, I don't know.

17 Q. Did you submit that recording device to
18 Carter in Internal Affairs or OPR?

19 A. I sent it to my chain of command.
20 Sergeant Calhoun, I believe, took it from there.

21 Q. And then you wrote an affidavit on this
22 whole incident?

23 A. Yes, sir.

24 Q. In the incident, did you put anything in
25 there about advising her to file a complaint?

Transcription of Proceedings on June 27, 2011 - October 25, 2011

248

1 A. No, sir.

2 Q. Did you ever compare your original
3 affidavit to this document, this transcription?

4 A. I never held them side by side. I'm
5 just going off of memory.

6 Q. So you don't know if it's complete from
7 what you wrote or not, do you?

8 A. Pretty much -- I'm pretty confident.
9 Yes, sir, I'm confident about it.

10 Q. Did you keep a copy of that affidavit?

11 A. I believe it's on the computer. If we
12 need it, we can always pull it up.

13 MR. O'LEARY: Thank you. No further
14 questions.

15 REDIRECT EXAMINATION

16 BY MS. ERWIN:

17 Q. Just briefly. Officer Harris, in
18 reference to anything with the complaint, are you
19 under obligation to advise the individual if they
20 inquire, that there is a complaint process?

21 A. If they inquire, yes.

22 Q. Right. So if someone asks anything
23 about a complaint, I mean, it's not like you're
24 suggesting let's go file a complaint, but if they
25 ask you, you have to tell them, you have that right,

1 and it's certainly your option to do that?

2 A. It is their right to file a complaint,
3 yes.

4 Q. As well as, I think you indicated you
5 also referred to her that pretrial intervention was
6 a possible avenue that she might want to pursue?

7 A. It was just if she is someone who has a
8 clean record and would like to -- just had one lapse
9 in judgment, this may be an avenue she can take,
10 just offering that as a suggestion.

11 Q. That's something you would suggest
12 anybody who inquires?

13 A. Anybody, if you got -- they're a halfway
14 decent person, don't have a big criminal background
15 or haven't already used it before, true.

16 MR. COOPER: Mr. O'Leary?

17 RECROSS-EXAMINATION

18 BY MR. O'LEARY:

19 Q. You didn't suggest to her to file a
20 lawsuit too, did you?

21 A. No, sir.

22 Q. Did you suggest the filing a complaint
23 to the men that were there, did you?

24 A. No, sir. I -- pretty sure I didn't talk
25 to either one of them.

Transcription of Proceedings on June 27, 2011 - October 25, 2011

250

1 Q. You've never worked with Sorrell as his
2 partner or anything, have you?

3 A. When he was on my shift.

4 Q. Yeah, but you never worked with him like
5 two to a car or something like that, have you?

6 A. No, sir. We don't have the manpower for
7 that.

8 MR. O'LEARY: Okay. No further
9 questions. Thank you.

10 MS. ERWIN: That's all.

11 MR. COOPER: Any of the panel members
12 have any questions? Can this witness be excused?

13 MS. ERWIN: Yes, sir.

14 MR. O'LEARY: Yes.

15 MR. COOPER: For the record, this
16 witness is excused.

17 MR. O'LEARY: Why don't we take five
18 minutes?

19 MR. COOPER: Got any objection to that?

20 (A recess transpired.)

21 MR. GANJEHSANI: Let me ask you this,
22 Ms. Erwin. They've indicated that only part of the
23 video is what needs to be looked at. Obviously, you
24 have the right to ask that the entire video be
25 looked at or you may have another opinion on it

1 either way.

2 MR. O'LEARY: It's only eight minutes,
3 the whole thing. Probably can watch the whole thing
4 if you want.

5 MS. ERWIN: If we're going to watch it,
6 I prefer to watch the whole thing.

7 MR. O'LEARY: That's fine.

8 MS. ERWIN: That's fine. Nobody blink
9 their eyes at the wrong time.

10 (A recess transpired.)

11 MR. COOPER: Speak clearly so your
12 testimony can be picked up by the microphones. And
13 also, you may refer to the book on the desk. And
14 the pages are numbered in the upper right-hand
15 corner.

16 Joseph, are we on the record?

17 MR. MILLER: Uh-huh.

18 MR. COOPER: Would you please state your
19 full name, please.

20 MR. ROGERSON: It's Kristopher Allen
21 Rogerson. R-O-G-E-R-S-O-N.

22 MR. COOPER: Rogerson.

23 MR. ROGERSON: Yes, sir.

24 KRISTOPHER A. ROGERSON

25 being first duly sworn, testified as follows:

Transcription of Proceedings on June 27, 2011 - October 25, 2011

252

DIRECT EXAMINATION

BY MS. ERWIN:

Q. Officer Rogerson, you're employed by the Bureau of Protective Services; is that correct?

A. Yes, ma'am, that's correct.

Q. Okay. And did you -- were you asked for or were you required to respond to an incident with Officer Sorrell and three other individuals outside the Lottery Commission back in March of 2010?

A. Yes, ma'am, that's correct.

Q. Did you or were you asked to provide by Investigator Carter with the Office of Professional Responsibility, were you asked to provide a statement in reference to what you observed that evening?

A. Yes, that's correct.

Q. Okay. I'm going to show you a document. See if you can look at that.

A. Yes, ma'am, appears to be.

Q. That's the copy of the report or the statement that you provided?

A. Yes, ma'am.

MS. ERWIN: Okay. I'd like to mark this in as an exhibit, please.

MR. COOPER: What is that, Agency

1 Exhibit Number 5? Is that the affidavit?

2 MS. ERWIN: Yes, sir.

3 BY MS. ERWIN:

4 Q. Officer Rogerson, when you arrived on
5 the scene that evening, where exactly were the
6 individuals located?

7 A. Outside the studio of the Lottery. All
8 three individuals had their hands placed against the
9 wall, feet spread apart.

10 Q. Okay. And the actual call that came out
11 to which you responded was what?

12 What was the information you received?

13 A. Initial call on the radio was, had
14 individuals throwing bottles against the building
15 and the officer needed assistance.

16 Q. Okay. And when you arrived, I think you
17 indicated that the individuals were against the wall
18 with their hands -- leaning against the wall with
19 their hands against the wall?

20 A. Yes, ma'am.

21 Q. At that point had they been placed under
22 arrest?

23 A. No, ma'am, not at that point.

24 Q. Okay. Were the individuals making any
25 noise, doing anything as far as their activity once

254

1 you arrived?

2 A. No, ma'am.

3 Q. Okay. Do you recall one of the
4 witnesses -- or did Mr. Sorrell, I guess when you
5 were there, ask the witnesses to -- or direct them,
6 the witnesses or complainants, to sit down on the
7 ground?

8 A. Yes, ma'am, he eventually told them to
9 sit down.

10 Q. Do you recall the female individual
11 indicating that she had an issue with being able to
12 do that?

13 A. Yes, ma'am.

14 Q. Okay. What was her --

15 A. She indicated there that she had injured
16 her tailbone previously and that she couldn't sit
17 down.

18 Q. And what was Mr. Sorrell's response to
19 her comment as far as her inability to comply with
20 that request?

21 A. He responded, I told you to sit down.

22 Q. And what was your impression of, I guess
23 as far as his response to that information that she
24 had relayed?

25 A. He was just being a little over

1 assertive as far as his commands, but again, I don't
2 know what the situation was when I first arrived.

3 Q. I think you indicated in your statement
4 that -- or you wrote a statement -- let me ask you
5 if this is correct: That you thought his delivery
6 was an attempt to intimidate her?

7 A. It appeared so.

8 Q. Okay. You also indicated that you sort
9 of intervened by trying to distract Officer Sorrell?

10 A. By that point, he had already
11 individually questioned them one by one, and as they
12 were done he asked them to sit. She was the last
13 one. So basically...

14 Q. I guess what exactly was it about what
15 was transpiring that made you think you needed to
16 distract Officer Sorrell?

17 A. Well, when I first approached, I went
18 and stood back up while he individually --
19 interviewed them each one individually. She was the
20 last one. And that's about the time that I arrived.
21 He asked her to go over there and talk to her
22 individually. And then that's when he said -- asked
23 her to sit down.

24 Turned around to speak with me,
25 indicating that he needed my ticket book. And then

256

1 we turned back around, she was still standing. He
2 said, I told you to sit down, started to approach
3 and then that's when I called him back to continue,
4 kind of initially, telling me, I guess.

5 Q. Okay. You indicated in your statement
6 too, I guess, did you determine exactly what it was
7 the individuals had done that evening?

8 A. Yeah. Well, through the female, because
9 I was looking around when I first got there, as he
10 was talking to the second male. I didn't --
11 couldn't actually figure out what was going on, just
12 because the scene or the message that was going on
13 the radio was completely different from the time I
14 approached or was on the scene.

15 Q. Okay. I believe you indicated that
16 one -- that bottles were being thrown?

17 A. That's correct.

18 Q. Did you determine actually what had been
19 thrown that evening?

20 A. Yes, ma'am. Through the female, she
21 stated that her friend had come into town, so they
22 just kind of surprised him and had a little water
23 balloon fight. And indicated that during the
24 process of cleaning up is when Officer Sorrell
25 approached.

1 Q. Okay. So when you arrived, you didn't
2 notice anything as far as anything on the ground?

3 A. Everything was clean, other than water.

4 Q. Do you remember indicating in your
5 statement your impression as far as the actual
6 arrest being unnecessary?

7 MR. O'LEARY: Objection. Calls for a
8 conclusion.

9 BY MS. ERWIN:

10 Q. Can you indicate -- or read for the
11 committee the last statement -- sentence on the
12 first page of your report.

13 A. The last sentence?

14 Q. Yes, sir, Page 64.

15 A. Based on what I saw, I did not think a
16 physical arrest was necessary.

17 Q. Okay. And I believe you indicated -- go
18 ahead and read the next -- first sentence on the
19 next page, Page 65.

20 A. The way the subjects acted towards me
21 was completely different from the way they acted
22 toward Sorrell.

23 Q. Can you explain a little bit about that
24 as far as what you meant as far as how they were
25 interacting with you as opposed to interacting with

258

1 Mr. Sorrell?

2 A. They were more compassionate, I guess.
3 They -- the way I guess they never gave me any
4 attitude or anything. Every -- if I asked a
5 question, it was always soft-spoken and honest, I
6 guess, or sincere.

7 Q. You never noticed -- did you notice
8 anything with them being as far as loud, boisterous,
9 uncooperative, anything along that nature?

10 A. No, ma'am.

11 Q. Okay. Read the last sentence on your
12 affidavit on Page 65 for us, please.

13 A. What part?

14 Q. Page 65, the last sentence of your
15 affidavit.

16 A. Oh, yes, ma'am. I was not surprised --
17 it's the last paragraph?

18 Q. The last two sentences, right.

19 A. Okay. I was embarrassed about Sorrell's
20 behavior and was not surprised three subjects
21 complained and I was sort of expecting it.

22 Q. What do you mean by as far as being
23 embarrassed by his behavior and the fact that you
24 weren't surprised that a complaint was received?

25 A. Just the way he was constantly trying

1 to -- I don't know. It was almost like he was
2 trying to prove something. You know, I'm in charge,
3 you know, do what I say type thing.

4 Q. In other words, the conduct on his part
5 that you felt was unnecessary to properly to handle
6 the situation?

7 A. Well, usually you respond to how you're
8 being responded to, and immediately it was always a
9 little much, I guess you could say.

10 Q. A little much on Mr. Sorrell's part?

11 A. Yes, ma'am.

12 Q. So is it your opinion that his behavior
13 escalated rather than subdued the situation?

14 A. Correct.

15 Q. Were you actually -- or did Mr. Sorrell
16 direct you at some point while you were there, prior
17 to the individuals being transported, to separate
18 Ms. Swanson and one of the other males that was
19 there?

20 A. Yes, ma'am. That was after the
21 handcuffs were placed on all three individuals, she
22 began to cry and put her head or her eyes into the
23 blond-haired subject.

24 Q. And I think you indicated you -- your
25 statement was they weren't bothering anyone?

Transcription of Proceedings on June 27, 2011 - October 25, 2011

260

1 A. Well, he had stated that, you know,
2 separate those two, and I just -- I didn't do
3 anything. I mean, we were all there. You know,
4 they understood, so...

5 Q. So you took no action to do it?

6 A. Right.

7 Q. You didn't think it was necessary?

8 A. No.

9 Q. Okay.

10 A. I mean, they were...

11 Q. There was nothing threatening by the way
12 they were behaving?

13 A. No. She was crying and...

14 Q. Wiping her face on his shoulder?

15 A. Pretty much.

16 Q. Okay. Again, I think you said you
17 weren't surprised that a complaint was filed --

18 A. Right.

19 Q. And basically if you can, I guess kind
20 of -- I mean, what is it that made you automatically
21 make that impression that evening that you felt
22 pretty sure there was going to be a complaint filed?

23 A. Everything seemed to be escalated on the
24 officer's part than the subjects. I wouldn't want
25 to be treated like that. So that's the way I saw

1 it. I mean, a little too much. I guess, after
2 finding out exactly what the circumstances were, a
3 little too much.

4 MS. ERWIN: All right. That's all I
5 have.

6 CROSS-EXAMINATION

7 BY MR. O'LEARY:

8 Q. Just a couple of questions. Did you
9 hear Officer Harris in the building telling her to
10 file a complaint?

11 A. No.

12 Q. You did not. Did you ever hear him say
13 that?

14 A. No.

15 Q. Okay. How long have you been on?

16 A. May 2008. Maybe a little more than
17 that.

18 Q. And are you -- is this a senior officer
19 to you in terms of time and seniority?

20 A. Yes, sir.

21 Q. Okay. And he asked you or told you to
22 do something and you didn't do it?

23 Like separate those two?

24 A. There was no need that did --

25 Q. That's your opinion, right?

Transcription of Proceedings on June 27, 2011 - October 25, 2011

262

1 A. They form it on their own, absolutely.

2 Q. Is it the policy of the Department of
3 Public Safety to let two people, one male and one
4 female to kind of cuddle while they're waiting?

5 I mean, is that a policy?

6 A. I don't think so, it's stated exactly
7 like that.

8 Q. They were already handcuffed, weren't
9 they?

10 A. That's correct.

11 Q. But do you know if she had even been
12 searched at that point?

13 A. Not at the time.

14 Q. You think that might -- are you taught
15 to separate subjects?

16 A. Usually, yes.

17 Q. You're taught to separate males and
18 females too, aren't you?

19 A. Yeah.

20 Q. And you're taught not even to transport
21 them in the same vehicle; isn't that correct?

22 A. That's right.

23 Q. But you're letting them sit there, he
24 tells you to move them, and you don't move them
25 because what, they move themselves?

1 A. They were standing.

2 Q. Did you hear him ask her to sit down?

3 A. Yes.

4 Q. And she just said she couldn't?

5 A. She had already indicated that she
6 couldn't.

7 Q. So you just --

8 A. And he acknowledged.

9 Q. Okay. That she didn't do it?

10 A. Right.

11 Q. Okay. If you were trying to control
12 three people and one of them refused to sit down,
13 would that like bother you?

14 A. Depending on the circumstances and...

15 Q. Isn't it true you ask them to sit down
16 and you sort of put them in a disadvantage, that
17 they can't take off and run on you and stuff, even
18 though they're cuffed, correct?

19 A. Okay.

20 Q. And you transported the two, one of the
21 males and who -- did you transport anybody?

22 A. I didn't transport anyone.

23 Q. Okay. How long were you actually there
24 at the scene?

25 A. Basically until they got back from the

264

1 point of my arrival.

2 Q. Okay. But you'd agree that they were
3 throwing balloons, correct? Water balloons?

4 A. As far as from my understanding.

5 Q. You never saw the video or anything?

6 A. I never saw the video or the balloons.

7 Q. And you weren't there at the time he
8 initially approached them, you got there in there
9 subsequent to that, correct?

10 A. Right.

11 Q. Isn't it true you're taught, when you're
12 making an arrest, to be forceful, to use -- to use a
13 strong voice and commands?

14 A. It depends.

15 Q. Isn't that what you're taught?

16 You're taught to use forceful commands;
17 isn't that true?

18 A. You can, sure.

19 Q. Okay.

20 A. To be...

21 Q. What if people ignore you?

22 A. To be clear.

23 Q. What if they ignore you, what do you do?

24 A. I guess you can write them a ticket if
25 it comes down to it.

1 Q. Isn't the ultimate decision to whether
2 to make an arrest or write a ticket, that left to
3 the officer whose case it is?

4 A. It certainly is.

5 Q. It certainly is. It always is, isn't
6 it?

7 A. Yes.

8 MR. O'LEARY: No further questions.

9 Thank you.

10 REDIRECT EXAMINATION

11 BY MS. ERWIN:

12 Q. Just briefly. Officer Rogerson, you
13 indicated that -- I think your testimony was you
14 took no action and the individuals ultimately, I
15 believe your statement was, separated themselves?

16 A. Correct. We were in a lobby. Everyone
17 was right here. They were against the walls. One
18 individual was sitting down because the female
19 didn't -- there was a couch. She didn't want to.

20 So those two were standing. And that's the point
21 when she found out she was actually going to jail,
22 is when she started crying, wiping her face on his
23 shirt.

24 Q. But they separated themselves?

25 A. Right.

266

1 Q. Okay. And as far as making an arrest or
2 not making an arrest, the bottom line is, in order
3 to effect any charge, whether it's a custodial
4 arrest or not, you have to have the factual basis,
5 the probable cause to make that arrest, right?

6 A. Right.

7 MS. ERWIN: That's all I have.

8 MR. COOPER: Mr. O'Leary?

9 MR. O'LEARY: I have no further
10 questions.

11 MR. COOPER: Any questions from the
12 panel? No? All right. Can this witness be
13 excused?

14 MR. O'LEARY: Yes.

15 MS. ERWIN: Yes.

16 MR. COOPER: For the record, this
17 witness is being excused.

18 (A recess transpired.)

19 MR. COOPER: All right. This panel will
20 adjourn for today and we will reconvene at a later
21 date, potentially either August 8th, 19th, or the
22 23rd. The date will be confirmed and everyone --
23 all parties will be notified. Thank you very much.

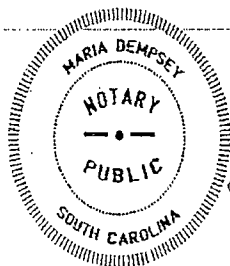
24 (The hearing was adjourned.)
25

1 CERTIFICATE OF REPORTER

2
3 I, Maria D. Dempsey, Registered Professional
4 Reporter and Notary Public for the State of South
5 Carolina at Large, do hereby certify that the foregoing
6 tape transcript was produced to the best of my ability.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending or
9 interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 8th day of November, 2011, at
12 Charleston, Charleston County, South Carolina.
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14
15
16
17
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19



24 *Maria Dempsey*
25

Maria Dempsey, RPR
My commission expires:
October 13, 2019

I N D E X

	Page	Line
WITNESS/EXAMINATION		
E. SHAWN SORRELL	22	17
DIRECT EXAMINATION BY MS. BURNETTE	22	19
CROSS-EXAMINATION BY MS. ERWIN	71	16
BERNARD MALONE	92	14
DIRECT EXAMINATION BY MS. BURNETTE	92	16
CROSS-EXAMINATION BY MS. ERWIN	97	25
JOHN A. O'LEARY	104	7
DIRECT EXAMINATION BY MS. BURNETTE	104	9
CROSS-EXAMINATION BY MS. ERWIN	111	23
SAMANTHA A. SWANSON	125	16
DIRECT EXAMINATION BY MS. ERWIN	125	18
CROSS-EXAMINATION BY MR. O'LEARY	142	12
REDIRECT EXAMINATION BY MS. ERWIN	162	25
RECROSS-EXAMINATION BY MR. O'LEARY	164	4
MATTHEW C. KEITH	166	24
DIRECT EXAMINATION BY MS. ERWIN	167	1
CROSS-EXAMINATION BY MR. O'LEARY	184	25
C. LEE CARTER, III	202	14
DIRECT EXAMINATION BY MS. ERWIN	202	16
CROSS-EXAMINATION BY MR. O'LEARY	225	15

(Index Continued on the Following Page)

Transcription of Proceedings on June 27, 2011 - October 25, 2011

269

I N D E X

	Page	Line
MARVIN E. HARRIS	237	7
DIRECT EXAMINATION BY MS. ERWIN	237	9
CROSS-EXAMINATION BY MR. O'LEARY	243	7
REDIRECT EXAMINATION BY MS. ERWIN	248	15
RECROSS-EXAMINATION BY MR. O'LEARY	249	17
KRISTOPHER A. ROGERSON	251	24
DIRECT EXAMINATION BY MS. ERWIN	252	1
CROSS-EXAMINATION BY MR. O'LEARY	261	6
REDIRECT EXAMINATION BY MS. ERWIN	265	10
CERTIFICATE OF REPORTER	267	1

REQUESTED INFORMATION INDEX

(No Information Requested)

E X H I B I T S

(No Exhibits Proffered)

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0	105:11 131 (1) 30:10 137 (1) 27:22 14 (3) 27:13;122:3,4 14th (3) 85:22,23;226:14 15 (3) 105:5;180:20;269:6 16- (1) 24:17 16-17-530 (2) 108:16;112:2 17 (3) 23:18;64:23;269:7	2004 (2) 16:15;63:3 2005 (1) 16:15 2008 (4) 83:7,12;220:11; 261:16 2009 (1) 185:5 2010 (22) 13:15;16:2,15;18:4; 31:1,3,22;62:4;63:17; 82:23;84:10;93:4; 107:11;112:24;148:13; 163:19;167:5;203:1; 207:3;222:10;237:15; 252:9 2011 (2) 3:5;163:23 204 (1) 212:19 20s (1) 65:1 20-something-year-old (1) 64:25 20th (1) 207:2 20-year (1) 12:23 21 (3) 85:24;186:10;206:19 21st (1) 196:14 23 (1) 146:5 237 (2) 269:3,4 23rd (1) 266:22 24 (1) 269:8 243 (1) 269:5 248 (1) 269:6 249 (1) 269:7 25 (1) 12:25 251 (1) 269:8 252 (1) 269:9 261 (1) 269:10 265 (1) 269:11 267 (1) 269:12 26th (1) 220:6 27th (2) 3:5;168:1	28th (12) 13:15;16:2;18:4;21:1; 31:22;80:16;107:11,16; 127:2;148:13;168:1; 237:15 2nd (1) 25:19 3 3 (2) 167:22;215:20 30 (8) 12:25;48:22;95:2; 112:23;123:2;146:7,8; 188:2 300 (1) 104:24 3027 (1) 66:25 30-year-old (2) 64:22,24 39 (3) 64:11;65:22;80:23 3rd (5) 126:3;161:2,5;162:4,5 4 4 (2) 215:20;220:15 4/21/2010 (1) 148:14 4:00 (1) 234:18 4:15 (1) 234:18 4:20 (1) 235:23 414 (2) 122:3,4 44-A (1) 92:24 48 (1) 59:25 4th (1) 62:4 5 5 (1) 253:1 5:30 (2) 32:3,4 5:50 (1) 32:3 6 6 (1) 269:10 60 (2) 33:2;206:22	64 (1) 257:14 65 (3) 257:19;258:12,14 66 (2) 239:20;242:15 69 (1) 104:25 7 7 (2) 269:3,5 70 (3) 33:2,5;98:16 71 (3) 98:16;99:8,14 72 (1) 59:25 76 (2) 73:8;77:14 79 (4) 212:11,18,19,22 8 8 (2) 77:24,25 8,000 (1) 34:15 8-17-350 (1) 4:23 87 (3) 29:14,17,18 88 (1) 105:25 8th (3) 163:23,23;266:21 9 9 (1) 269:4 911 (2) 119:3,10 95 (1) 23:1 A abandoned (1) 13:21 abbreviated (1) 218:4 ability (2) 11:19;135:24 able (5) 171:10;173:3;198:25; 236:16;254:11 above (3) 32:25;70:16;154:2 Absolutely (7) 47:14;51:15;64:8;
1	1730 (1) 32:1 17-month (1) 24:19 17th (1) 80:19 18 (4) 12:24;25:1,4;235:23 1800 (1) 32:1 18-year-old (2) 24:18;64:23 19 (2) 23:18;81:13 1964 (1) 107:20 19-718.07 (1) 3:17 1979 (2) 22:25;23:10 19th (2) 80:25;266:21 2 2 (3) 29:9;126:15;191:23 2.3 (1) 62:12 2.4 (1) 62:15 2:30 (15) 37:5;107:15;108:5; 110:25;112:25;114:3; 123:2;143:6,12;155:7; 10;158:17;187:20; 200:6;229:25 2:35 (2) 37:5;68:16 2:45 (2) 155:10;229:25 20 (8) 10:8;22:25;23:2,20; 25:4;81:3,5;188:1 2000 (1) 25:19			
0230 (1) 70:19 0235 (2) 37:6;68:12 04 (2) 30:23;82:21 0530 (1) 32:1 08 (4) 85:23;225:19,24; 226:15				
1 (15) 4:25;5:3;11:14;29:9; 61:17;116:16;158:24; 165:16,25;200:15,19; 201:11;235:11;269:9,12 1.5 (1) 62:15 1:15 (4) 103:10,11,13,19 1:30 (1) 103:8 10 (11) 13:3;26:1;27:22; 58:22;62:23;115:14; 120:5;161:2;180:20; 245:15;269:11 10-year (2) 16:14;29:9 11 (2) 23:3;71:12 11:30 (1) 71:13 110 (1) 83:4 111 (3) 61:17,18,19 112 (1) 61:18 114 (1) 61:18 115 (3) 61:18,19;62:11 11th (5) 183:16,22;185:11,12, 22 12 (3) 69:1;89:12;105:11 12:20 (1) 103:7 120 (1) 212:21 12-hour (1) 32:4 12th (1) 16:5 13 (1)				

78:19;129:17;159:21; 262:1 abuse (3) 21:12;28:5;122:14 abused (1) 28:11 Academy (39) 31:8;83:13;85:16,20, 20;86:2,5,7,12,13,16,19, 21;87:4,6,10,19;105:4, 18,20;109:20;115:10,15; 120:5;218:10,20,22,24; 219:20,22,25;220:3,10; 221:6;222:9;226:1,21; 227:1,2 accept (2) 3:21;231:22 accepted (1) 24:21 access (1) 88:2 Accident (1) 3:11 accidentally (2) 53:18;68:4 according (5) 4:23;72:14;76:11; 80:18;221:14 accordingly (1) 243:15 account (2) 109:9;175:1 accurate (1) 175:1 accused (4) 26:15;169:2;179:16, 21 accusing (1) 179:24 Achievement (1) 25:8 acknowledged (1) 263:8 acknowledges (1) 70:18 across (10) 28:16;33:4,9;49:23; 56:17;113:19,21;131:6; 168:15;205:5 Act (7) 4:7,24;10:17;60:22; 134:2;137:17;182:7 acted (8) 19:20;20:9;95:17,23; 100:13,24;257:20,21 acting (3) 48:2;81:24;99:19 action (20) 4:9;6:6;30:4,13,20; 38:17;82:22,25;124:24; 158:21;184:15;200:24; 205:1;208:4;219:22; 220:3;222:3,7;260:5;	265:14 actions (1) 16:13 activated (1) 230:7 active (1) 86:19 actively (2) 228:20;229:14 activity (3) 220:6;222:20;253:25 acts (1) 20:16 actual (4) 185:5;189:20;253:10; 257:5 actually (44) 21:1;27:18;69:23; 71:25;73:9;80:17;114:6; 129:9;148:22;163:24; 165:4;169:2,14;176:5, 23;178:12;179:11; 180:5;183:1,12;195:24; 196:12;197:1,19,22; 198:3;212:5;225:22; 227:23;232:25;233:23; 237:21;238:12,18; 242:3;243:1,14;245:17; 246:6;256:11,18; 259:15;263:23;265:21 Adam (1) 232:6 add (1) 49:13 addition (1) 89:3 address (5) 5:9;67:8;79:15;83:16; 224:11 addressed (2) 224:11;226:8 addressing (1) 75:23 adjacent (2) 32:22;33:2 adjourn (1) 266:20 adjourned (1) 266:24 administer (3) 6:25;9:10;91:4 administered (2) 27:18;90:12 Administrative (4) 4:7;10:3,11;91:23 adolescents (1) 24:18 adopted (1) 216:3 adult (2) 199:23,23 adults (2) 13:19;229:25	advice (1) 11:2 advise (11) 22:8;78:3;92:9; 103:24;125:10;166:14; 202:7;216:20;217:8; 236:21;248:19 advised (8) 39:12;42:7,19;46:2; 86:18;225:2,6 advising (1) 247:25 affairs (2) 202:20;247:18 affect (1) 11:19 affected (1) 18:19 affecting (1) 46:8 affiant (1) 174:7 affidavit (33) 61:2;73:7;75:1;78:1; 125:25;126:2;137:20; 139:4;140:8;160:25; 161:1,6,7,14,15,18,20; 162:16;163:22;167:11, 16;171:19,22;172:20; 178:13;180:17;182:16; 247:21;248:3,10;253:1; 258:12,15 affidavits (1) 196:1 affirm (2) 9:12;91:8 afforded (1) 55:2 afraid (4) 136:4,5;147:17; 164:16 afterwards (2) 195:25;241:21 again (40) 16:17;19:24;20:18; 21:2;24:14;26:21;28:20; 34:14;41:17;42:3,45,18, 19;50:8;53:2;57:11,19, 20;66:2,7,9;68:12; 75:14;77:24;81:15; 87:11,22;88:2;95:22; 111:25;113:16;114:22; 115:6;116:2;134:3; 141:19;178:1;200:21; 216:19;255:1;260:16 against (49) 3:3;10:25;30:20; 41:19,24;73:14;83:14; 86:2,6;94:11;99:12; 116:7;117:22;124:25; 128:1,4;129:20;131:12, 13;134:19,23;146:13; 147:12,16;151:23;	163:10;168:22;178:17; 179:15,18;180:21; 181:11;192:3,19;205:14, 17;206:8,15;207:24; 208:6,11;219:22; 246:24;253:8,14,17,18, 19;265:17 age (1) 112:23 agencies (4) 118:17;119:16; 222:25;228:3 agency (23) 4:1,21;5:12,17;9:17; 10:8;79:6,13,20;80:8; 81:8,10;116:16;126:5, 14;163:10;167:21; 171:8;172:17;220:15; 223:4;227:23;252:25 agency's (1) 6:6 agenda (1) 10:14 agent (16) 15:9;58:5;65:8;66:16, 22;67:21,22,23;105:8; 109:7;149:15,20;153:14, 14;195:14,18 aggressive (9) 18:20;19:21;68:21,22, 23,24,25;85:8;122:20 ago (4) 38:4;53:10;104:24; 225:11 agree (6) 62:20;155:5;187:6,8; 188:3;264:2 agreeable (2) 12:3;103:7 agreed (2) 42:14;213:14 ah (1) 48:20 ahead (11) 7:4;11:25;43:8;66:1; 74:21;124:19;176:4; 201:4;234:11;235:11; 257:18 aimed (1) 184:16 air (2) 38:22;208:12 AJ (1) 220:8 Alabama (2) 23:11,13 alarmed (1) 36:9 alcohol (2) 82:11,13 alert (1) 208:20 allegation (1)	218:12 allegations (2) 85:11;209:23 alleged (2) 28:9;221:4 allegedly (1) 221:12 alleging (1) 82:14 Allen (4) 8:12;104:4;148:7; 251:20 allow (5) 5:24;21:13;46:9;88:6; 171:18 allowances (1) 70:24 allowed (12) 6:6;16:25;44:3;171:4, 5,17;174:24;177:16; 210:17,25;219:3;224:2 allowing (1) 20:24 almost (8) 23:20;100:15;120:8; 188:2;204:25;205:8; 230:11;259:1 along (9) 12:21;105:7;176:7; 179:25;182:18,24; 188:14;219:11;258:9 alteration (1) 214:13 alternative (2) 177:20;182:18 Although (1) 43:24 Alvin (3) 49:20;57:1;150:18 always (12) 13:9;26:2,20;69:4; 176:1;183:22;188:20; 209:5;248:12;258:5; 259:8;265:5 amount (4) 25:10;88:23;180:19; 184:3 amplified (1) 185:20 analyze (1) 106:16 angle (1) 181:7 angry (3) 52:19,20;61:9 ankle (1) 41:16 ankles (4) 128:8;131:10;132:5; 160:11 answered (4) 204:1;210:4;231:13, 17

antagonistic (2) 84:5;85:8	88:6	12:23;23:1;24:4,5; 25:7,8,9	140:24;205:21	attention (11) 4:3;11:11;16;34:12; 114:1;140:15;176:9; 194:22;24;195:5;218:13
anti-armor (1) 23:4	appreciate (5) 40:16;75:5;119:22; 175:4,4	around (38) 24:20;27:9;29:25; 37:22;39:6,12,16,18; 40:4;41:5,13;49:2;72:1; 88:9;96:20;102:5; 108:11;110:25;113:2; 114:8;121:19;145:14; 16;155:24;158:2; 173:23;187:1,2;197:12; 205:19;207:15;229:14; 17,18;236:10;255:24; 256:1,9	artist (1) 230:23	attitude (4) 213:12,23;215:17; 258:4
anticipate (1) 89:19	appreciated (1) 25:5	arrest (86) 15:16;16:9,18;18:7; 10,16,20,24;19:10,12; 15;20:15;21:10;28:10; 15;47:13,15;49:4,17,18; 50:11,12,16,19,19,25; 51:17;55:11;60:9;63:18; 67:12;68:9,11,15;70:9; 10;80:15;100:10;105:6; 106:8;107:1;108:21; 109:1,12,22;110:16; 114:25;116:3,10;134:6; 136:20,21,24;152:17; 164:24;179:7;181:23; 24;182:2,5;183:10; 189:9,9,10;195:11; 212:4,8;215:13,13; 219:2,19;228:21; 231:23;239:6;243:24; 244:18,19;253:22;257:6; 16;264:12;265:2;266:1, 2,4,5	ascertain (1) 205:11	attorneys (5) 12:8,11;19:22;125:21; 149:1
anxious (1) 21:7	apprehending (1) 178:10	arrested (40) 14:19,23;15:17;17:15; 18:15;51:18;56:23,24; 68:17;73:1;78:4,13,21; 99:18;100:7,16;101:15; 132:19;133:2;134:22; 148:5;152:18;157:18; 164:13,15;167:8; 178:14;181:14,18; 191:2;210:10;217:12,18; 25;228:17,17;241:18; 242:3,17;243:22	aside (2) 169:14,21	attorneys' (1) 70:24
anymore (2) 14:2;106:16	approach (8) 37:8,20;41:7,14; 73:12;84:25;178:2; 256:2	arresting (5) 23:8;121:22;182:8; 184:22;242:22	assailant (1) 39:10	attorney's (3) 163:4,6;196:2
anyplace (1) 116:10	approached (20) 41:11,12;42:18;73:18; 74:2;99:9;114:19;130:5; 24;136:7;156:25; 158:12;174:14;191:6; 198:14;207:23;255:17; 256:14,25;264:8	arrests (8) 16:2,6;21:2,7;23:8; 63:24;109:23;212:9	assault (4) 39:15;47:16,21;50:7	audio (8) 53:9;54:4,14,20; 58:12;134:2;138:9; 246:21
apart (20) 39:22,23;41:23,23; 99:10,13;128:9,13; 131:10;135:11;146:21; 156:19;169:5;179:23; 201:1;206:15;208:13; 15;214:19;253:9	approaches (1) 191:12	arrival (2) 198:21;264:1	assaulted (2) 39:9;48:18	August (1) 266:21
apartment (6) 33:5;140:22;142:17; 183:25;188:25;189:2	approaching (4) 178:4,5;199:21;214:8	arrived (18) 43:10,12;57:1;129:13; 168:14;205:20;207:16; 19;223:4;239:1;241:13; 246:6;253:4,16;254:1; 255:2,20;257:1	assigned (5) 13:16;31:20;93:10; 203:9;237:19	authentic (1) 233:7
apartments (8) 13:23;33:6;113:20; 141:11;145:25;183:2; 14;185:3	appropriate (5) 5:18;22:1;29:7;89:17; 168:18	arriving (2)	assignment (3) 20:21,22;85:16	authority (1) 122:14
Apologetic (1) 243:5	approval (1) 25:3		assignments (2) 31:3,18	authorized (1) 11:8
apologize (4) 80:21;83:2;98:15; 108:21	approximate (6) 84:9;105:5;106:12; 164:10;206:14;207:12		assist (1) 75:25	automatically (3) 46:3;80:1;260:20
apologized (1) 136:2	April (8) 80:19,25;81:13;83:7; 148:12;196:14;220:6; 222:10		assistance (3) 81:11;83:23;253:15	AV (1) 115:22
apparently (4) 121:3;206:16;208:12; 222:22	area (30) 14:2;32:10,21;35:17; 37:20;46:16;48:2;57:6; 108:4;112:25;113:1,17; 114:18;118:6,20;119:4; 140:9,21,23;141:11; 154:5;156:6,6;178:14; 183:4,5;191:16;204:24; 205:5;206:17		assistant (1) 4:1	available (2) 6:18;90:22
appeal (8) 3:2;4:22;6:5;10:3,6; 18,24;91:23	areas (3) 140:14;141:11;227:7		Assisting (1) 10:11	avenue (4) 20:12;92:24;249:6,9
Appeals (1) 3:16	arena (1) 70:11		associate (1) 23:24	average (1) 122:22
appear (2) 148:12;172:8	argued (1) 49:11		associated (1) 203:11	avoid (4) 20:14,22;158:3; 198:14
appearance (1) 4:14	argument (1) 37:14		Association (3) 104:21;105:22;196:25	await (1) 77:5
appearances (1) 149:25	Ariana (1) 125:6		assume (6) 57:19;139:11;157:10; 160:4;185:24;227:20	award (2) 25:7;70:23
appeared (7) 35:10,19;38:13,24; 108:11;214:18;255:7	arm (1) 38:11		assumed (5) 39:16;44:5;46:3,7; 96:19	awards (4) 12:25,25;24:23;25:5
appears (4) 30:3;35:20;204:23; 252:19	armed (1) 86:10		assumption (1) 44:8	aware (20) 41:2;141:10;150:11; 151:4;153:12;156:18,20; 21,23;158:10;183:23; 196:4,19;223:1,2;225:8; 226:14,19;227:22; 244:22
appellant (12) 3:23;4:21;5:11,14,15; 16;6:1;9:17;12:11;76:7; 124:13;174:6	armrest (1) 176:18		assurances (1) 244:9	away (15) 19:12;73:23;76:14; 94:12;130:10;144:24; 148:20,21,22;174:15; 178:20;191:11,13;
applicable (5) 81:21,23;112:7,8; 174:2	arms (2) 39:22;129:20		Atlanta (9) 43:19;45:1,15;127:6; 130:8;142:22;146:7; 153:13;168:5	
apply (1) 114:23	Army (8)		at-risk (2) 24:18,21	
appointment (1)			attack (2) 44:20;85:25	
			attempt (6) 67:25;68:3;140:14; 175:5;236:15;255:6	
			attempted (2) 53:13;83:14	
			attend (1) 83:25	

204:23;239:15 Aye (2) 11:4,5	198:15;256:23 balloons (66) 43:20,21;44:13,25; 45:1,16;47:18;64:15,23; 68:14,16;70:16;72:12; 94:5;108:4;113:2;127:8; 19,22;128:21;129:7,9; 130:14;142:1;143:11,14; 16,25;144:5,9,11,13; 145:6,9;147:18;148:3; 154:17,22,24;155:3,6; 157:15;158:18;168:10; 17,20;170:10;186:6,19; 21;187:20;197:13,14,15; 25;199:5,24;205:4; 207:13;213:22;229:15; 232:8,10;264:3,3,6	164:13;179:2;229:15 begins (1) 12:13 behalf (3) 17:3;18:1;57:13 behaving (1) 260:12 behavior (15) 68:21,22;83:17;84:5; 85:8;114:4;117:8; 177:13;205:24;215:25; 216:10,13;258:20,23; 259:12 behind (10) 25:4;33:4;36:25; 38:16;86:23;101:16; 134:25;146:24;157:6; 197:18 belief (4) 74:6,25;120:18; 242:22 believes (4) 76:10;108:1;118:4; 221:22 belligerent (1) 45:6 Bellinger (4) 65:15,16;66:6,11 belonged (2) 188:17;189:25 belt (1) 53:9 bending (1) 169:20 bene (2) 173:13,20 berated (1) 30:17 Bernard (3) 7:10;92:3,14 beside (2) 94:13;206:16 best (8) 39:24;76:16;134:2; 135:24;149:24;153:7; 209:12;236:13 better (6) 65:4;78:16;118:14; 138:11;221:8;224:10 bias (1) 138:17 big (3) 16:21;143:19;249:14 bigger (1) 77:3 biggest (1) 41:8 binder (8) 22:9;83:9;92:10; 103:25;125:11;166:15; 202:7;236:22 birthday (1) 154:22	bit (20) 13:23;29:23;63:14; 78:9;100:14;103:14; 126:18;128:15;143:8; 171:25;175:12;176:4; 184:1;185:25;199:8; 206:24;223:24;241:23; 242:1;257:23 black (1) 160:11 Blankenship (1) 164:19 bleach (3) 44:11,12,21 blind (2) 44:12,21 blink (1) 251:8 block (1) 65:9 blocks (1) 65:6 blond-haired (1) 259:23 blood (2) 44:15,21 blot (1) 126:9 blowing (1) 121:18 blown (3) 16:23;154:24;155:1 blue (1) 160:11 board (5) 5:9;28:16;49:23; 56:17;69:5 Bob (6) 148:23,25;149:1,3,6; 162:8 body (5) 38:4;74:9;131:12; 181:4,6 boils (1) 219:17 boisterous (21) 37:13;38:20;46:16; 48:1;61:9;72:23,24; 73:3;81:19,20;108:3,10; 18;112:13,21;113:6; 114:4,17;117:7;210:9; 258:8 boisterously (1) 72:18 Bolderson (1) 8:22 bond (2) 66:10;111:18 bonded (3) 148:17;151:19;190:13 bonding (1) 111:13 book (6)	13:12;48:12;83:8; 98:23;251:13;255:25 booked (4) 49:20;138:24;139:11; 197:9 booking (8) 51:6;57:2,3,4,16;58:5; 59:17;246:5 boss (1) 19:3 both (24) 3:22;4:5;5:24;7:2,3; 12:3;29:6;34:21;41:6; 45:13,23;56:7,10,11; 73:21;77:1;106:5;108:4; 109:21;110:17;123:24; 223:20;234:13;238:11 bother (4) 141:18;190:5,6; 263:13 bothered (1) 190:4 bothering (1) 259:25 bothers (1) 174:3 bottles (5) 35:18,21;238:4; 253:14;256:16 bottom (8) 32:15;38:6;65:22; 72:1;79:16;100:13; 208:7;266:2 bought (1) 168:10 bound (1) 4:11 bow (1) 221:20 boys (5) 94:20;150:5;153:13; 155:18;158:3 boy's (1) 109:7 BPS (2) 61:23;221:5 brace (1) 131:14 brass (1) 88:10 Bravo (1) 23:1 bread (2) 32:24;130:8 break (15) 51:12,13,13;71:9,12, 13;90:6;103:6,14; 127:21,22;143:23; 201:19,21;202:3 breath (1) 82:13 bribe (2) 95:4;100:7
204:23;239:15 Aye (2) 11:4,5	198:15;256:23 balloons (66) 43:20,21;44:13,25; 45:1,16;47:18;64:15,23; 68:14,16;70:16;72:12; 94:5;108:4;113:2;127:8; 19,22;128:21;129:7,9; 130:14;142:1;143:11,14; 16,25;144:5,9,11,13; 145:6,9;147:18;148:3; 154:17,22,24;155:3,6; 157:15;158:18;168:10; 17,20;170:10;186:6,19; 21;187:20;197:13,14,15; 25;199:5,24;205:4; 207:13;213:22;229:15; 232:8,10;264:3,3,6 bank (1) 34:6 bar (2) 48:24;104:21 base (1) 116:18 based (16) 6:5,6;19:13;23:13; 24:8;47:11;82:23;84:2; 109:2;116:25;121:10; 122:11;159:9;203:16; 220:22;257:15 basic (1) 211:8 basically (30) 18:22;105:20;106:7; 108:16;109:1;110:19; 112:4,16;113:18; 114:13;117:17;127:3; 151:5;154:4;169:2,10; 23;178:23;181:19,21; 184:14,18;203:19;210:6; 8;215:5;218:18;255:13; 260:19;263:25 basis (7) 18:16,17;19:9;89:2; 101:23;182:16;266:4 baton (1) 221:21 beat (2) 76:18;88:9 became (3) 26:19;35:9;164:18 Beck (2) 107:20;114:13 become (1) 173:19 began (10) 43:12;128:8,12; 131:10;134:21;144:9; 180:4,18,22;259:22 begin (2) 25:17;75:11 beginning (10) 3:19;25:23;64:1; 67:10;74:11;99:3,16;	164:13;179:2;229:15 begins (1) 12:13 behalf (3) 17:3;18:1;57:13 behaving (1) 260:12 behavior (15) 68:21,22;83:17;84:5; 85:8;114:4;117:8; 177:13;205:24;215:25; 216:10,13;258:20,23; 259:12 behind (10) 25:4;33:4;36:25; 38:16;86:23;101:16; 134:25;146:24;157:6; 197:18 belief (4) 74:6,25;120:18; 242:22 believes (4) 76:10;108:1;118:4; 221:22 belligerent (1) 45:6 Bellinger (4) 65:15,16;66:6,11 belonged (2) 188:17;189:25 belt (1) 53:9 bending (1) 169:20 bene (2) 173:13,20 berated (1) 30:17 Bernard (3) 7:10;92:3,14 beside (2) 94:13;206:16 best (8) 39:24;76:16;134:2; 135:24;149:24;153:7; 209:12;236:13 better (6) 65:4;78:16;118:14; 138:11;221:8;224:10 bias (1) 138:17 big (3) 16:21;143:19;249:14 bigger (1) 77:3 biggest (1) 41:8 binder (8) 22:9;83:9;92:10; 103:25;125:11;166:15; 202:7;236:22 birthday (1) 154:22	bit (20) 13:23;29:23;63:14; 78:9;100:14;103:14; 126:18;128:15;143:8; 171:25;175:12;176:4; 184:1;185:25;199:8; 206:24;223:24;241:23; 242:1;257:23 black (1) 160:11 Blankenship (1) 164:19 bleach (3) 44:11,12,21 blind (2) 44:12,21 blink (1) 251:8 block (1) 65:9 blocks (1) 65:6 blond-haired (1) 259:23 blood (2) 44:15,21 blot (1) 126:9 blowing (1) 121:18 blown (3) 16:23;154:24;155:1 blue (1) 160:11 board (5) 5:9;28:16;49:23; 56:17;69:5 Bob (6) 148:23,25;149:1,3,6; 162:8 body (5) 38:4;74:9;131:12; 181:4,6 boils (1) 219:17 boisterous (21) 37:13;38:20;46:16; 48:1;61:9;72:23,24; 73:3;81:19,20;108:3,10; 18;112:13,21;113:6; 114:4,17;117:7;210:9; 258:8 boisterously (1) 72:18 Bolderson (1) 8:22 bond (2) 66:10;111:18 bonded (3) 148:17;151:19;190:13 bonding (1) 111:13 book (6)	13:12;48:12;83:8; 98:23;251:13;255:25 booked (4) 49:20;138:24;139:11; 197:9 booking (8) 51:6;57:2,3,4,16;58:5; 59:17;246:5 boss (1) 19:3 both (24) 3:22;4:5;5:24;7:2,3; 12:3;29:6;34:21;41:6; 45:13,23;56:7,10,11; 73:21;77:1;106:5;108:4; 109:21;110:17;123:24; 223:20;234:13;238:11 bother (4) 141:18;190:5,6; 263:13 bothered (1) 190:4 bothering (1) 259:25 bothers (1) 174:3 bottles (5) 35:18,21;238:4; 253:14;256:16 bottom (8) 32:15;38:6;65:22; 72:1;79:16;100:13; 208:7;266:2 bought (1) 168:10 bound (1) 4:11 bow (1) 221:20 boys (5) 94:20;150:5;153:13; 155:18;158:3 boy's (1) 109:7 BPS (2) 61:23;221:5 brace (1) 131:14 brass (1) 88:10 Bravo (1) 23:1 bread (2) 32:24;130:8 break (15) 51:12,13,13;71:9,12, 13;90:6;103:6,14; 127:21,22;143:23; 201:19,21;202:3 breath (1) 82:13 bribe (2) 95:4;100:7

Edwin S. Sorrell v. SCDPS

brief (7) 5:25;89:16,18;201:18; 234:12,14;236:4	3:24;5:1,5,6,10;6:10; 12:1,19,20;21:22;22:15; 20;29:22;30:1;69:14,17; 21;71:4;84:18;89:13,20; 92:17,18;97:22;101:7; 102:22;103:1;104:6,10; 106:24;107:6,7,8; 111:21;119:21;124:3,8, 13	57:17;60:10;63:18;65:6; 73:24;81:15;86:4;87:13; 16;103:14;107:16; 126:24;127:24;128:3; 129:18,24,25;130:11; 131:3,19;136:22;142:7; 144:17;146:24;154:21; 168:21;174:13;179:11; 181:22,24;188:23; 189:4;197:18,22;198:8; 205:6;224:1;226:20; 243:14;253:10	canyon (1) 185:16 Captain (1) 220:8 car (43) 50:21;53:8,14,16,17; 54:9,20;55:15,19,21,23; 57:6,8,12;58:12;59:10; 69:7;88:18;110:21; 127:13;133:22,24; 134:1;136:16;137:18; 143:24;144:4,7,11; 150:25;151:2,5,6; 183:25;199:17;228:25; 25;229:1,2;244:2;245:5; 8;250:5 care (4) 17:8,11;65:18;238:20 career (10) 12:24;16:14;22:23,24; 25:18,25;27:7;29:9; 56:4;89:4 careful (2) 52:10,14 carefully (4) 18:11,18;21:16,17 Carolina (31) 3:3,5,13;10:25;24:3,5, 14,19;27:8;31:8,13;32:8; 8;41:22;53:12,24,25; 56:2,3;59:2;70:20; 79:11,18;85:3;104:22; 130:9;146:9;200:5; 211:17;226:16;227:24 Carter (13) 7:18;8:16,17;78:2; 202:13,13,14,18;217:8; 218:5;220:19;247:18; 252:12 case (46) 4:6;5:13,17;6:12;9:18; 19;10:4;17:17;18:10; 53:20;54:2;70:4;90:16; 91:13,14,24;94:14; 106:16,17,19;107:1,24; 109:4;111:7;114:6,13; 115:20;117:13,16;120:7; 25;121:3,15;122:2,2; 123:6;158:21;173:14; 174:3;203:8,8;209:11; 227:10,22;246:11;265:3 cases (7) 5:14;44:10,13;106:6; 7;107:19;117:24 cast (1) 116:9 Caucasian (1) 38:2 caught (2) 34:11;122:24 cause (22) 16:9,11,18;17:12; 47:12,14;51:20;61:5;	70:8,9;105:6;107:18,19; 110:17;111:6;117:2; 120:12,13;121:24; 122:10;221:17;266:5 caused (1) 180:24 causing (2) 13:20;82:9 CBR (1) 127:25 CBRE (3) 127:25;134:8;170:9 ceiling (1) 125:10 celebration (1) 198:20 cell (11) 52:12,16;58:18,21; 101:25;102:1,12; 151:18;160:14,15,24 Center (13) 26:10;37:25;38:10; 138:25;139:17;148:6,9; 150:8,18;190:11;197:9; 228:9;245:20 central (1) 227:6 certain (4) 28:2;173:21;176:9; 199:14 certainly (4) 236:5;249:1;265:4,5 CERTIFICATE (1) 269:12 certified (1) 23:20 chain (11) 14:14,21;15:13;50:5; 60:6,7;63:22;67:21,25; 218:21;247:19 chair (3) 11:20;139:21;233:23 Chairman (18) 5:1;10:22;17:25; 21:22;22:16;71:15; 84:15;102:14;104:6; 106:24;124:18;125:15; 126:7;142:11;166:23; 167:19;225:13;237:5 chairperson (1) 11:12 Challenge (2) 24:4,14 chance (8) 119:12;208:16;218:6; 220:20;221:1,2;224:2; 234:10 changed (1) 207:20 changes (2) 162:11;206:25 characterization (3) 182:10;213:14,15
bring (6) 11:15;54:11;151:22; 176:9;210:15;246:23 bringing (2) 102:3,6 brings (1) 139:7 broke (1) 145:20 broken (8) 31:15;33:8,11,12,15; 34:21,23;157:22 brother (4) 66:2,7,8,9 brought (8) 43:14;45:11;85:5; 158:23;162:9;177:14; 190:24;218:13 BSA (3) 230:18,22;231:1 building (48) 13:17;14:5;16:19; 27:10;32:10;33:20;34:2, 14;35:3,19,21;36:1; 40:11,14;71:21;72:2,6; 73:10;98:3,5,10;115:21, 23;119:14;127:25; 133:2;134:5,7,8,10; 144:2;149:19;150:1; 170:9;174:13;176:13; 179:11;181:13,16; 183:12,19;199:16; 219:10,10;221:7; 239:14;253:14;261:9 buildings (3) 13:24;130:18;238:5 buildup (1) 19:19 bulge (2) 52:8;58:21 bullets (1) 140:5 bullshit (1) 230:23 bully (2) 18:23;60:20 bullying (2) 20:10,16 bump (1) 132:13 Bureau (15) 25:20;26:5;27:1,6; 53:23;55:4;63:1;69:10; 87:20;119:9,14;196:20; 220:8;237:12;252:4 Burnette (38)	burst (5) 35:12;39:3,5;44:4; 142:2 burst (1) 144:16 bursting (2) 144:14;168:14 bus (1) 50:3 bush (1) 88:9 business (5) 14:2;118:6,23;141:11; 238:20 busting (1) 35:2 busy (1) 246:5 butt (11) 58:1,6;128:11;131:5; 139:25;153:22,25;154:2, 3,8,11 button (3) 53:18;54:14;58:24 C cafeteria (1) 227:6 calendar (1) 10:8 Calhoun (1) 247:20 call (23) 5:14;9:10;38:3;67:11; 77:9;119:9,10;124:14; 149:15;196:7;211:6; 223:17;226:20;230:19; 236:2;243:10,14,16; 244:6,25,25;253:10,13 called (16) 4:3;6:22;12:9;17:2,14; 35:15;38:4;74:22;75:24; 86:11;87:15;91:2;121:6; 213:14;238:22;256:3 calling (6) 21:23;53:5;188:7; 189:21,22;230:18 calls (4) 67:14;119:3;196:19; 257:7 came (47) 11:11;13:3;38:16; 43:19;45:14;52:6,24;	camera (21) 34:1,7;35:13;53:8,15; 54:3,10,13;55:16,19,23; 71:22;87:14;151:5,7,10, 11;204:22;207:5;244:2; 246:18 cameras (8) 13:18;34:3,20;35:6; 36:3;54:4,25;244:7 camera's (1) 207:17 campaign (1) 208:2 campus (4) 86:11;87:14,15,15 can (136) 11:22;19:2;21:7; 29:16,24,25;33:25;36:7; 37:1,3;39:25;42:9; 45:18,21;46:19,20; 48:13;49:16;51:5,12,20; 52:3;55:12;56:16;58:25; 59:3;60:2;63:14;67:15; 69:19;76:15,17;79:9; 85:5,9;87:12;89:10; 94:9;98:9,15;101:13; 103:8,23;108:16; 115:17;122:1,16;123:13, 23,25;124:16,18,22; 125:23;126:9,17,23; 127:14,17;129:3; 130:19;131:20;132:7,13, 14;133:11,12,12;137:25; 138:23;148:4;161:3; 166:2,13;167:15,24,24; 170:5,17;171:1;173:4; 20:174:9,18;175:13; 180:1;184:2;185:12; 193:4,6;199:6,14; 201:12,18;202:18; 203:18;206:25;212:13, 16;216:7;218:25; 219:14;220:19,25; 227:12;232:18,19,20,21, 24;234:6,11;235:4,6,9,9, 23;236:3,4,5,17;240:4; 241:2;242:13;248:12; 249:9;250:12;251:3,12; 252:18;257:10,23; 260:19;264:18,24; 266:12	causing (1) 180:24 causing (2) 13:20;82:9 CBR (1) 127:25 CBRE (3) 127:25;134:8;170:9 ceiling (1) 125:10 celebration (1) 198:20 cell (11) 52:12,16;58:18,21; 101:25;102:1,12; 151:18;160:14,15,24 Center (13) 26:10;37:25;38:10; 138:25;139:17;148:6,9; 150:8,18;190:11;197:9; 228:9;245:20 central (1) 227:6 certain (4) 28:2;173:21;176:9; 199:14 certainly (4) 236:5;249:1;265:4,5 CERTIFICATE (1) 269:12 certified (1) 23:20 chain (11) 14:14,21;15:13;50:5; 60:6,7;63:22;67:21,25; 218:21;247:19 chair (3) 11:20;139:21;233:23 Chairman (18) 5:1;10:22;17:25; 21:22;22:16;71:15; 84:15;102:14;104:6; 106:24;124:18;125:15; 126:7;142:11;166:23; 167:19;225:13;237:5 chairperson (1) 11:12 Challenge (2) 24:4,14 chance (8) 119:12;208:16;218:6; 220:20;221:1,2;224:2; 234:10 changed (1) 207:20 changes (2) 162:11;206:25 characterization (3) 182:10;213:14,15	

characterize (2) 184:8;216:12	choices (1) 46:19	42:5;135:15;165:17; 180:21;234:23;240:9;	coming (12) 35:8;45:1;94:1;127:5; 142:21;146:6;169:25; 197:16,18,20;198:24; 199:1	184:7
characterized (1) 217:5	choked (1) 131:25	21;241:7;247:8,10; 264:22	compassionate (1) 258:2	compatible (1) 4:5
charge (20) 19:3;33:20;47:20; 56:15,15,19,19,21; 83:14;86:16;122:10,12; 164:24;179:9,9;211:14; 214:23;216:7;259:2; 266:3	choose (2) 75:20;76:13	clearer (1) 98:24	command (8) 14:15,21;15:14;63:22; 94:11;123:5;218:21; 247:19	compelled (1) 172:7
charged (5) 14:9;53:20;108:15; 112:1;163:6	chose (7) 20:4;41:2;74:15;75:9; 80:7;83:16;178:2	clearly (20) 12:15;19:16;22:5; 30:11;52:13;61:5,6; 63:13;66:25;77:2;92:6; 93:11;103:23;123:1; 125:8;166:12;202:6; 205:2;236:20;251:11	commands (4) 159:19;255:1;264:13; 16:	compensation (2) 191:3,5
charges (6) 6:5;17:10;47:23; 54:18;132:18;165:5	chronologically (1) 176:4	clerk (2) 10:3;91:23	Commendation (1) 25:8	complain (5) 14:21;15:21;79:23; 81:8;183:20
charging (1) 121:14	church (1) 112:15	client (4) 187:7;188:4;225:23; 240:25	comment (19) 43:2;55:11;88:21; 122:16;132:15;133:12; 22:137:9,17;138:20; 139:1,5,9,14,16;140:6; 174:16;179:8;254:19	complainant (1) 215:2
Charies (6) 7:20,24;9:6,7;64:13, 13	cigar (1) 227:17	close (3) 48:5;81:3;156:22	commented (1) 221:24	complainants (11) 203:5;204:20;205:8, 12;209:22;211:12; 215:2;222:16;240:4,12; 254:6
Charlie (20) 127:5,5;128:18,22; 131:19;133:1,4;134:15; 139:22;143:14;144:12; 150:3;153:18;158:6; 170:16;178:18,20; 181:21;196:24;197:25	circle (1) 211:19	close-out (1) 61:22	comments (9) 28:19;68:20;86:2; 96:14;100:20;141:22; 170:13;177:10;203:25	complained (12) 15:3,7,22,25;28:14; 88:11;119:3,7;218:20; 222:24;227:13;258:21
chart (1) 30:21	circumstances (10) 46:13;67:12;70:4; 107:21;110:8;123:20; 173:21;174:9;261:2; 263:14	closer (1) 238:9	commercial (1) 108:5	complaining (1) 177:3
chases (1) 106:9	Citadel (1) 104:16	closest (1) 178:19	Commission (23) 13:16;18:5;32:23; 33:19;34:10,23;36:19; 51:3;59:18;71:19;84:11; 89:15,22;93:3;97:18; 118:24;202:25;204:5,9; 207:12;230:14;237:17; 252:9	complaint (40) 14:18;28:7,8,9;55:9; 12;64:2;66:14;78:9; 79:22;80:7,15,17; 141:12;158:23;203:4,16, 16;208:20;219:1; 220:10;222:18;223:3, 22;226:5;231:10; 246:24;247:2,5,25; 248:18,20,23,24;249:2, 22;258:24;260:17,22; 261:10
cheat (3) 224:10;231:8,15	citation (6) 78:21,24;79:1,14,24; 109:12	closet-type (1) 34:5	Commission's (2) 230:15,16	complaints (11) 26:6,7,8;58:9;63:4; 118:19,21;140:25; 203:10;222:15;223:18
check (12) 14:7;32:16,17,17; 34:16,16;40:5;42:11,21; 113:4;229:22;233:25	citations (1) 79:10	closing (3) 5:23,25;6:2	committed (3) 51:19;107:23;109:11	complete (5) 24:16;96:4;104:19; 126:1;248:6
checked (9) 37:19,19,19;42:17,25; 43:7,8;58:19;121:2	cite (2) 48:10;122:2	cloth (1) 193:7	Committee (40) 3:10,14;4:9,12,17,22, 25;5:3,20,20;9:20,23,25; 10:6,11,17,21,23;11:2,5, 14,21;12:20;19:25; 22:22;29:14;61:17;70:3; 75:4,17;80:12;91:15,18, 20;107:13;126:24; 165:14;173:3;206:19; 257:11	completed (2) 116:4;167:17
checking (2) 34:20;37:2	citizen (1) 55:1	clothier (2) 33:7;34:21	Committee's (2) 10:2;91:22	completely (5) 54:17;57:9;77:4; 256:13;257:21
chew (3) 46:25;48:8;49:24	City (11) 58:24;117:15;118:12, 15;119:1,11;121:16; 222:19;223:15,19;228:7	coaxings (1) 41:5	common (1) 122:22	complex (1) 33:5
chewed (1) 46:22	civil (8) 106:7,17;151:22; 158:21,23;161:12; 162:9;171:15	cocaine (1) 229:1	commotion (2) 13:20;14:5	compliance (3) 4:6;40:8;128:18
Chicago (1) 104:18	civilized (2) 138:14,16	cocked (1) 38:11	community (1) 142:4	compliant (2) 41:11;74:14
Chick-fil-A (2) 32:24;33:1	CJA (3) 31:14;219:13,15	Code (3) 70:21;82:1;211:17	Company (1) 130:8	complied (4) 129:22;135:21;138:5; 146:17
Chief (8) 7:16;60:9;68:6,8,12, 12,18;85:3	CL (1) 202:13	cold (1) 108:21	compare (2) 63:8;248:2	comply (17) 40:3;42:3,7;45:8; 51:18;75:9;95:21;97:3;
chiefs (1) 105:18	claim (5) 177:6;212:15;213:4,8, 11	collective (1) 154:20	compared (1)	
child (1) 17:4	claims (1) 61:8	College (3) 24:8;146:10;185:6		
children (2) 24:18,21	clarification (3) 43:24;174:24;175:5	Collusion (1) 78:15		
choice (2) 20:12;178:24	clarify (3) 76:15;82:12;137:7	color (2) 38:12;44:5		
	clean (2) 249:8;257:3	Columbia (13) 3:4;12:21;13:22; 25:21;58:25;118:12,15; 119:1,11;121:17; 186:12;198:21;222:19		
	cleaning (1) 256:24	column (1) 58:1		
	clear (11)	combative (1) 211:6		

Edwin S. Sorrell v. SCDPS

100:4;101:2,17;135:24; 142:8;193:18;212:8; 240:10;254:19 complying (2) 41:9;45:21 compounded (1) 228:8 comprehend (2) 45:9;82:9 comprehension (1) 46:8 computer (9) 26:10;28:6;34:6,8,16; 161:8;210:16;224:2; 248:11 computers (1) 32:16 concealed (1) 42:23 concern (2) 172:6;180:25 concerned (13) 44:1;58:13,16;74:20; 21;145:24;146:2;169:6; 181:1;213:4,12,21; 233:10 concerning (3) 170:13;206:12;225:23 concerns (1) 75:3 concludes (1) 59:16 conclusion (3) 10:9;210:23;257:8 concrete (1) 132:24 condemning (1) 87:18 condition (1) 112:6 condominiums (1) 13:24 condos (1) 113:21 conduct (50) 14:10;16:8;18:24; 21:14;25:7;47:16,20; 48:1;50:13,16;73:2; 74:23;77:10;81:25; 82:23;96:1;108:2,3,3; 110:9;111:2;112:11,16; 20;113:25;115:5,25; 117:6;118:2;184:11,17; 21;202:23;207:20; 210:9;211:13,17;213:17; 21;214:25;215:24,25; 216:5,6;218:7,11;222:2; 25;239:10;259:4 conducted (10) 4:4;14:8;19:5;74:22; 115:1;203:19;208:19; 24;209:8;224:16 conducting (3)	108:18;112:10;210:20 confetti (1) 143:19 confident (2) 248:8,9 confidential (2) 26:7;224:21 confirm (6) 5:2;11:23;43:4; 217:15,20,21 confirmed (1) 266:22 conflicts (1) 20:22 conformity (1) 175:7 confrontation (1) 20:14 confronting (1) 182:12 confuse (1) 41:1 confused (2) 74:17;76:7 connected (2) 15:8,9 conscious (2) 130:17,20 consider (1) 11:20 considerable (2) 204:22,23 consideration (1) 108:7 considered (5) 4:22;9:24;39:13; 91:19;123:19 considers (1) 122:14 consist (1) 84:24 consistency (1) 123:16 conspiracy (2) 78:11,15 constantly (1) 258:25 constitute (3) 72:23;117:7;122:17 constituted (1) 81:18 constitutes (1) 115:13 contact (9) 60:14;67:24;76:24; 79:20;127:1;203:24; 209:6,7;214:10 contacted (6) 78:13,18;86:15;126:5; 203:6;238:11 contacting (1) 204:2 contained (1)	107:11 contains (6) 22:10;92:10;125:11; 166:15;202:8;236:22 contends (1) 56:23 contention (2) 83:20;112:20 contents (1) 44:7 continual (1) 37:12 continue (5) 13:2;21:14;75:10; 138:3;256:3 continued (1) 74:15 continues (1) 50:7 continuously (1) 175:24 contraband (1) 102:11 contract (1) 33:21 control (4) 21:9;238:12;239:18; 263:11 conversation (2) 28:2;246:16 COOPER (94) 3:1,8;5:4,7,11;6:11; 9:17;11:3,6,12,18;12:4; 7:21;20:22;3,8;71:8,11; 76:6;84:16;89:6,18,23; 90:5,9,22;91:1,12;92:5; 9:99:1;102:15,23;103:4; 11,13,18,21;107:3,5; 116:15;119:24;120:2,4; 10,14,17;121:7;123:23; 124:5,9,12,14,17;125:4; 7;126:14,17;162:23; 165:14;166:1,5,11; 167:21;200:13;201:12; 16,20;202:2,5;212:16; 220:15;225:14;232:17; 233:17;235:2,14;236:1; 8,19;237:6;240:22; 249:16;250:11,15,19; 251:11,18,22;252:25; 266:8,11,16,19 cooperate (8) 57:20;76:21;99:24,25; 128:10,12;218:2;229:2 cooperated (1) 217:12 cooperating (2) 109:8;128:17 cooperative (19) 39:17;51:14;56:9,12; 13;58:7;73:6;74:3; 94:21,22,23;100:9; 175:20;215:6,9;216:23,	24;217:10,19 Copeland (1) 166:22 copied (1) 218:17 copies (3) 87:12;152:5;220:9 Cops (1) 50:20 copy (20) 4:17;66:22,23;98:23, 25;99:5,6;116:14; 148:14;151:25;152:5, 25;161:9;163:15;204:4, 6,11;239:21;248:10; 252:20 corner (20) 22:12;29:19;37:23; 38:7;39:10;40:10,17; 73:25;92:12;104:2; 125:13;166:18;191:14, 16,17,18,21;202:10; 236:25;251:15 Corporal (15) 7:13;8:25;26:15; 52:24,24;56:6;57:11; 59:7;60:5;66:24;217:16, 17,20,24;218:3 corporal's (1) 58:12 corral (1) 69:19 corrected (1) 5:2 correctional (1) 44:16 Corrections (3) 101:21,24;102:10 correctly (3) 120:11;169:23;218:21 cost (1) 52:15 couch (1) 265:19 counsel (3) 4:2;71:6;111:22 counseled (1) 16:7 counseling (17) 27:23,23,25;30:5,6,11; 83:16,25;84:7,23;87:22, 22;88:4,14,16,19;222:11 counselor (2) 21:3;88:25 country (1) 13:2 County (23) 23:25;24:1;65:15,19; 66:6,12,16;67:3;78:13; 81:10;118:9,11;119:11; 141:4;148:6,8;153:5; 190:10;197:8;222:19; 223:15;228:7,9	couple (17) 32:25;41:13;57:14; 63:4;81:2;93:14;106:14; 153:20;185:2;211:12; 225:17;227:21;228:15; 234:4,5;243:9;261:8 course (7) 16:25;17:6;23:6; 49:13;165:23;218:14; 222:13 court (21) 48:13;79:25;80:3; 84:19;106:3,19,20; 111:17;117:16;121:2,2, 5,6;148:12,14;149:7; 152:10,20;153:5;196:5, 13 courteous (1) 114:20 courtesy (3) 109:1;120:20,25 courts (2) 106:2,21 cover (5) 76:25,25;209:22; 210:1;231:12 covered (1) 210:3 co-workers (1) 28:11 crack (1) 229:1 created (1) 141:13 creating (1) 118:3 crewman (1) 23:4 crime (12) 39:9;47:9;65:25;68:3; 69:1,5,6,7;107:22; 109:10,12;110:7 Criminal (17) 31:8;83:13;85:16,19; 87:6,19;104:20;105:1,4, 5;106:6;218:10,22; 220:9;221:6;222:8; 249:14 critical (1) 109:15 criticizing (2) 230:18,20 crossed (2) 230:20;231:4 CROSS-EXAMINATION (10) 71:16;97:25;111:23; 142:12;184:25;225:15; 243:7;261:6;269:5,10 cross-examine (5) 171:22;172:12,19; 173:18;174:7 cross-examined (1) 172:25

crv - dismissed (8)

Edwin S. Sorrell v. SCDPS

121:3,5;123:25; 152:20;165:4;172:1 disobedience (1) 147:15 disobedient (5) 212:7;217:18;218:1; 242:5,18 disobeying (1) 221:10 disorderly (32) 14:9,10;47:15,20; 48:1,3;50:12,16;73:2; 81:25;108:1,18;110:9; 111:2;112:11,16,21; 113:6;115:5,25;118:4; 184:11,17,21;210:9; 211:13,17;214:25; 215:24;216:4,6;239:9 disparity (1) 28:10 dispatched (1) 119:4 display (1) 221:23 displayed (2) 84:4;85:7 disposed (4) 59:8,10;121:4;153:8 disposition (2) 88:20,22 disproportionate (1) 63:3 dispute (1) 16:22 disrespectful (3) 138:6,7;142:4 disruptive (3) 46:14;47:17;215:25 distance (2) 112:15;204:23 distinguish (1) 203:15 distract (2) 255:9,16 distracted (1) 239:13 districts (1) 106:22 disturbance (4) 37:9,21;98:6;118:3 disturbed (1) 46:14 disturbing (2) 130:23;216:11 division (4) 4:16,20;10:12;66:18 document (15) 47:1,9;54:3;73:9;79:7; 125:23;164:23;167:14; 172:24;213:1;215:20; 239:20;246:10;248:3; 252:17 documentation (8)	4:18;18:12;21:18; 85:9;118:8;172:8,22; 218:16 documents (9) 4:19,21;11:14;65:13; 107:10,12,14;225:20; 226:11 done (25) 14:24,25,25;15:19; 17:4;20:1;46:20;56:16; 58:22;59:4,12,15;76:16; 116:24;135:6;177:8; 208:20;209:1;219:7; 233:1;234:12;235:6; 236:4;255:12;256:7 door (15) 34:19,23;35:14,25; 36:10,11,18;57:12;72:1; 86:12,12,12;94:2,10; 207:11 doors (4) 34:16;53:19;227:3,12 dorm (2) 226:15;227:2 down (102) 13:23,24;14:1,7; 34:19;35:6,14,22;38:6; 39:2,4;41:16;45:18,18; 21:25;46:9,10,11;48:9; 13:49;14:50;6:51;7; 56:7;57:7,13,19,21,22; 58:6,7,7;67:15;69:9; 73:17;77:4;85:6;86:12; 13:17,18,21;95:13;96:1; 99:22;107:16;113:18; 118:22;136:11;147:11; 149:18;150:14,17; 156:24;157:2,4,8,11; 158:17;159:23,24; 168:7;170:3;176:13,16; 21:177;3:8;181:19; 192:3,22,23;193:14,20; 21:21,24;194:10,12; 195:13;203:21;216:18; 219:17;221:20;228:17; 231:24;240:2;244:19; 23:245:1;254:6,9,17,21; 255:23;256:2;263:2,12; 15:264;25:265:18 downstairs (2) 32:17;94:1 downtown (6) 13:17,21;32:10;113:1, 17;183:23 DPS (3) 196:17,20;244:5 DPS's (1) 230:13 dragged (1) 182:6 dramatic (1) 182:4 draw (1)	140:15 drawing (1) 88:18 drawings (1) 32:14 draws (1) 114:1 drinking (1) 170:6 drive (2) 57:6;160:23 driver's (1) 53:21 driving (2) 19:7;21:10 drop (3) 39:2;238:18;245:25 dropped (8) 39:4,21;44:2,3;57:15; 106:19;160:23;196:16 dropping (1) 127:20 drops (1) 39:2 drove (2) 143:3;186:5 drugs (2) 94:14;102:6 duck (1) 144:24 due (1) 60:12 DUI (2) 121:13,14 duly (8) 22:18;92:15;104:8; 125:17;166:25;202:15; 237:8;251:25 dumping (1) 145:9 duration (1) 59:16 duress (1) 58:9 during (40) 4:23;5:22;9:20,25; 10:5;12:24;13:4;21:24; 22:10;27:16;31:3,21; 32:5;45:4;46:22;51:11; 60:13;77:6;90:10;91:15; 20:25;92:11;103:25; 125:12;128:20;129:8; 166:16;175:16;202:9; 205:11;208:17;210:1; 211:4;214:25;218:13; 236:23;243:3;246:19; 256:23 duties (2) 32:5;56:1 duty (12) 4:9;28:23;33:16; 40:15;62:8;71:20;88:17; 107:24;115:24;218:23;	221:5;239:16 DVD (2) 54:16;235:1 E E7 (1) 3:17 earlier (17) 61:1;74:21;77:20; 80:14;82:17;89:14; 137:8;143:8;155:12; 177:23;206:11;215:16; 216:19;228:6;230:10; 234:7;238:16 early (8) 4:18;16:3;23:10;37:6; 107:15;110:13;111:13; 168:1 easier (3) 83:10;185:23,25 easiest (2) 172:3;235:8 easily (3) 76:15;115:17;180:1 easy (1) 175:17 educated (1) 241:25 education (3) 22:23;23:22;104:14 Educational (6) 31:13;32:8,9;33:11, 21;104:20 Edwin (1) 22:13 effect (5) 19:12;21:1;128:9; 185:16;266:3 effects (2) 36:16;37:10 effectuate (1) 228:22 effectuated (1) 243:24 effort (1) 77:9 eight (3) 115:18;235:20;251:2 eight-man (1) 23:5 eight-minute (1) 235:22 either (29) 6:9,12;11:17,19; 31:10;48:16;49:15; 55:24;90:16;106:19; 108:16,25;109:23; 111:11;119:10;120:14; 18:121;8:24;128:24; 155:23;158:15;175:10; 178:19;188:17;203:6; 249:25;251:1;266:21	elaborate (3) 138:23;151:15;174:18 element (1) 199:19 elevated (1) 216:7 elevator (1) 35:22 else (24) 9:18;20:13;25:3; 32:21;46:18;52:16,18; 59:11;70:10;75:25;76:5; 14;101:17;113:8,12; 119:2;139:11,12; 164:18;187:18;210:19; 223:22;225:1;247:15 e-mail (3) 81:13;87:4,5 e-mailed (3) 65:15,21,24 e-mails (5) 64:12;66:13;80:13,18; 81:6 embarrass (2) 137:21;140:14 embarrassed (3) 87:6;258:19,23 embedded (1) 65:25 employed (8) 20:25;21:15;79:21; 92:25;101:21;222:23; 237:11;252:3 Employee (15) 3:9,16,25;4:24;9:20; 10:7,8;53:12;61:25; 83:23;91:15;208:23; 209:3,5,9 employees (1) 224:20 employment (3) 62:25;105:4;185:10 empty (1) 183:13 en (1) 238:10 encounter (10) 84:6;117:4;167:4,7; 168:2;214:2,3,5,13; 218:22 encountered (1) 223:9 end (3) 181:25;198:3;245:22 ended (2) 127:20;144:16 enforcement (18) 23:15;44:11;47:7,7; 48:23;50:24;55:25; 56:18;66:4,8;68:23,25; 76:3;79:12;117:5; 118:17,22,25 engage (1)

214:1 engaged (1) 210:9 English (4) 32:2;240:9,21;241:7 enjoying (1) 182:7 enough (19) 18:14;25:11;30:22; 65:23;72:5;74:21;81:4; 97:2;103:8,12;118:4; 146:21;180:10,24; 193:16,17;209:23; 245:15,17 ensure (3) 4:10;42:16;125:8 ensuring (1) 27:10 entered (1) 220:13 entering (2) 6:15;90:18 entertain (1) 10:20 entire (6) 32:15;34:10;59:16; 181:4;221:16;250:24 entirely (1) 83:19 entitled (1) 175:5 entries (1) 30:15 environment (1) 231:16 equal (2) 28:16;56:17 equally (2) 49:23;172:17 equals (1) 32:16 equipment (2) 53:24;55:3 equipped (4) 54:12;20:55;5:23 equitable (3) 4:5,10;56:17 erase (2) 160:21,22 erased (3) 160:16,18,20 Erwin (119) 4:1;11:24;17:25; 71:10,15,17;76:8;83:6; 11:84;14;89:8,25;90:3; 98:1,15,19,21;99:2,4; 101:9;102:13,21;107:3; 4;111:24;116:13,17; 119:19;122:1,3,6; 123:22;124:16,18; 125:15,19,20;126:7,22; 129:4,5;133:8,10,13,17; 137:13,15;138:18;	142:10;153:2;163:1,15, 17;164:2;165:13;166:4, 8,23;167:2,19,23; 170:21,24;171:2;173:2, 8;174:11;180:13,16; 182:23,25;184:23; 200:12;201:14,18,23; 202:17;212:18,23,25; 213:19;215:18;220:12; 18;225:12;232:16; 233:1,13,25;234:4,19; 235:4;236:3;237:5,10; 241:5;242:7,11,12; 243:6;248:16;250:10,13, 22;251:5,8;252:2,23; 253:2,3;257:9;261:4; 265:11;266:7,15;269:4, 6,9,11 escalated (3) 20:25;259:13;260:23 escalating (1) 100:10 escape (1) 57:9 escapes (1) 57:8 escorted (1) 134:6 escorting (1) 133:25 especially (3) 122:23;173:13;176:16 esse (2) 173:13,20 essence (1) 102:9 essentially (7) 104:20;107:20; 109:13;111:20;226:23; 227:13,15 establish (2) 18:7;20:7 established (2) 19:7,17 ethics (1) 26:23 Eugene (1) 237:4 evaluated (3) 26:3;62:3;64:5 evaluation (6) 16:4;62:1,6;63:18; 64:7;88:4 evaluations (3) 61:14;62:23;63:15 even (33) 16:20;18:20,24;19:9; 21:3,40:4,44;14:51;24; 55:21;60:9;68:11;70:16; 74:23;77:2;107:14; 127:13,17;141:16,16; 144:14;150:2;159:16; 169:3;173:12,19;181:6;	185:12;217:12;232:9, 12;262:11,20;263:17 evening (40) 13:15;18:8;31:21; 32:3,4;46:20;75:6;77:7; 78:20;83:21;118:10; 124:20;127:1,2;129:6; 139:6;141:13;167:12, 25;174:16;175:16; 183:9;204:5,9,13;210:7; 211:23,25;212:1; 213:21;215:7,12; 217:17;237:15,19; 252:15;253:5;256:7,19; 260:21 evening's (1) 73:1 event (2) 142:16;199:3 events (4) 34:11;107:11,15; 211:23 eventually (2) 211:20;254:8 everybody (12) 15:11;48:20;50:5; 52:15;24;86:3;87:10,16; 101:15;103:19;235:8; 246:17 everybody's (1) 115:18 everyone (11) 11:10;12:5;103:7,8; 142:8;216:24;217:5,9; 221:20;265:16;266:22 everything's (1) 87:16 everywhere (1) 35:11 evidence (15) 4:12,25;6:4,7;11:20; 54:3,8;59:8,10;68:22; 118:9,16,18;171:18; 175:7 exact (5) 181:6,8;195:9;212:7; 230:11 exactly (23) 13:14;65:2;67:19; 72:14;123:5;131:15; 135:23;174:18;184:2; 189:16;205:7;219:4,6, 18;231:14;238:1;239:9; 241:19;253:5;255:14; 256:6;261:2;262:6 EXAMINATION (16) 22:19;69:19;92:16; 104:9;125:18;162:25; 167:1;202:16;237:9; 248:15;252:1;265:10; 269:4,6,9,11 examine (1) 5:14	example (4) 121:17;176:11;211:9, 10 exceeds (13) 16:5;26:2;62:7,8,8,24; 63:2,2,2,2,6,9,16 except (3) 6:21;23:14;52:6 exception (4) 121:13;171:6,14; 173:11 exceptions (2) 173:9;174:1 excessive (8) 106:9;114:21;122:18, 19;180:19;184:3; 242:23;244:13 excited (1) 137:2 Excuse (19) 7:21;11:7;23:25;24:4; 42:11;71:20;75:12; 77:15;83:19;85:2;95:1; 124:1;140:12;171:18; 180:18;205:16;233:16; 235:10;237:3 excused (22) 6:13,19;89:10;90:17, 23;102:20,24;124:3,4,5, 10;166:2,6;201:13,17; 232:18,20;233:18; 250:12,16;266:13,17 executive (3) 10:18,21,23 exercised (2) 216:22;217:9 exert (1) 19:2 ex-FBI (1) 105:7 Exhibit (13) 4:25;5:3;11:14;29:14; 61:17;98:17;116:16; 126:14;167:22;206:20; 220:15;252:24;253:1 exhibits (2) 126:10;269:18 exited (1) 35:14 exonerate (1) 54:17 expand (1) 29:25 expect (2) 89:16;138:13 expected (1) 14:14 expecting (1) 258:21 expeditions (1) 4:11 experience (2) 104:14;105:1	expert (6) 106:3,13,25;107:6; 121:8;193:13 explain (8) 14:11;48:15;52:25; 85:18;104:13;137:25; 209:19;257:23 explained (3) 52:23;102:6;218:3 explore (2) 171:25;172:1 explosion (1) 35:10 exposed (1) 38:2 exposing (1) 37:24 express (1) 135:14 expressed (1) 58:4 expunged (1) 164:24 extension (1) 184:16 extent (3) 114:19;173:3;219:9 extra (3) 53:16;238:23;243:17 extradited (1) 53:17 extremely (9) 34:4;36:12;38:5; 39:20;41:6;48:16;56:12, 13;141:6 eye (3) 40:10,17;135:8 eyes (5) 30:22;44:12;189:5; 251:9;259:22
F				
face (6) 38:9,23;73:13;134:23; 260:14;265:22				
faces (1) 32:11				
fact (39) 4:3;19:6,13;70:15; 76:12;80:5,11,16;83:22; 105:24;109:8,10,16; 115:2;117:3;118:5; 120:6;122:9,10,11; 128:17;130:17,20; 135:14;139:1,17; 158:14;171:14,16; 172:15;178:7;197:4; 215:5;217:17;219:22; 225:4;228:8;232:8; 258:23				
fact-based (1) 117:24				

Edwin S. Sorrell v. SCDPS

factor (1) 108:7	February (6) 85:22,23;220:11; 225:18,24;226:14	37:17;99:16	first (67) 6:2;19:20;20:8;21:21; 22:18;23:19;28:24;30:5; 17:19;33:24;36:25;41:7; 43:14;50:25;57:17; 62:25;63:7,9,13;74:2,12; 92:15;99:15;103:14; 104:8;105:24;124:15; 22:125:17;128:3;130:4; 6;136:14;156:24; 165:21;166:25;169:23; 174:14;178:2,4;179:11; 14,17;186:19,20;191:7; 192:6;195:24;198:14; 202:15;203:23;209:6; 210:21;212:17;216:1; 237:8;238:9;242:8,13; 14;251:25;255:2,17; 256:9;257:12,18	237:8;251:25
facts (16) 18:9;70:3,22;107:21; 110:7;112:7;113:10; 114:24;115:16;123:19; 167:12;218:19;221:2; 226:24;242:21;244:14	federal (4) 23:14;41:21;56:18; 106:21	Fifty-one (1) 98:20	follow-up (2) 84:17;122:7	
factual (2) 88:14;266:4	feel (6) 47:12;50:22;103:5; 132:14;138:15;140:12	fight (4) 113:11;115:2,11; 256:23	food (3) 50:5;60:7;67:21	
failed (6) 42:3;64:21;85:21; 87:7,8;212:7	feeling (1) 96:20	fighths (1) 48:24	foot (6) 41:16;42:4;208:14; 214:10,10;229:9	
failure (2) 87:19;219:19	feelings (1) 190:2	figure (4) 45:22;101:18;174:25; 256:11	force (13) 19:8;21:10;23:5; 60:17;106:9;114:21; 122:18,19;128:13; 169:5;180:20;201:4; 214:14	
fair (6) 28:16;49:22;56:16; 217:11;231:14,18	feels (3) 11:17;109:3;246:25	figures (1) 208:10	forceful (6) 109:24;110:5;123:10; 159:10;264:12,16	
familiar (4) 113:17;183:5,6; 191:16	fees (1) 70:24	file (14) 27:21;55:8,12;79:22; 164:9;203:8,8;247:2,4; 25;248:24;249:2,19; 261:10	forcefully (1) 169:19	
family (4) 25:12,14;56:5;221:17	feet (23) 34:15;39:23;41:17,17; 23;73:13;99:10,13; 135:11,12;143:23; 146:21;169:5;180:4; 181:2;199:7,11;201:10; 206:14;208:12;214:18; 229:7;253:9	filed (20) 14:11,18,22;26:6; 28:7,8;63:3;64:2;78:9; 87:11;152:1;163:10,24; 164:7,7;203:16;222:15; 18;260:17,22	forcibly (2) 180:10;208:14	
fan (1) 227:7	fellow (4) 28:11,19;30:17;100:4	filing (3) 133:3;141:12;249:22	foremost (1) 41:8	
far (40) 25:5;38:7;43:17,25; 44:17;66:24;78:9;82:22; 83:20;96:23;120:12; 130:8;134:10;135:25; 142:6;146:21;193:5; 197:21;205:13;206:9; 208:4;211:24;212:3; 213:21;214:8;215:12; 219:13;247:11;253:25; 254:19,23;255:1;257:2; 5,24,24;258:8,22;264:4; 266:1	felonies (1) 110:17	fill (4) 44:15;48:11;60:1; 231:8	forever (1) 105:23	
fashion (2) 71:3;230:9	felony (11) 128:16;132:8,13; 179:9;180:1;211:13,16; 214:23;216:6,7;228:18	filled (2) 60:3;187:17	forget (2) 51:23;209:24	
fast (1) 39:17	felt (12) 75:5;76:20;78:10,17; 137:20;140:11;174:17; 175:19;247:1,12;259:5; 260:21	filling (1) 133:4	form (10) 30:8,9;35:8;67:7;85:1; 2;101:7;224:25;247:9; 262:1	
father (11) 17:1;64:14;65:20; 66:15,21;78:12;80:5; 95:3;109:7;153:19; 196:20	female (40) 38:3;49:9;51:23;52:4; 55:15,18;56:7;58:23; 59:1,3,4,6;77:9;94:25; 96:4;99:18;100:13; 109:8;131:20,21;140:8; 147:6;150:14;157:9; 169:16;194:17;199:23; 212:6;240:14,15;242:4; 17;244:10,22;245:1; 254:10;256:8,20;262:4; 265:18	final (5) 9:21;10:10;19:18; 88:8;91:16	formal (5) 10:5;23:11;27:24; 30:12;91:25	
fault (4) 17:2;103:16;175:8; 182:23	females (4) 94:19;151:5;244:6; 262:18	finally (1) 53:16	formally (1) 233:15	
favor (1) 11:4	feminine (1) 36:12	find (5) 86:23;174:1,1;196:7; 212:17	formfitting (2) 38:5;42:22	
FBI (25) 15:8,10;17:14;65:8; 20;66:5,16,22;67:2,21; 22,23;95:4;100:5; 105:18,18,19;109:7; 149:15,20;153:13,14; 195:14,17;197:4	few (8) 33:15;34:20;43:10; 46:19;168:16;195:10; 207:17;238:24	finding (2) 10:7;261:2	forms (1) 60:1	
fear (2) 38:9,23	field (5) 27:7;79:2;88:24;89:5; 107:6	finds (1) 35:1	formula (1) 117:25	
fearful (2) 74:6;129:6	fifth (2)	fine (14) 71:10;87:16;116:15; 128:16;132:7,13;138:2; 152:16;170:21;235:7; 236:12,12;251:7,8	Fort (3) 23:11,13;24:1	
		finish (5) 59:22,23;75:23; 104:23;137:13	forth (5) 15:18;20:22;31:19; 37:12;81:14	
		finished (3) 5:16;59:17,18	forward (2) 37:1;174:25	
		finishes (1) 5:7	foul (1) 87:17	
		finishing (1) 24:2	found (7) 64:10;68:7;82:1; 101:25;211:17;241:21; 265:21	
		fire (1) 16:17	Four (11) 24:17;31:16;36:20; 40:7;41:4;99:21;141:15; 168:20;207:12;229:2; 240:2	
		fired (2) 17:22;61:10	four-minute (1) 235:24	
			fourth (7)	

32:9;37:17;72:7,9; 85:24;99:16,16 frame (4) 165:17;205:1;230:11, 12 free (3) 50:6;88:1;233:11 Freedom (2) 10:16;50:18 freeway (2) 142:25;186:3 frequently (1) 184:2 Friday (3) 85:18,25;87:3 friend (24) 29:5;45:1;48:21;49:1, 1,6,6;130:18;133:1; 142:16,21;149:8,10,14, 17;153:19;154:17; 168:4;169:25;186:2; 188:2;196:22,25;256:21 friendly (1) 51:8 friends (7) 17:15;49:12;127:5; 129:11;140:22;168:3; 187:1 friend's (2) 156:14;196:20 front (23) 22:9;33:9,11;34:6,23; 35:2,25,25;36:10,11,18; 52:7;53:1;59:6;96:22; 98:23;99:6;125:11; 127:25;144:1;166:15; 182:19;202:8 froze (2) 38:13,15 frozen (1) 44:14 full (16) 12:14;22:4;40:25; 74:9;92:2;104:3;125:5; 128:18;154:12,13; 166:19,21;202:12; 237:2;242:20;251:19 fully (6) 37:24;38:1;45:9; 47:24;74:14;75:9 fun (1) 168:7 Fund (1) 3:11 fundamental (1) 121:23 furnished (1) 4:17 further (27) 89:9;97:22;98:8; 99:21;111:21;119:20, 21;123:23;128:13; 162:20;164:3;165:11,	13;171:25;184:24; 200:10,12;201:1,12; 208:15;229:8;232:14, 16;248:13;250:8;265:8; 266:9 furthest (9) 73:23;130:10;169:1; 174:15;178:20;191:11, 12;192:8,10 G gained (1) 89:4 gamut (1) 106:9 Ganjehsani (56) 3:15;5:6;7:11,22;9:8; 11:10;12:2;29:20,24; 69:14,18;83:5,8;84:21; 89:25;98:18,20;103:10, 12,16;122:1,4;126:11, 13,16,21;129:3;133:8, 15;137:12;138:2; 170:22;171:12,19,24; 172:5;173:15;175:3; 182:15;212:20,24; 215:15;220:17;233:6,10, 15,19,24;234:2,13,25; 235:19;236:14;241:2; 242:11;250:21 gas (2) 88:18;142:24 gates (1) 57:7 gave (29) 43:19;45:7,14;68:18; 76:12;88:18;94:11;95:2, 12;100:22;115:16; 120:6;129:19;132:8; 136:16;142:7;153:21; 157:19,20;182:11; 184:17;218:3;224:1,1; 231:7,7,15;240:10;258:3 gay (1) 26:16 general (5) 4:2;206:17;223:13; 228:6;241:12 generally (3) 46:6;167:25;218:25 general's (1) 3:15 generated (1) 203:9 gentleman (1) 148:25 gentlemen (1) 42:18 Gerald (2) 3:10,23 gestured (2) 139:24;159:25	gets (3) 50:3;88:13;106:19 girl (10) 94:20;110:2;175:22; 176:1,2;177:24;188:14, 15,16,20 girlfriends (1) 188:18 girl's (1) 176:8 gist (1) 212:3 given (9) 5:18;66:23;90:13; 101:4;114:25;172:12; 174:6,9;217:16 gives (1) 67:8 giving (10) 101:1;106:7;169:11, 12;175:23;177:25; 213:13,24;215:17; 247:12 glanced (3) 35:6;40:22;43:5 glass (2) 33:13,14 Glenn (4) 49:20;57:1;148:7; 150:18 gloves (1) 38:4 goal (1) 201:2 God (1) 162:22 goes (6) 47:3;57:20;60:5; 66:11;67:20;217:14 Good (12) 11:10;17:10;25:7; 30:22;34:9;81:7;87:17; 168:9;213:14,15; 231:15;234:2 gotta (1) 87:24 governor's (3) 238:19;243:11,11 grab (1) 169:18 grabbed (3) 131:23,24;146:25 graduate (2) 146:10;219:4 graduated (5) 23:4;104:15,16,24; 185:9 graduates (1) 105:20 graduating (1) 221:13 granted (1) 125:1	great (2) 40:12;143:12 Greenville (1) 186:15 greet (1) 143:11 Grievance (7) 3:10,16;4:19,24;9:20; 68:12;91:15 gross (2) 28:5;112:18 grossly (5) 82:2,14,15;108:17; 112:6 ground (16) 35:12;39:3;127:9,21; 144:15;145:7,9;156:4; 168:13,17,21;176:17; 187:5;231:24;254:7; 257:2 grounds (6) 6:4;27:10;61:7; 171:22;173:25;238:8 Group (3) 88:24;178:10,11 grow (1) 180:22 guarantee (1) 69:4 Guard (10) 24:5;33:19,22;40:20, 22;41:1;61:1;89:14; 93:3;239:14 guess (50) 15:12;75:4;78:11; 80:13;83:20;89:11;98:4; 111:19;115:22;117:4; 118:23;122:8;124:21; 128:20;130:25;131:10; 134:5;135:7;141:10; 168:25;170:8,12;172:14, 21;174:3;177:16;179:6; 184:6,15;199:13; 205:11;206:6,8;209:13; 223:12,21;234:25; 239:1;254:4,22;255:14; 256:4,6;258:2,3,6;259:9; 260:19;261:1;264:24 guessing (3) 15:5;16:10,10 guest (1) 105:17 guide (1) 229:9 guilty (1) 112:15 gun (2) 40:24;52:18 gunfight (1) 36:23 gunman (1) 86:11 guns (1)	106:10 guy (12) 64:21;65:20;66:5; 67:2,6;69:6;72:16;87:9; 88:5;100:7;121:13; 153:13 guys (6) 35:1;87:2;155:23; 157:11;159:7;160:2 guy's (1) 123:2 H half (1) 235:24 halfway (1) 249:13 hamper (1) 236:6 Hampton (1) 3:12 hamstrung (1) 172:17 Hancock (2) 8:14,15 hand (16) 9:12;38:12,20;41:15; 48:12;51:7;91:7;96:8; 128:5,6;130:25;131:8,9; 157:17;160:23;198:1 handcuffed (10) 50:14;133:24;150:23, 25;156:12;190:8; 238:15;239:2;241:22; 262:8 Handcuffing (2) 106:10;109:24 handcuffs (6) 116:8;181:20;182:5; 221:11;238:23;259:21 handful (1) 89:21 handle (4) 123:13;203:15; 221:24;259:5 hands (27) 38:8,22;39:6,13,22; 40:4,7;41:14,18,22;42:1; 43:1;73:13;101:16; 128:1,3;131:12;134:25; 146:13;147:16;168:23; 181:3;198:5;208:11; 253:8,18,19 handwrite (1) 210:14 hanging (1) 125:10 happen (7) 17:7;27:15;69:13; 120:24;145:4,5;167:3 happened (35) 14:12;16:11,22,24;

Edwin S. Sorrell v. SCDPS

26:13;35:5;54:8;59:16; 67:17;69:25;80:7,16; 83:21;89:22;93:22,25; 109:14;119:13,13; 121:4;127:1;141:16; 144:25;152:12;159:5; 163:18;189:4;196:8; 204:12;211:23;212:4; 218:4;227:10,14;231:19	201:6;211:14,21;221:6 hearing (22) 3:2,6,20;4:4,11,23; 5:23;6:21;9:21;10:5,6,9, 14;19:8;57:24;91:2,16, 25;110:23;112:14; 195:21;266:24	hired (1) 106:17 history (1) 82:19 hit (17) 36:15;37:9,11,14,15; 38:19;39:18;50:3;53:18; 54:14;58:4,24;72:15; 158:3,11;198:15;201:9	human (4) 4:16,20;10:12;85:4 Humanitarian (1) 25:9 humble (1) 241:15 hundred (3) 24:17;106:4,14 hunt (1) 29:22 hurt (15) 16:20;36:15;37:15; 39:11;43:8;72:16;96:25; 97:2;129:1;139:25; 154:4,11;169:9;190:2; 221:25 hurting (10) 43:3;60:18;96:15,16, 17,23;128:25;132:6,11; 169:10 hurts (2) 95:16;176:21 hypothetically (1) 228:25	imply (1) 185:19 implying (1) 188:8 impolite (1) 176:10 important (2) 123:14;189:24 impossible (1) 143:21 impression (9) 100:22;182:7,11; 184:17;187:16;242:20; 254:22;257:5;260:21 improper (8) 16:8;47:8;78:17;80:6; 122:25;133:7;159:9; 192:21 improperly (1) 28:24 improve (2) 88:20,21 improvement (1) 89:3 inability (1) 254:19 inadvertently (1) 11:13 inappropriate (6) 26:11;66:20,21;67:24; 83:17;215:3 incidence (2) 20:8,15 incidences (1) 20:19 incident (24) 18:5;64:3;71:19; 80:16;82:23;83:12; 84:10;123:20;140:21; 148:12;194:3;202:24; 218:9,9;220:21;222:4, 14;225:18,24;237:15,23; 247:22,24;252:7 inclined (1) 41:24 include (3) 23:19;53:11;70:12
happening (9) 43:16,18,18;53:3; 75:5;117:6;119:8; 126:25;174:21 happens (4) 49:25;69:12;117:23; 223:24 hard (5) 41:1;134:21;160:23; 176:16;193:17 harm (5) 40:6;42:9;87:17; 96:12;175:18 Harris (17) 8:25;9:1;56:6;217:16, 20,24;218:3;237:3,3,4,7, 11;242:13,25;248:17; 261:9;269:3 hash (1) 175:9 hat (1) 208:2 Haus (3) 210:22;211:15;217:10 hawing (1) 123:10 head (11) 51:24;131:24;134:19; 139:6;147:13,16; 156:14;169:7;189:4; 192:20;259:22 headed (1) 35:24 heads (1) 42:13 Health (1) 3:13 hear (40) 10:18,23;11:22;18:3; 20:6,20;37:14;43:4; 59:13;68:20;72:8,18; 87:2;94:7,8,9;98:6,9; 110:20;114:2;130:19; 169:7;173:3;179:25; 180:5;184:2;185:12,18, 21,23,25;195:17,22; 200:17;234:13;237:22; 238:1;261:9,12;263:2 heard (24) 18:1;36:11,14,24,24; 37:9,11;71:25;72:5,11, 15,20;98:13;103:5; 108:10;110:23;138:10; 180:8;185:16;195:20;	Hearsay (11) 133:6;170:25;171:2, 14;172:22;173:7,9,10, 24,25;240:25 heavy (1) 23:3 Heidi (1) 162:1 height (1) 41:18 held (4) 3:4;132:1;180:20; 248:4 help (8) 36:13,13;46:18;149:3; 171:17;224:11;231:20; 238:23 helps (1) 186:16 hemming (1) 123:9 Herbert (1) 3:7 here's (5) 43:17;52:5;66:13; 87:5;172:5 hey (2) 17:14;127:15 hi (2) 143:19,22 hidden (1) 74:10 hide (2) 74:7;75:18 hiding (1) 158:3 high (3) 23:23;62:17,18 higher (3) 63:16;184:8;185:17 highly (1) 25:11 high-speed (1) 106:8 Highway (5) 53:25;56:2;82:1; 112:5;223:16 himself (12) 14:8;19:5;55:17,18; 65:8;108:18;112:10; 123:4;134:16,17; 210:18;226:5 hip (2) 128:7;131:9	hits (1) 39:2 hitting (1) 229:7 hold (2) 90:2;235:7 holding (2) 64:19;72:12 Holland (1) 92:24 home (4) 59:22;68:15;161:9; 199:2 honest (3) 116:6;188:11;258:5 honestly (1) 140:12 hood (8) 131:23;136:8;169:18, 19;192:16,22;193:1,3 hoodies (1) 193:16 hoody (20) 42:22,25;43:2,7;52:6; 58:19;96:5,8,18,21; 131:16,21;146:25;147:7, 8;157:3,5;180:10,18; 194:14 hook (1) 121:1 hopefully (1) 57:3 hoping (1) 34:25 horns (1) 121:19 horsing (3) 207:15;229:16,18 hostile (1) 231:2 Hotel (1) 23:3 hotels (1) 14:1 hour (2) 184:4;199:2 hours (7) 24:17;31:25;57:14; 59:25,25;66:1;69:1 House (7) 27:9;31:6,12;53:3,5; 68:13;237:21 huge (2) 29:10;36:21	I IACP (1) 105:17 ID (2) 136:15,17 idea (5) 154:16;168:11;186:5, 7;230:3 identification (1) 66:24 identified (2) 18:16;80:18 identify (4) 30:11;61:21;125:24; 167:15 ignore (2) 264:21,23 III (3) 202:13,14;237:4 ill (1) 170:2 Illinois (2) 85:22;226:17 images (1) 36:8 imagine (1) 65:23 immediate (3) 35:7;86:9;134:14 immediately (11) 36:11;135:6;163:4,9, 11;165:21,22;169:1,6; 174:14;259:8 impermissible (1) 171:18 implication (3) 188:16;189:20,23	imply (1) 185:19 implying (1) 188:8 impolite (1) 176:10 important (2) 123:14;189:24 impossible (1) 143:21 impression (9) 100:22;182:7,11; 184:17;187:16;242:20; 254:22;257:5;260:21 improper (8) 16:8;47:8;78:17;80:6; 122:25;133:7;159:9; 192:21 improperly (1) 28:24 improve (2) 88:20,21 improvement (1) 89:3 inability (1) 254:19 inadvertently (1) 11:13 inappropriate (6) 26:11;66:20,21;67:24; 83:17;215:3 incidence (2) 20:8,15 incidences (1) 20:19 incident (24) 18:5;64:3;71:19; 80:16;82:23;83:12; 84:10;123:20;140:21; 148:12;194:3;202:24; 218:9,9;220:21;222:4, 14;225:18,24;237:15,23; 247:22,24;252:7 inclined (1) 41:24 include (3) 23:19;53:11;70:12 included (3) 30:6,13;218:17 including (2) 11:14;12:11 incoherent (1) 49:9 inconsistent (1) 29:21 incorporated (1) 226:7 incorrect (1) 30:14 incredible (1) 88:23 indecisive (1) 123:9

indentation (1) 178:15	206:7;207:23;208:5; 212:1;215:6;216:10; 222:24;224:19;237:16; 238:15;239:2,5;241:13; 18;242:22;252:8;253:6; 8,14,17,24;256:7; 259:17,21;265:14	insinuate (1) 138:14	intervention (2) 247:9;249:5	113:22;114:11,12; 213:24;254:11
INDEX (1) 269:14	222:24;224:19;237:16; 238:15;239:2,5;241:13; 18;242:22;252:8;253:6; 8,14,17,24;256:7; 259:17,21;265:14	insinuating (1) 137:21	interview (11) 205:12;209:13,19; 210:1,17,20,24;211:5, 16;214:25;218:7	issued (7) 54:9;79:11,12;111:18; 121:1;177:16;227:22
indicate (12) 74:24;81:6;109:18; 211:24;213:5,20;215:4, 11;222:6;239:25; 243:21;257:10	individual's (1) 79:3	install (1) 54:3	interviewed (3) 203:24;224:20;255:19	issues (4) 18:3;73:6;106:5; 224:11
indicated (47) 74:13;77:9;78:3; 82:20;84:3;98:2;99:6,8, 14,21,23;100:12;101:10, 19;134:5;135:11;137:8; 160:9;163:5;177:11; 179:4;180:4,9;205:25; 206:6;214:2;215:10,23; 216:9;217:22;222:1; 240:3;241:6,17;249:4; 250:22;253:17;254:15; 255:3,8;256:5,15,23; 257:17;259:24;263:5; 265:13	infect (1) 44:21	instance (1) 225:8	interviewing (1) 230:17	Item (1) 81:25
indicates (2) 79:6;242:3	inference (1) 80:13	instances (1) 176:3	intimacy (2) 66:5,10	ITO (1) 210:16
indicating (4) 241:16;254:11; 255:25;257:4	influence (2) 68:1;82:11	instantly (1) 35:10	intimidate (2) 18:22;255:6	J
indication (5) 45:8;82:8,10;132:8; 217:1	informally (1) 4:4	instead (1) 120:22	into (49) 4:25;6:15;10:18,21, 23;19:1;36:22;38:7; 39:3;44:4,17;47:3; 49:19;50:21;57:2;69:16; 85:17;108:8,20;109:9, 24;110:11;111:3; 123:21;127:5;133:23; 134:6,8;138:24;151:17; 152:8;157:19;163:4; 169:25;170:9;176:12; 177:14;179:11;202:24; 218:12;219:10;222:13; 226:20;228:9,18;245:5; 246:9;256:21;259:22	Jack (1) 8:10
individual (55) 26:8,10;28:5,14;37:9, 21,24;38:11,14,24,25; 39:1;44:2;45:3;46:17; 47:3,16;48:18,19;49:25; 50:14,15,17;51:22;57:8; 58:17;59:9;64:13,19,20; 66:4;67:14;72:19,22; 74:1;75:20;83:15;86:1, 5,20;116:20;117:3,24; 119:7;184:18,20; 188:20;196:12;203:12; 219:7;224:14,19; 248:19;254:10;265:18	Information (21) 10:17;19:15;21:18; 22:10;26:9;65:21;79:4; 88:14;92:10;118:8; 125:11;166:16;202:8; 216:3;218:12;224:21; 236:23;253:12;254:23; 269:14,15	instigated (1) 48:18	jailer (6) 82:2,5,14,16;108:17; 112:6	jail (41) 50:23;51:6;56:7,8; 57:2,14;59:7;67:6;77:8, 13;108:25;109:13; 110:11;111:11,12; 120:16,17,23;121:9,19, 20,25;136:24;138:19; 149:10;151:17,18; 154:14;175:21;177:17, 21;190:6;195:23;221:9; 229:3;245:4,24,25; 246:9,10;265:21
individually (8) 135:20;136:10,13; 169:22;255:11,18,19,22	informed (4) 63:25;102:1,4;169:8	insurance (1) 53:22	intoxicated (6) 82:2,5,14,16;108:17; 112:6	jailer (3) 57:21;77:15;138:20
individuals (88) 18:8,15,21;19:9; 38:10;39:7;41:6;42:8, 10;44:11;45:13,13,23; 49:4,17,19;50:7;51:2,14, 17,18;52:2;55:8,14;56:8, 10;57:11;60:14,18; 64:14,15;65:1,21;66:23; 70:15;72:12,21;73:11, 14,18;74:16;75:7;78:4, 13,20;80:6;81:16;82:4, 15;84:5;85:23;86:22; 112:2;113:10;115:3,12; 122:13;124:20;128:25; 134:11,20;136:9;183:8;	Initial (1) 253:13	intended (4) 6:14;90:17;199:18,18	intoxication (1) 112:18	jailers (1) 57:17
	initially (5) 35:13;222:21;223:3; 256:4;264:8	intent (4) 10:19;170:2;179:16, 22	introduce (2) 116:13;152:3	jailhouse (2) 176:5;177:1
	initiated (1) 28:4	intention (2) 199:14,15	investigate (3) 35:15;64:3;115:24	jerk (2) 96:10;97:4
	injure (1) 97:9	intentional (1) 68:4	investigation (25) 15:5;28:4;43:16;64:1; 10;66:18;68:8;75:10; 115:1;116:4;126:4; 202:24;203:20;208:17, 19,24;218:8,12,14; 222:2,13;224:14,16; 226:4;239:22	Jim (1) 105:8
	injured (7) 49:22;85:24;87:3; 140:1;156:8;160:3; 254:15	intentionally (2) 140:13;160:22	investigations (1) 209:8	job (18) 13:5;14:7;15:12,15; 17:5,20,22,23;27:6,12; 40:13;46:23;47:1,6; 54:12;61:10;62:8;111:9
	injury (9) 16:21;58:9;132:23; 139:18;160:6,7;176:15, 21;194:7	intents (1) 171:3	Investigator (11) 7:18;75:2;76:12;78:2; 99:7;202:20;210:22; 211:15;217:8,10;252:12	jobs (1) 63:11
	inmate (1) 102:3	interact (1) 21:5	involved (13) 10:1;11:7;79:3;91:21; 94:17;105:23;107:25; 108:13;121:10;165:8; 170:2;220:22;228:4	Joel (1) 8:9
	inmates (1) 44:15	interacting (2) 257:25,25	isolated (2) 26:18;113:1	John (6) 3:25;7:7;8:14;12:21; 104:4,7
	inquire (2) 248:20,21	interaction (2) 21:8;126:25	issue (17) 5:8;11:24;23:7;49:8; 60:10,11;70:7;75:23; 107:1,16;109:12;111:4;	joint (1) 186:8
	inquires (1) 249:12	interesting (1) 199:4		joke (1) 110:4
	inquiring (2) 239:9;240:12	interfering (1) 239:17		Joseph (3) 10:12;236:14;251:16
	inquiry (1) 240:3	intern (1) 24:22		Jr (1) 9:7
	inquisitive (1) 240:18	internal (3) 202:20;215:20;247:18		judge (4) 46:24;47:3;151:18; 165:8
	inside (15) 13:18;51:2;52:7; 71:21;72:6;98:6;115:21; 181:13,13,15;183:12; 193:4,6;221:7;229:21	internship (2) 24:3,13		judgment (1)
		interrupt (1) 175:11		
		intervene (3) 17:3,13;19:22		
		intervened (3) 17:1,19;255:9		

Edwin S. Sorrell v. SCDPS

249:9 judicial (4) 17:8,12;46:25;47:3 July (1) 16:5 jump (2) 52:8;121:18 jumping (1) 121:19 June (7) 3:5;16:3;25:19;62:4; 63:17;20:64:5 Junior (5) 64:17,17,18,20;185:6 jurisdiction (2) 118:18;121:1 jury (1) 46:24 justice (18) 16:25;17:6;31:8;68:2; 4,5;83:13;85:16,19;87:6; 19;105:2,4;218:10,22; 220:10;221:6;222:8	kid (2) 64:23;186:13 kidding (1) 124:2 kids (3) 94:4;118:14;121:17 kill (4) 48:25;49:3;86:3;87:10 killed (2) 85:24;87:3 kind (59) 13:10,11;16:23;20:22; 31:9;39:19;46:5;60:17; 63:23;69:6;70:5;82:20; 95:8;100:15,21;108:21; 126:19;128:7,12; 130:22;136:9;143:17,18; 19,22;152:17;154:21; 168:5,8,13;175:24; 177:10;178:14,16,16; 181:7;182:1,3;186:24; 200:21,25,25;201:7; 208:2;209:19;220:21; 223:22;228:8,15; 230:17;234:9;239:13; 240:17;241:23;246:10; 256:4,22;260:19;262:4 Kitchens (7) 8:7,8;9:2,3;85:4; 87:23;88:3 knew (6) 15:10;86:22;191:17; 193:25;194:2;233:21 knocked (1) 34:22 knowing (2) 160:5;195:25 knowledge (5) 60:9;89:4;153:7; 226:12;242:10 known (1) 44:10 knows (3) 79:18;101:15;231:5 Kristopher (3) 251:20,24;269:8 Kudelka (1) 3:11	language (7) 109:25;110:5;112:14; 175:25;177:18;188:12; 189:16 Lanier (3) 8:6;86:14,16 lapse (1) 249:8 laptop (1) 210:16 Larry (1) 7:13 last (27) 6:2;61:22;63:9,14; 82:20;93:19;164:6; 198:2;209:6,9;212:11; 12;213:2,6,6,7;225:17; 242:8,14;255:12,20; 257:11,13;258:11,14,17, 18 late (2) 103:15;199:2 Later (22) 14:17;21:23;43:10,11; 48:14;49:22;50:3;60:2; 65:11;74:8;128:15; 131:22;135:19,21; 156:16;164:10,21,22; 176:3;207:13,17;266:20 law (42) 3:24,25;10:3;12:21; 18:25;19:14;23:15; 44:10;47:6,7;48:22; 50:24;55:25;56:14,18, 25;63:12;64:16;66:3,8; 68:23,25;69:2;76:2; 79:12;81:23;91:23; 104:16,20,23;105:5,15, 19,25;116:22;117:5; 118:17,22,24;162:2; 164:20,21 lawful (2) 18:24;50:19 laws (6) 105:6;106:8;107:1; 108:21;110:16;211:18 lawsuit (10) 151:23,25;152:1,9; 162:9;163:10;164:6; 171:15;190:23;249:20 lawyer (6) 92:20,20;164:15,17; 193:9;195:8 lawyers (1) 175:8 lay (1) 134:18 lead (1) 107:21 leading (6) 129:2;137:11;180:14, 15;213:18;215:14 leads (1)	66:15 leak (2) 127:22;144:9 leaked (1) 144:10 leaned (1) 52:1 leaning (9) 99:12;205:14,16,17; 206:7,8,15;208:5;253:18 leans (1) 39:2 learn (2) 63:22;89:2 learned (1) 88:23 least (2) 67:13;236:15 leave (12) 75:20;87:15;127:14; 210:13,14,23;233:5,11, 21;235:18;246:1,13 leaving (3) 89:11;98:4;101:24 lecturer (1) 105:17 led (1) 110:8 Lee (4) 7:18,19;8:16;202:14 left (34) 20:12;24:3;34:7;37:2, 21;38:10,14;41:15,16; 42:10;43:12;47:18;75:6; 87:16;105:24;109:2; 121:21;127:24;129:25; 130:3;131:8;143:24; 147:19,21,22;154:22; 162:19;192:7,9;224:8,9; 234:8;246:7;265:2 left-right (1) 36:25 legal (2) 11:1;18:15 legality (1) 70:7 legally (1) 18:9 legs (14) 95:16;97:1;128:2,4, 12;129:19;131:6,13; 136:3;146:21;159:20; 168:24;179:23;200:24 Lesia (1) 3:11 less (4) 62:22;69:18;138:15, 16 lesser (2) 19:23;20:2 letter (21) 18:14,17,18;19:19; 28:17,25;29:1,2,9;70:12,	13,14;85:12;87:18; 196:9,11;209:2,2;226:1, 4,6 letters (5) 25:5;27:21;28:3;29:8; 30:16 letting (2) 49:14;262:23 level (7) 23:14;29:9;63:5; 117:19;130:19;184:6; 230:4 Lewis (1) 24:1 liability (2) 50:4,8 liberties (1) 19:12 license (1) 53:21 Licensing (1) 3:12 lie (1) 97:21 lieutenant (1) 60:5 life (3) 88:11,12;221:16 life-ending (1) 44:22 light (1) 235:2 lights (1) 221:22 likely (1) 111:16 Limestone (1) 24:8 limit (1) 211:1 limited (1) 122:9 line (5) 99:16,17;181:19; 266:2;269:2 lines (7) 99:22;176:7;179:25; 188:14;216:19;219:11; 240:2 lip (6) 169:12;175:23; 177:25;213:13,24; 215:17 liquid (2) 35:7,11 list (8) 3:18,22,23;5:15;6:24; 201:25;209:25;234:8 listed (1) 22:1 listen (4) 19:6;21:16,17;159:16 listening (1)				
K								
KA (1) 8:22 Keel (4) 9:4,5;54:6;109:21 Keel's (1) 158:25 keep (11) 19:8;64:18;106:16; 144:8;156:19;170:3; 224:21;225:2;233:19; 247:8;248:10 keeping (1) 127:21 Keith (28) 8:2,3,20,21;43:14,15; 44:24;45:5;50:12;73:21; 75:12;82:12;124:21; 133:11;142:18,19;166:8, 11,21,22,24;167:3,24; 174:12;175:3;183:1; 203:21;208:8 kept (2) 26:7;149:10 key (2) 173:17;246:19 keys (4) 52:12,17;58:18,20 kick (4) 96:24;169:4;180:4; 200:23 kicked (1) 33:12 kicking (15) 60:18;61:3;128:8,12; 131:10;132:5;135:12; 179:23;181:2;200:16,20, 22;201:3,10;229:11	L							
Labor (1) 3:11 lack (2) 107:18;224:10 Lackadaisical (1) 241:14 lady (10) 37:23;42:19;45:18; 48:16;51:24;52:11; 178:9;188:19;189:21,22 lance (1) 66:24								

131:5 lists (1) 7:3 literally (2) 198:23;199:6 litter (2) 142:3;145:22 littering (2) 47:21;145:21 little (47) 13:23;22:22;29:23; 32:24;25:42;4:5;44:20; 52:10;19:63;14:74;17; 78:8;95:6;7:98:24; 100:14;103:14;122:23; 126:18;128:15;138:15; 23:143:8;152:9;171:25; 175:12;176:4;184:1; 185:25;199:8,25; 206:24;229:8,24; 230:18;239:14;241:23; 242:1;254:25;256:22; 257:23;259:9,10;261:1, 3,16 live (3) 13:25;92:23;186:15 lived (7) 140:22;168:5;183:16, 21;185:3,4;203:22 lives (2) 52:16;130:18 living (3) 113:22;140:23;168:15 lobby (10) 32:11,13,17;34:24; 36:8,10,19;87:8;134:16; 265:16 local (1) 105:20 locally (1) 24:9 locate (1) 81:8 located (4) 32:9;170:9;178:25; 253:6 location (5) 33:17;35:16;70:16; 113:16;238:6 locations (1) 33:18 lock (2) 227:12,18 locked (4) 38:21;86:11,21; 246:12 locking (3) 86:13,17,18 lodged (1) 203:11 log (3) 30:5,7,13 logically (1)	29:11 long (15) 37:18;74:18;80:14; 84:23;90:4;93:6;185:2; 198:25;209:23;234:22; 235:19,25;245:12; 261:15;263:23 longer (3) 9:22;13:21;91:17 look (32) 13:7;18:11,18;19:15; 35:11;38:9;62:10,13; 63:8;67:5,6;68:24;70:7; 13:22;74:5;79:24;98:22; 99:15;106:17;112:22; 147:13;193:4;206:21; 219:8;220:19,20; 235:15;236:10;239:20; 240:1;252:18 looked (14) 28:12;37:22;38:9; 40:2;43:3;65:17;147:10; 157:3;201:9;209:5; 211:20;228:2;250:23,25 looking (13) 28:6;32:23;40:3,21; 42:12,14;80:20;86:23; 185:9;192:18;201:4; 233:19;256:9 looks (6) 67:18,19,22,22; 227:16;239:23 lost (1) 160:14 lot (18) 54:23;63:1;89:2,4; 106:17;117:23;142:5; 158:16;169:5;179:13; 183:22;185:12,23; 187:19;197:1;209:21; 223:14;231:11 Lottery (37) 13:16;14:5;18:5; 31:13,21;32:8,9,14,23, 24;33:6,11,19,21;34:10, 22;36:19;51:3;59:18; 71:19;84:11;89:15,22; 93:3;97:18;118:24; 130:9;202:25;204:5,9; 207:12;230:14,15,16; 237:17;252:9;253:7 loud (27) 37:13;38:20;46:15; 48:1;72:5,23,24;73:2; 81:19,20;94:5,8;108:3; 109:17;114:1,4,7,17; 117:7;123:12;130:21; 142:1;155:18,22;184:1; 201:6;258:8 louder (1) 126:18 loudly (2) 55:11;72:18	love (2) 27:6;105:24 low (3) 145:7,8;240:17 lower (8) 57:25;128:6;131:1,7, 9;141:24;183:17;184:8 Lumpkin (1) 8:9 lunch (2) 90:6;103:6 luncheon (1) 103:20 M ma'am (137) 23:10,18;24:13,25; 25:13;27:20;29:15;30:4; 31:7,23;32:22;33:17; 34:3,13;36:5;40:7,23; 41:16,17;57:21;60:16, 19,21,24;61:12,15,20; 62:2,16,18,23;63:19,25; 64:8;71:7,23;72:3,14; 73:4,16,25;74:4,17; 75:14;77:17,22;78:6,25; 79:7,14;81:12,20;82:6; 83:19;84:1,8,13;92:19, 22;93:5,21,24;96:11,13; 97:8,10,13,17;101:22; 125:25;129:21,23;130:3, 12,16;131:18;132:4,16; 134:3,21;136:18,23; 137:24;138:3;139:8,15, 19;140:10,16,19;141:3, 9,14,21,25;142:9; 158:20;163:8,11,20; 164:1;165:23,24;167:9, 13;168:3;180:23; 181:24;183:3;184:12; 188:7,7,10,11;189:10, 14;237:13,25;238:7; 240:13,18;242:24; 243:2;252:5,10,19,22; 253:20,23;254:2,8,13; 256:20;258:10,16; 259:11,20 Macedonian (1) 65:25 mad (2) 70:25;227:19 Magistrate's (1) 153:5 Main (10) 32:12,12,21;95:11; 105:3;143:4;158:17; 168:14;213:24;230:1 makes (3) 43:2;108:22;138:15 making (19) 37:8,20;65:4;72:21; 81:17;100:21;109:22,	23;138:21;141:22; 142:5;146:2;179:7; 183:20;221:11;253:24; 264:12;266:1,2 male (7) 56:11;99:20;169:16; 170:16;245:21;256:10; 262:3 males (13) 39:16;42:10,12;56:8, 12;73:20,21;94:19; 199:23;244:20;259:18; 262:17;263:21 malicious (1) 179:16 Malissa (3) 3:24;12:20;92:18 Malone (23) 7:10;33:23;35:22; 36:9;40:10,11;43:1,3; 60:25;61:1;89:13,14; 90:10,21,25;91:6;92:4, 14,18;98:2,22;102:23; 103:1 man (14) 64:22,24;95:7;111:15; 112:23;114:14,23; 115:8;146:6;162:8; 192:13;195:13;198:10; 219:17 manage (1) 127:17 Management (1) 61:25 manner (19) 14:9;18:19,20,23; 19:5,21;20:10,17;21:5, 15;38:20;48:3;60:23; 82:2;96:10;108:19; 112:13;122:12;175:6 manpower (1) 250:6 mansion (2) 238:19;243:12 manual (3) 27:22;29:11;30:10 many (9) 12:25,25;44:10;68:20; 94:16;106:12;147:18; 234:23;236:1 March (22) 13:15;16:2;18:4;21:1; 31:22;63:18,20;71:18; 80:16;93:4;107:11,15; 127:2;148:13;163:19, 23;167:4;168:1;203:1; 207:2;237:15;252:9 marijuana (1) 110:21 Mark (8) 9:4;66:13;116:16; 126:8;167:20,21; 220:13;252:23	marked (5) 4:25;16:5;29:18; 61:17;126:13 Marshawn (1) 92:3 Marvin (4) 237:3,4,7;269:3 Masalla (1) 190:21 Masalla's (1) 162:8 Masella (2) 148:23;161:10 Masella's (1) 190:15 master's (2) 104:18,19 material (2) 209:21;231:11 materials (2) 11:18;26:16 Matt (16) 127:5;128:19;130:18; 131:19;134:12,13,14; 139:22;150:3;154:20; 156:16,17,22;157:20,21; 158:6 matter (8) 5:8;9:22,24;80:11; 91:17,19;172:2;199:6 Matthew (6) 8:2,20;142:18,19; 166:21,24 Matt's (2) 134:23;154:22 Maxwell (1) 85:19 may (40) 5:1,12,14,17,21;6:21; 12:11,19;22:10,15;71:5; 79:9;84:25;88:3;92:10; 97:23;103:25;111:22; 122:25;124:3,4;125:12; 126:3;150:24;161:2,2,4; 162:4,5;166:16;167:19; 202:9;216:22;217:8; 224:20;236:23;249:9; 250:25;251:13;261:16 maybe (12) 16:13;37:11;40:19,20, 21,21;82:8,8;172:17; 199:13;245:15;261:16 McClellan (2) 23:11,13 mean (74) 75:12;77:6;81:9;83:9; 96:21;100:20,25;101:14, 17;109:25;110:21; 114:3,5;115:14,16,18; 117:12;118:16,24; 119:2;120:21;123:11,14, 17;127:9;128:24; 130:14;133:10;135:7;

Edwin S. Sorrell v. SCDPS

137:1,25;138:1;141:19; 149:24;170:24;173:14; 15,16,23;174:19;175:18; 178:6;180:24;181:9; 182:15,16;183:24; 185:19;186:7;188:22; 191:22;198:22;200:2; 19;207:20;219:1; 223:11;230:22;233:2; 234:5,5,16;235:5;236:4; 5;241:20;246:4;248:23; 258:22;260:3,10,20; 261:1;262:5 meaning (1) 66:10 means (3) 40:6;175:11;234:19 meant (7) 135:23;137:7;138:4; 164:16;178:23;189:17; 257:24 mechanics (1) 109:23 medal (7) 25:1,1,4,7,7,9,9 medals (3) 12:24;25:8,8 medication (2) 46:5;82:9 meet (3) 68:7;85:21;186:2 meeting (2) 46:22;220:7 meets (13) 16:5;26:2;62:7,9,14, 17,18,22,24;63:2,5,9,16 member (7) 5:20;9:19;11:21;71:6; 91:14;104:21;178:11 members (12) 3:9;4:17;19:24;25:14; 69:5;71:5;84:19;102:17; 119:25;165:15;200:13; 250:11 memo (5) 206:12;207:2,10; 217:23;222:9 memorized (1) 216:2 memory (5) 142:6;195:24;205:6; 221:3;248:5 men (9) 147:12;150:6,8; 154:12,13,14;215:9; 217:11;249:23 men's (1) 33:7 Mental (1) 3:13 mention (3) 158:13,14;174:24 mentioned (8)	12:20;46:21;64:4; 65:24;103:22;122:2; 140:20;211:12 mentioning (1) 140:13 mere (1) 117:3 merely (2) 41:25;117:17 merited (1) 20:3 Meritorious (1) 25:6 merits (1) 17:17 message (1) 256:12 met (7) 10:15;65:17;76:19; 92:21;93:12;142:24; 208:7 metals (2) 24:23;25:1 Michigan (1) 104:22 microphone (1) 12:16 microphones (8) 22:6;92:7;103:23; 125:9;166:13;202:7; 236:21;251:12 mid (1) 185:5 middle (10) 13:25;14:3;39:1; 74:11,11;109:16;155:7; 199:22;213:7,9 might (19) 46:7;83:10;89:16; 98:24;147:14;183:11; 193:3;194:21,24;198:2; 199:25;200:2;231:1; 234:2,6;244:12,13; 249:6;262:14 Mike (11) 8:6;53:9,15;54:10,14; 20:55;16,19,24;86:14,16 mikes (2) 54:4,25 mileages (1) 244:6 military (11) 12:24;22:22,24;23:2; 5,12,12,16;24:24;88:5; 186:13 Miller (2) 10:12;251:17 millions (2) 54:22;22 mind (4) 42:11;88:5;211:11; 232:24 minded (1)	67:13 mine (4) 29:5;42:4,5;197:1 minimum (1) 76:20 minor (2) 29:10;110:14 minute (7) 11:23;45:24;48:25; 58:6;132:1;206:23; 231:20 minutes (9) 51:4;53:4;141:15; 207:12;235:21;238:25; 245:15;250:18;251:2 misconduct (1) 85:12 misdeemeanor (8) 44:18;47:25;51:19; 107:25;110:15,15,16,18 Miss (1) 51:22 missed (2) 52:12,16 missile (1) 23:4 misspeaking (1) 152:15 mistake (4) 52:14,21;71:1,2 mistaking (1) 201:8 Mitchell (3) 8:4,5;87:7 mitigation (1) 159:4 modern-day (1) 33:4 moment (7) 124:16;168:6;175:15; 176:12;183:10,13; 189:15 moments (3) 43:10;176:6;207:17 money (3) 149:12;159:3;191:2 monitor (1) 34:2 monitoring (1) 36:3 monolithic (2) 36:18,21 month (1) 93:7 months (4) 23:18,19;33:15;60:11 moot (1) 70:10 morals (1) 28:20 more (28) 14:11;41:23,24;63:2; 76:18;90:6;107:14;	114:6;127:9;153:20; 167:11;168:17;172:17; 175:12;179:8,25;184:4; 194:22,24;195:5; 196:25;204:25;216:18, 18;234:4,5;258:2; 261:16 morning (32) 11:10,12;32:4;37:5,6; 46:15;60:3;68:13,16; 69:3;70:19;94:6;107:15; 16;108:5;110:13;111:1, 14;112:25;114:3;123:3; 143:7,12;148:17;155:7; 158:17;168:1;187:21; 190:13;197:9;200:6; 229:25 most (9) 16:14;30:20;46:4; 63:5;106:23;111:16; 175:1;210:3;225:2 Mostly (4) 62:7;148:21;186:7; 196:24 motel (3) 33:1;113:19,20 motion (2) 10:20;11:4 motions (2) 4:15;11:3 mouth (1) 221:15 move (14) 10:22;20:21;42:3,4,5; 75:21;76:4;159:20; 208:14;221:9;229:10; 262:24,24,25 moved (6) 37:1;42:4;74:16; 75:11;94:12;207:16 movement (3) 200:25;206:2,5 movie (1) 230:9 much (31) 59:15;84:16;90:1; 94:1,10,25,25;95:4,9,10, 18;100:4;101:25;102:5; 132:21;134:16;149:24; 164:21;178:7;183:24; 24;184:3,9;211:1;248:8; 259:9,10;260:15;261:1, 3;266:23 muddies (1) 228:12 multiple (1) 209:22 Murphy (2) 3:10;7:9 music (1) 184:1 must (2) 10:18;26:21	myself (10) 17:4;33:18;37:24; 38:2;40:19;52:10,15; 58:4;175:11;245:7 N name (32) 3:7;9:9;12:14;22:4,13; 26:15;33:23,24;51:23; 64:13;66:24;67:6;79:3, 5,15;17:92:2,18;103:17; 104:3,4;125:5,20; 166:20,21,21;188:4; 202:12;237:2;243:2; 247:8;251:19 named (1) 105:8 namely (2) 244:19;246:11 names (2) 103:17;240:14 narrative (1) 69:16 narrow (1) 13:6 nasty (1) 95:5 National (3) 24:5;26:9;105:21 nature (5) 106:11;140:15;219:1; 222:12;258:9 near (4) 100:12;130:9;144:1; 207:11 necessary (5) 4:10;11:1;214:1; 257:16;260:7 neck (5) 169:20;180:21;181:7, 11;193:7 need (17) 5:8;16:1;31:17;43:17, 23;44:18;58:23;92:2; 113:24;119:1;166:8; 231:16,18;233:6,13; 248:12;261:24 needed (14) 54:2;67:11;81:8;87:2; 131:11;139:2;224:11; 231:12;238:23;240:10; 243:22;253:15;255:15, 25 needs (5) 79:23;221:24;236:7; 247:11;250:23 negative (1) 28:19 negatively (2) 27:15;117:17 neighborhood (3) 46:14;119:8;145:25

Neither (2) 42:17;45:7	14:14;41:18;58:21; 121:16	6:23;25;9:10;90:11, 13;91:3,4;174:5	211:25;237:16	11;192:2;194:25; 195:18;197:6;198:6,13; 199:21;200:16;205:5; 207:15,19;208:14; 212:14;213:3,8,10,13, 25;215:3;216:2,22; 217:7,9,10,12,21,23; 218:2,23;219:4,18,23; 220:10;221:4,8,10,10, 12,15,18,21,25;222:23; 223:16;228:21,24;229:4, 5,20;231:22;232:9; 237:1;238:3,8,21,22; 241:1,11;242:13,25; 245:1;246:24;248:17; 252:3,8;253:4,15;255:9, 16;256:24;261:9,18; 265:3,12
nervous (4) 100:16,21;126:20; 136:6	normally (5) 58:1;66:8;119:5; 121:12;233:22	object (5) 38:12,24;101:7; 189:16,18	occurring (1) 63:5	officers' (20) 15:16;44:16;105:7,20; 109:20,22;110:19; 113:13;114:23;115:7, 14;118:1;119:4;120:5; 123:9;156:18;176:6; 177:2;201:25;239:16
new (1) 98:17	North (2) 32:12,21	objected (1) 171:21	o'clock (2) 89:12;94:6	offer (1) 106:25
next (28) 75:19;89:12;110:13; 111:13;134:12;148:17; 149:8;150:2;156:15,17; 163:25;166:9;170:10; 190:13;197:9;199:1,2; 210:15;212:10,12,19; 213:6,7;235:12,16; 236:15;257:18,19	Northern (1) 85:21	objection (28) 12:1;89:24;102:19; 107:2,4;126:11,12; 129:2;133:6,16;137:11; 138:3;153:2;170:18; 173:25;174:10;180:12; 182:13,17,22;188:15; 213:18;215:14;220:14; 240:20;242:6;250:19; 257:7	odd (6) 128:7;174:9;178:3,5; 179:2;191:8	offered (2) 25:19;198:1
nicely (1) 95:22	Northwestern (1) 104:17	objections (2) 4:15;180:15	odor (1) 82:13	offense (4) 44:18;51:19;110:14; 112:16
night (36) 14:1,3,12;31:11,12,13, 14;33:16;34:12;37:6; 51:15;54:15;55:10; 59:15;82:4;93:9,13,17, 23;109:16;142:5,16; 155:7,12;170:13; 172:24;176:9;177:11; 186:1,17;191:23; 199:22;204:22;226:20; 238:19;243:14	Norwell (1) 117:15	obligated (2) 26:22;27:2	off (21) 39:4;44:24;45:3; 51:23;98:16;100:2,3; 118:14;131:23;142:25; 168:9,21;186:2;197:21; 221:22;235:7;236:17; 238:19;245:25;248:5; 263:17	offenses (1) 29:10
nightsticks (1) 106:10	notarized (3) 161:24,25;162:5	obligation (3) 28:23;113:4;248:19	offended (1) 154:7	offer (1) 106:25
Noble (2) 26:21;36:21	notary (1) 161:23	obscene (1) 112:14	offense (4) 44:18;51:19;110:14; 112:16	offered (2) 25:19;198:1
nobody (7) 14:2,15;15:1,1;97:2; 145:5;251:8	note (2) 18:19;201:16	observation (1) 207:18	offenses (1) 29:10	offering (1) 249:10
Nobody's (1) 154:9	noted (3) 28:3;33:10;62:24	observations (2) 108:10;207:7	offer (1) 106:25	office (22) 3:15;34:4,4,18;141:5; 162:1,2,8;163:4,6; 164:20,21;190:16; 196:2;202:21;203:6,7; 209:3;218:13;223:19; 243:11;252:12
nod (1) 156:9	notes (2) 209:24,25	observe (5) 204:17;205:25;206:7; 207:22;214:5	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	official (1) 224:25
nodded (1) 43:5	notification (2) 84:3;113:15	observes (2) 109:3,17	offering (1) 249:10	officially (1) 27:20
noise (21) 98:9;108:6,10,10; 110:23;130:23;141:12; 142:5;145:24;146:2; 183:20,20,24,24;184:3, 3;185:12,15,16,19; 253:25	notified (3) 208:23;224:15;266:23	obstruct (1) 68:3	office (22) 3:15;34:4,4,18;141:5; 162:1,2,8;163:4,6; 164:20,21;190:16; 196:2;202:21;203:6,7; 209:3;218:13;223:19; 243:11;252:12	often (2) 120:24;197:2
noises (1) 142:1	notify (7) 12:7;80:3;87:7,8,20; 181:12;237:23	obstructed (1) 68:5	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	old (15) 11:13;65:3,3;83:4; 95:3;107:19;110:1; 112:24;123:2;146:4,6; 186:9;188:1;230:8,9
nolle (1) 196:10	notifying (1) 88:12	obstruction (1) 68:2	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	older (1) 33:1
noncompliance (1) 41:3	Noting (1) 166:5	obtain (1) 204:4	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	O'Leary (89) 3:25;7:7,8;12:22; 21:23;104:4,5,7,11; 106:25;107:9;111:25; 122:8;126:12;129:2; 133:6;137:11;142:13; 152:3,7,25;153:3,10,11; 162:20;163:3,13,14,16; 164:5;165:11;170:18; 171:12,13,20,21;172:3; 173:11;175:10;180:12, 14;182:13,17;185:1; 200:10;201:15;213:18; 215:14;220:14;225:14, 16;226:9,13;232:14,19; 233:2,4,8,12,22;234:15, 22;235:7,17,20;236:6, 12;240:20,24;241:4; 242:6;243:8;248:13; 249:16,18;250:8,14,17; 251:2,7;257:7;261:7;
non-compliant (1) 41:18	numbers (5) 28:12,13,13;206:23; 213:2	occasions (2) 84:4;85:7	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	Ohio (2) 107:20;117:15
non-cooperation (1) 109:5	numerous (3) 25:4;41:4;106:21	occure (2) 214:16;223:12	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	old (15) 11:13;65:3,3;83:4; 95:3;107:19;110:1; 112:24;123:2;146:4,6; 186:9;188:1;230:8,9
none (5) 57:3;94:12;102:21; 119:16;183:18	O	occure (2) 214:16;223:12	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	older (1) 33:1
normal (4)	oath (8)	occurred (6) 47:2,10;176:3;202:25;	officer (180) 4:8;5:19,24;6:20;8:22; 23:2,17;25:23,23;26:21; 28:19,21,23;30:18; 36:22;40:21,24;41:3; 45:24;47:7,7;48:20; 52:2,8;53:4;55:1,3,21, 22;66:4;67:14;68:23,25; 76:3,25,25;77:10;79:5; 90:24;108:22;109:2; 110:3;113:3;114:16; 115:9,20;116:21;117:5; 118:3,23;120:11,22; 121:22;122:21,23;123:3, 21;127:24;129:8,13; 130:24;131:22;133:3,20, 24,25;134:1,14;135:3,4, 5;137:9,10,17,20,22; 138:6,17,20,25;139:5, 10,13,23;140:4,13; 141:6,8,9;142:6;144:17; 150:14;156:3,23; 158:10;159:1,8,22; 167:4;168:21;169:17; 177:7;184:19,19;191:6,	O'Leary (89) 3:25;7:7,8;12:22; 21:23;104:4,5,7,11; 106:25;107:9;111:25; 122:8;126:12;129:2; 133:6;137:11;142:13; 152:3,7,25;153:3,10,11; 162:20;163:3,13,14,16; 164:5;165:11;170:18; 171:12,13,20,21;172:3; 173:11;175:10;180:12, 14;182:13,17;185:1; 200:10;201:15;213:18; 215:14;220:14;225:14, 16;226:9,13;232:14,19; 233:2,4,8,12,22;234:15, 22;235:7,17,20;236:6, 12;240:20,24;241:4; 242:6;243:8;248:13; 249:16,18;250:8,14,17; 251:2,7;257:7;261:7;

Edwin S. Sorrell v. SCDPS

265:8;266:8,9,14;269:5,7,10 once (25) 5:6;19:6;39:4;57:19; 68:7;77:12,13;82:4; 87:11;98:8;114:19; 116:11;138:19;181:13; 183:12;207:19,23; 225:6;238:15;241:13,20, 21;242:20;246:12; 253:25 one (158) 14:17,19;16:14,20; 17:20;18:8;19:3,21;9; 28:11,13,17,30;5,17,18; 19:31;11,12,13,14;35:1; 36:2,25;38:19;39:7; 43:13,23;45:7;46:20; 50:7,19;52:1,53:13; 55:12;56:19;57:16; 60:10,25;64:14,15;65:7, 9,20;68:11;69:4;72:11, 17;76:22,23;78:12;80:5; 81:17;82:15;84:21;88:2, 13,17,20;90:5;93:9; 94:20;95:2,9;100:6; 105:13;108:17;109:5,7, 10;110:2;112:23;113:8, 21;119:2;120:2,18; 122:7;123:2;125:21; 130:18;132:22;134:19; 136:14;139:24,24; 140:22;144:19,23; 148:1;149:1;152:5; 153:12;155:24;156:12; 157:22;164:6;165:9,16; 167:17;168:2;169:17, 23;172:21;174:1;177:2, 4;178:6;179:14,17; 183:2;188:17;189:25; 191:11,13;192:6; 194:23;195:3,5;197:25; 198:1,2,2,5,10,19;199:7, 23;200:15;205:1;206:6; 209:9;211:11;215:2; 217:14;228:3,4;232:19; 235:10;238:4;239:8; 240:2,3,11,16;249:8,25; 254:3;255:11,11,13,19, 20;256:16;259:18; 262:3,3;263:12,20; 265:17 ones (1) 205:7 one's (1) 154:11 online (1) 211:21 only (43) 6:3;10:4;12:10;14:19; 15:3,4,6,21,25;17:1; 24:3;26:4;31:16;42:15, 21;47:15;54:2;58:11,13,	17;61:6;62:23;72:17; 89:20;91:24;95:9;96:5; 122:16;131:20;132:5; 24;140:8;170:4;181:19; 194:14;197:24;198:3; 206:3;217:1,1;247:7; 250:22;251:2 Ontario (1) 105:16 onto (3) 127:8;144:14;160:24 open (5) 10:19;53:12;97:1; 141:1;183:14 opened (4) 34:18;53:19;57:11; 183:18 opening (4) 5:12;6:20;12:18;90:10 operating (1) 53:14 opinion (10) 106:18;108:14;121:7; 155:20;192:25;206:3; 216:2;250:25;259:12; 261:25 opinions (1) 106:7 opportunity (6) 5:18;172:12;173:18; 174:7;210:12;211:1 opposed (3) 177:16;178:4;257:25 opposite (4) 181:6,8,8;192:10 OPR (2) 26:21;247:18 option (9) 6:1;48:9,10,15;49:15, 16;175:22;177:24;249:1 options (1) 247:12 orange (2) 38:12,24 order (7) 4:13;10:17;30:17; 73:18;95:1;240:10; 266:2 ordered (2) 39:1,5 orderly (4) 4:10;184:15,20; 215:25 orders (4) 95:12,19,21;101:1 ordinance (1) 108:19 Organized (1) 65:25 original (6) 77:25;80:22;98:16; 212:19;243:10;248:2 others (2)	88:12;239:2 otherwise (4) 48:2;81:24;112:9,10 out (131) 6:3;7:23;14:8;22:25; 33:8;34:14,16,22;35:1,2, 24;36:10,11;37:23; 40:10,11;43:20;45:15, 22;46:22,25;47:8;48:3,8, 11,12;49:24;51:8,14; 54:16;55:21;57:8,11,12, 17;60:1,3;64:10;68:7; 71:25;73:10,13,24; 75:25;81:16;83:3;87:8; 93:7;94:2,4,9;98:8,9; 101:18,25;110:12,13; 111:10,13,15,17;112:24; 113:4;115:15;121:2; 123:2,9;126:9;127:25; 129:19,25;130:1,11,13; 133:4,4;134:3;137:17; 140:24;141:14;142:7; 144:4,7,10;145:7; 148:17;149:8,11; 151:19;159:11;168:4, 16;172:6;174:13;175:1, 9,22;177:24;179:1; 182:6;183:8,19;186:18; 187:20;190:13;196:7; 197:9;203:22;205:3; 207:16;208:3,9,9; 211:11;212:21;219:10; 225:5;227:7,11,17; 229:22,25;230:22; 231:8;241:21;245:10; 246:13;253:10;256:11; 261:2;265:21 outcome (1) 51:15 outer (1) 227:3 outfit (3) 42:20;48:17;52:8 outnumbered (1) 39:7 out-of-state (1) 171:9 outside (23) 13:18,19;14:5;34:1,9; 71:22;72:10;82:5;98:3, 5,10;115:23;127:11,25; 135:10;140:21;171:7,8; 183:11;202:25;237:17; 252:8;253:7 outstanding (2) 27:7;63:10 over (38) 11:20;27:21;44:6; 47:18;50:22;52:1;53:2, 13,18;58:22,22;65:15; 66:6,11;68:13;73:1; 75:14;97:18;106:14; 136:22;143:20;144:10,	11;153:17;154:22; 156:13,13;161:14; 163:14,16;164:19; 189:4;241:24;242:1; 243:19;245:1;254:25; 255:21 overaggressive (1) 84:4 overall (1) 62:11 overheating (1) 34:17 overly (4) 18:20;19:21;85:7; 122:19 overnight (1) 13:17 overreacted (1) 20:9 overreacts (1) 20:16 Overruled (1) 215:15 oversimplification (1) 18:2 overstatement (1) 18:2 overtime (1) 60:1 own (9) 102:12;108:9;134:24; 152:20;161:21;174:23; 224:8,9;262:1 P package (2) 207:11;238:19 page (47) 22:11;27:22;29:14,17; 30:10;61:17;62:10,14; 64:11;65:22;73:7,8; 77:14,24,25;80:23;83:4; 92:12;98:16,17;99:1,8, 14;125:12;139:5; 166:17;182:9;202:9; 206:19,22;212:11,19,19; 215:19,20;216:8; 220:13;239:20;242:14, 15;257:12,14,19,19; 258:12,14;269:2 pages (6) 65:5;104:1;125:22; 126:8;236:24;251:14 paid (2) 88:18;139:6 pain (2) 46:5,6 painful (2) 176:15;193:17 pair (1) 238:23 pamphlet (1)	64:12 panel (17) 19:24;70:7;71:5; 84:19;102:17;104:14; 106:25;107:10;111:22; 119:24;172:1;188:8; 200:13;232:17;250:11; 266:12,19 panicky (1) 100:15 paperwork (10) 14:13,15;48:11;51:4; 59:19;85:13,14;133:3,4; 134:7 paragraph (16) 74:12;208:7;212:11, 12;213:2,6,7,9;215:24; 216:1,8,15;240:1;242:9, 14;258:17 parent (2) 17:3;203:11 parents (2) 186:15;222:21 park (1) 186:18 parked (3) 57:10;143:3,24 park-like (1) 27:9 part (17) 23:10;39:14;54:24; 74:25;81:20,23;96:22; 122:15;123:19;153:25; 210:21;211:14;250:22; 258:13;259:4,10;260:24 particular (13) 53:20;59:20;105:2; 109:3;112:13;168:12; 177:18;179:5;181:5; 186:1,17;189:15;225:23 particularly (5) 170:14;176:8;177:12; 179:3;206:13 parties (11) 3:22;5:24;6:14,24; 11:7;12:3;90:18;123:24; 172:1,16;266:23 partner (1) 250:2 party (9) 3:17;5:21;6:9;11:17; 123:24;171:15;188:18; 189:23;190:23 pass (1) 94:15 passed (2) 10:2;91:22 passenger (1) 133:25 past (7) 33:15;34:20;51:13; 54:21;62:21,23;225:9 pat (12)

96:1;147:9,11;150:14; 17;156:24;157:2,8; 193:14;194:15;244:19; 245:1 patches (1) 40:24 paths (2) 230:20;231:5 patrol (8) 32:19;53:25;54:13; 56:2;223:17;238:17,18; 245:5 patted (13) 77:3;147:4,6,10; 149:18;157:4,11;192:3; 194:10,12,14;228:17; 244:23 patting (3) 147:2;192:22,23 pause (2) 170:22;182:1 paved (1) 205:5 pavement (1) 176:14 pay (4) 17:20,21;70:24;195:5 paycheck (1) 88:19 peaced-tailed (1) 63:10 peacefully (1) 127:8 peered (1) 37:22 pending (4) 9:22,25;91:17,20 people (44) 13:10,25;14:6,9,19,23; 15:17,23;16:20;21:5,8,8; 27:11;46:25;48:21;53:1; 69:11;75:22;88:25; 94:17;109:4;110:24; 111:11;118:20;130:23; 158:16;178:10;185:22; 187:20;193:14;195:2; 197:24;198:3;199:21; 22;223:22;229:2,14; 238:4;244:19;245:25; 262:3;263:12;264:21 per (2) 29:11;51:5 perceive (1) 115:19 perceived (1) 83:17 perceives (2) 116:21;120:22 perception (3) 140:17;174:22;184:20 performance (4) 16:4;61:14,25;64:6 performing (1)	55:25 performs (1) 62:14 perhaps (1) 138:16 period (5) 32:6;80:14;88:17; 132:6;150:2 permission (3) 86:18;125:1;193:23 permitted (1) 6:8 person (23) 42:1;45:6;47:19; 72:11;76:3;107:22; 111:15;112:5;114:15; 122:22;123:11;130:4,6; 136:13;138:14;178:18; 186:20;194:25;199:17; 231:22;232:5;238:9; 249:14 personal (2) 40:12;242:10 personality (1) 13:6 persons (1) 11:8 pertaining (1) 12:4 pertinent (2) 6:4,5 petite (1) 38:3 petty (1) 47:19 phone (14) 52:12,16;58:18,21; 59:2;86:14;102:1,1,12; 141:18;160:14,15,24; 226:20 phonetic (7) 23:5;25:15;63:10; 86:15;92:4;105:8; 210:22 physical (6) 108:9;214:1,3,5,12; 257:16 physically (2) 34:1;238:13 pick (5) 103:24;143:21; 166:13;170:3;245:16 picked (13) 12:15;22:5;92:6; 125:8,9;142:2;144:13; 147:22;157:20,23; 202:6;236:20;251:12 picking (2) 157:14;168:20 pictures (3) 160:10,13,19 pieces (4) 145:20,21;168:21;	170:4 Pierce (2) 23:25,25 pillar (2) 38:16;144:1 pillars (1) 36:21 place (10) 10:14;13:22;20:13; 39:6;40:4;110:7;112:5; 143:20;144:10;241:23 placed (15) 41:13,14,19;50:11; 55:15,18;126:9;134:6,9; 136:19,20;239:6;253:8; 21;259:21 placing (2) 59:6;207:11 planning (1) 127:7 plastic (1) 170:4 play (1) 54:17 played (1) 215:11 playing (2) 49:2;184:1 plea (1) 179:6 pleading (1) 19:23 please (25) 3:23;9:11;12:19; 22:21,23;32:2,20;71:4; 75:15;85:9;91:7;92:2; 103:15;104:3,13,14; 125:5;126:23;166:19; 202:12;237:1;251:18; 19;252:24;258:12 pleased (2) 136:23,25 pleasure (1) 137:4 Plural (1) 212:9 plus (1) 81:3 pocket (2) 52:9,18 pockets (1) 96:6 point (56) 6:3;20:11,25;49:10; 70:10;75:11;77:7;98:4; 105:13;108:13;109:6; 115:5;116:8,9;117:21; 119:2;131:16;132:20; 134:18;135:12;138:6; 144:18,20;147:18; 149:4;156:13;157:4,7; 158:8;169:5,19;174:25; 186:25;190:21;193:6;	194:11;206:7,10;208:9; 224:5;227:2,6;232:21; 233:9;238:14;239:5; 243:16;245:2,3;253:21; 23;255:10;259:16; 262:12;264:1;265:20 pointed (3) 80:12;205:3;208:8 points (4) 121:17;170:16; 203:24;209:25 police (26) 23:2,12,16;30:18; 36:22;37:7;40:20,24; 41:2,21;49:1;54:1;56:3; 59:24;87:11,12;101:15; 105:18;110:1,3;138:17; 151:7;221:10;222:16; 223:4,15 policemen (1) 223:19 policies (1) 219:15 policy (12) 13:13;20:6;26:23,25; 59:5,21;102:9;225:5; 244:5,18;262:2,5 polite (1) 175:19 politely (2) 169:25;176:19 popped (1) 205:4 popping (1) 207:13 porn (1) 28:6 pornographic (1) 26:16 pornography (1) 26:9 port (2) 57:6,10 portion (2) 81:7;105:9 position (14) 25:20,22,38;14,15; 39:16,21,25;41:7,20; 70:23;180:20;181:3; 202:19;206:9 positioned (1) 205:13 positions (1) 31:9 positive (3) 63:11;80:3;205:9 possession (1) 127:22 possible (6) 145:19;191:12; 214:23;219:12;232:20; 249:6 possibly (2)	141:15;238:4 post (2) 23:23;144:1 posted (1) 238:5 posture (2) 38:8,23 potential (2) 86:10;88:13 potentially (1) 266:21 pouch (2) 52:7,12 power (4) 21:12;171:7,8;221:19 powers (1) 118:25 PR (1) 111:18 practice (1) 12:21 practicing (1) 105:25 precisely (1) 247:11 preclude (2) 6:14;90:17 prefer (1) 251:6 preference (1) 57:25 preferred (1) 51:3 premise (2) 108:25;111:5 preparation (1) 173:13 prepare (2) 167:10;210:15 prepared (2) 38:18;85:17 preparing (1) 164:12 presence (3) 51:20;108:1;171:11 present (10) 3:10;5:17,24;6:25; 18:6;21:24;90:10;113:9; 124:24;210:19 presentation (3) 4:5;5:7,13 preside (1) 11:19 presiding (5) 4:8;5:19,24;6:20; 90:24 pressing (1) 180:21 presume (1) 239:7 pretrial (2) 247:9;249:5 pretty (21)

Edwin S. Sorrell v. SCDPS

59:15;94:1,10,25,25; 95:4,18;96:7;101:25; 102:4;132:20;134:16; 147:16;159:13;163:11; 185:15;248:8,8;249:24; 260:15,22 prevent (1) 221:13 previous (1) 218:6 previously (2) 176:14;254:16 primarily (3) 213:4,11,20 primary (4) 118:17;211:24; 213:16;228:4 prior (10) 20:18;43:1,7;84:10; 101:20,20;140:24; 205:21;210:23;259:16 prison (1) 44:14 Private (2) 26:9;140:14 probable (21) 16:9,11,18;17:11; 47:12,14;51:20;61:5; 70:8,9;105:6;107:18,19; 110:17;111:6;117:2; 120:12,13;121:24; 122:9;266:5 probably (31) 17:4;34:15;36:20; 88:21;93:7;94:5;95:6; 96:18,22;105:10,11; 107:14;109:21,25; 111:19;118:14;123:12; 132:9;147:20;168:17; 178:11;185:24;186:7; 187:22,23,23;226:9; 228:4;230:2;246:8; 251:3 problem (27) 14:17,20;42:13;52:5; 53:7;57:22;58:5,8; 63:23;67:16;68:9,10; 108:20;118:1;146:20; 156:5;172:24;173:5; 176:25;201:15;211:25; 212:1;213:12,23; 215:17;232:13;234:7 problems (4) 26:19;152:4;221:16; 233:4 Procedure (11) 4:24;42:2;57:3,4; 58:21;59:13;76:17; 109:19;150:11;166:17; 203:19 Procedures (4) 4:7;10:5;17:7;91:25 proceed (2)	22:15;241:21 proceeded (6) 169:4,14,18;238:17, 18,25 proceedings (8) 4:19;5:22;27:16; 102:20;124:6;125:2; 166:3;236:23 process (19) 45:4;49:18;51:6,7,11; 57:2;60:12;127:23; 168:20;169:9;177:21; 196:1;204:1;209:20; 211:5;215:12;228:16; 248:20;256:24 processed (2) 110:12;111:12 profane (1) 112:14 profanity (5) 61:4;112:19;113:23, 23,24 professional (5) 14:8;22:24;60:23; 202:22;252:12 Proffered (1) 269:18 Program (5) 24:19,20,22;83:23; 104:19 progress (1) 115:25 progressed (1) 37:16 projectile (1) 35:8 proper (6) 19:25;21:2;42:2; 76:17;109:19;159:6 property (5) 54:12,19;59:12; 111:12;259:5 property (5) 27:11;59:12;68:17; 179:16,22 pros (1) 196:10 protect (9) 40:13;55:1,17,18,20; 56:4;118:23;151:5,12 protection (1) 55:20 Protective (13) 25:20;26:5;27:2,7; 53:23;55:4;69:11;87:20; 119:9,15;220:8;237:12; 252:4 protested (2) 87:22;117:18 protocol (1) 150:21 prove (2) 49:6;259:2	provide (5) 3:18;32:7;85:9; 252:11,13 provided (8) 4:20;75:2;99:7; 107:13;172:11;220:9; 239:21;252:21 provides (2) 3:17;112:4 provocative (1) 48:17 provoking (1) 48:17 prudent (1) 66:4 psycho (1) 88:4 Public (52) 3:4;10:13;11:1;25:18, 25;26:2;27:1;46:16,21; 47:15,20,25;48:2;50:12, 16;54:23;61:23;63:1; 66:13,17,18;67:8;70:17; 71:1;73:1;79:11,19; 80:2;81:13;82:1,1;85:3; 108:1;110:9;111:8,9,9; 112:5,16;125:22; 152:14;165:6;184:11,16, 16;202:21;220:2;223:5, 13;227:24;228:6;262:3 pull (8) 15:10;54:16;131:16; 138:11;192:16;193:3, 17;248:12 pulled (13) 44:23;45:2;131:24; 136:8;147:9;157:5; 169:19;180:10,18,19; 181:8,10;193:8 pulling (5) 181:5;192:24;193:2,5, 6 punctual (1) 103:15 punished (1) 27:3 purposes (1) 171:3 pursuant (1) 10:16 pursue (1) 249:6 push (1) 182:18 put (52) 39:13;40:7;41:15; 42:1;50:14;56:11,12; 68:2;79:2;96:7;101:16; 105:19;116:8,11; 117:22;128:1,5,6; 129:20;130:25;131:8; 134:10,23;146:12; 151:17;154:25;156:14;	157:19,21;177:20; 182:5;185:4;189:4; 192:2;207:7;224:6,7,12; 226:10,10,11;228:9; 232:22;234:16,23; 235:9;245:5,7;246:10; 247:24;259:22;263:16 puts (1) 182:19 putting (2) 43:20;233:5 Q qualified (3) 106:2;107:5;219:16 Quantico (1) 105:21 quasi (2) 118:6,6 quick (2) 127:15;147:5 quicker (2) 69:23;103:9 quite (5) 15:9;101:5;176:23; 223:24;241:15 quote (8) 213:13;217:14;218:1; 221:15,17,19,20,24 quotes (3) 213:15;216:11,16 R Rachel (2) 4:1;125:20 racial (1) 28:10 radio (8) 35:15,20;58:24;94:3; 237:23;238:2;253:13; 256:13 raise (7) 9:11;91:7;128:16; 130:22;132:7;179:9; 180:1 raised (1) 130:15 raising (1) 121:18 ran (4) 14:7;74:17;130:2; 145:18 range (1) 207:17 Ranger (1) 34:21 ranges (1) 62:14 rank (2) 66:25;79:16 rapidly (1)	37:1 rated (1) 62:5 rather (2) 127:21;259:13 rating (1) 62:11 reach (5) 80:8;96:6,20;106:20; 134:24 reached (7) 9:22;20:11;42:25; 91:17;96:19;98:5; 221:11 reaching (1) 131:1 reacted (1) 100:6 reaction (1) 132:12 read (16) 7:2;30:23;48:3;56:9; 81:9;90:12;109:6;118:5; 206:12;212:13;232:12; 240:4;242:13;257:10, 18;258:11 reading (2) 182:15;207:9 real (3) 48:5;94:5;95:5 realize (6) 40:20,23;172:10,19; 205:25;223:23 realized (4) 127:18;135:3;144:12, 12 realizing (1) 75:8 really (36) 16:22,24;37:18;39:24; 49:2;52:20;53:2,6; 68:24;70:25;71:2;88:10; 95:8,8,10,23;106:20; 113:18;121:22;127:13; 132:24;134:21;136:4; 141:18;155:2;157:2; 160:6;181:10;186:13, 14;197:2,2;200:3;226:3; 231:2;236:4 realm (2) 20:5,5 rear (1) 156:5 reason (14) 10:20;18:16;19:1,11; 45:5;53:22;54:11;97:19; 144:8;164:14;177:13; 178:13;242:16;246:8 reasonable (8) 107:22;114:14,15,23; 115:8,9;116:23;117:1 reasonably (2) 50:1;205:9

reasons (1) 178:6	22:9;83:8,9;92:9; 98:22,24	regulations (1) 63:12	24:27;3;28:21;37:7; 47:1,9;56:10,11;59:22, 23:60;3,7,8;63:21;87:11, 12;160:9;206:20,21; 207:10;215:21;218:17; 220:6;222:6;226:7; 229:19;252:20;257:12	228:21
rebuttal (3) 233:3;234:16,16	redacted (1) 11:15	reinstate (1) 70:23	REPORTER (1) 269:12	resolved (1) 53:16
recall (26) 37:13;43:5;65:2; 77:21;94:22;139:2; 144:17,21;147:4;149:17; 22:179:7;195:12,21,22; 196:12;198:9,13;203:7; 226:2;230:17;239:8; 246:23;247:6;254:3,10	redactions (1) 29:21	reiterate (1) 91:13	reporting (1) 207:17	resources (5) 4:16,20;10:12;85:4; 236:9
recalled (2) 65:2;177:4	REDIRECT (5) 162:25;248:15; 265:10;269:6,11	reiterated (1) 40:23	reports (5) 4:18;15:14;149:3; 222:15;225:22	respectful (1) 184:4
receive (8) 11:1;23:7,9;24:23; 61:13;191:3;203:3; 223:18	reduction (1) 132:18	relate (3) 126:23;203:18;210:7	represent (2) 12:22;190:16	respective (2) 6:15;90:19
received (13) 12:23;23:11;24:25; 56:19;61:13;62:21;63:1; 80:17;176:14;196:9; 208:20;253:12;258:24	reference (8) 71:18;89:4;207:7; 218:8;222:15,20; 248:18;252:14	related (2) 9:18;91:13	representative (2) 22:1;65:18	respond (10) 35:17;118:12,15; 133:9;141:5;170:24; 229:22;238:6;252:7; 259:7
receives (1) 16:4	referenced (3) 118:5;122:8;153:22	relating (3) 5:8;167:12;211:22	representatives (3) 3:19;22;12:10	responded (12) 113:14;118:9,11,18; 119:17;176:23;217:13; 240:3,6;253:11;254:21; 259:8
recent (2) 16:14;30:20	references (1) 109:6	relation (2) 73:19;171:4	represented (2) 3:24;4:1	response (15) 86:9;100:8;126:4; 135:1;169:10;175:21; 177:22;184:13,14; 213:5;214:22;239:21; 240:11;254:18,23
recently (2) 33:8;34:13	referred (14) 22:10;43:24;83:22; 84:6,23;92:11;103:25; 125:12;154:3,8;166:16; 175:24;202:9;249:5	relationship (1) 97:14	representing (1) 124:24	responses (1) 100:21
recess (13) 11:9;12:6;71:14;90:8; 103:3,20;125:3;166:10; 202:4;236:18;250:20; 251:10;266:18	Referring (5) 58:3;117:12;206:20; 224:22;240:6	relayed (1) 254:24	reprimand (10) 16:16;27:21;28:4,18, 25;29:1,3,8,10;30:16	Responsibility (2) 202:22;252:13
recollection (5) 149:25;150:3;175:2; 182:20;209:12	refers (3) 25:2,2;65:7	relevance (1) 4:13	reprimanded (1) 17:21	responsible (1) 12:8
recommended (1) 222:11	reflect (1) 12:3	relief (2) 70:5;234:10	request (5) 10:1;70:6;91:21; 177:15;254:20	rest (6) 131:22;169:4;178:8; 189:24;194:15,15
reconsideration (2) 10:1;91:21	reflected (1) 64:6	relieve (1) 50:17	requested (4) 125:1;238:3;269:14, 15	restate (1) 75:15
reconvene (2) 236:17;266:20	reflecting (1) 172:8	remain (8) 6:18,21;12:12;20:25; 21:15;90:22;91:2; 136:12	require (2) 46:9;171:10	restrictions (1) 219:13
record (24) 3:6,7;4:22;11:25;12:2; 26:14;28:10,15;86:14; 90:9;103:4;164:16,25; 166:5;174:4;197:24; 201:17;233:17;237:6; 247:10;249:8;250:15; 251:16;266:16	reflects (1) 172:23	remainder (1) 234:3	required (1) 252:7	rests (1) 124:13
recorded (1) 203:25	refresh (1) 221:2	remark (1) 131:4	requirement (3) 10:13;19:14;219:13	result (4) 83:15;84:6;167:7; 222:3
recording (4) 28:1;247:14,15,17	refreshed (1) 182:20	remarks (1) 81:17	requirements (1) 62:14	resulted (1) 212:8
records (1) 4:18	refused (7) 41:5;45:19;53:12; 87:24;88:6;177:3; 263:12	remedy (1) 172:20	requires (1) 73:2	retired (7) 15:8;65:8,12,20; 67:24;153:14,15
recourse (1) 171:10	refusing (1) 45:8	remember (31) 39:19;40:1;93:2,9,11, 22;128:6;139:7;169:22; 170:5,15;176:19; 178:21;179:5,14; 181:20;183:11;188:11, 12;189:11,14;206:13; 212:7;215:1;218:21; 225:25,25;238:21; 241:16,19;257:4	resented (1) 13:11	retrieved (1) 157:23
RECROSS-EXAMINATION (4) 122:5;164:4;249:17; 269:7	regard (1) 84:22	remind (6) 22:5;92:5;103:23; 166:12;202:5;236:19	resided (1) 183:2	retrospect (2) 137:20;140:12
red (6)	regarding (2) 107:11;218:9	removed (2) 53:19;222:8	residence (1) 108:6	returned (2) 34:18;222:10
	regards (1) 197:3	repaired (1) 33:13	residential (4) 108:4;112:25;114:17; 118:6	review (11) 10:11;54:6;70:3; 204:3,15,18;206:12; 207:5,8;217:1;220:23
	regular (2) 61:14;89:1	repetitive (1) 6:7	residents (1) 118:19	reviewed (12) 11:13;14:15;15:14; 26:4;58:11;60:4,7; 63:21;107:9,10,12;118:7
	Regulation (2) 3:12,17	rephrase (4) 129:4;133:9;241:2,4	residue (2) 47:18;157:15	
		replied (1) 170:7	resist (1) 228:17	
		report (32) 10:6;14:11,23;15:18,	resists (1)	

Edwin S. Sorrell v. SCDPS

Richland (20) 23:25;65:15,19;66:6; 12,16;67:3;78:13;81:10; 118:9,11;119:10;141:4; 148:6,8;153:4;190:10; 197:8;222:18;245:20 rid (1) 144:15 ride (1) 69:3 right (149) 3:1;9:12;12:17;13:9; 17:6,7,23;21:20;22:21; 23:22;24:15;25:22,24; 26:24;27:17;29:13;31:2; 20;33:6,25;36:12,17; 37:2,22;38:8;40:3,10; 41:15;43:1,12;45:17; 51:4,5;52:12;54:22; 58:4;59:6,14,15;60:24; 61:24;62:5,10,19;64:4,9; 67:10;69:7,8,22;71:8; 77:25;78:12;79:16,17; 82:25;83:1,9;84:10; 89:23;91:7,12;92:1; 97:11;99:2,3,20;103:7; 13,18;104:1,13;113:19; 25;115:15;117:10; 120:20;128:11;129:14; 21;130:7,9;131:9; 134:12,13,15;135:4,5; 148:20,21,22;151:21; 156:24;157:20;163:24; 168:15,22;170:9; 176:22;180:6;181:1; 188:24;189:7;192:7,12; 194:8,16;198:7,19; 201:9;204:7,12;205:21; 206:2;208:1,22;212:13; 214:15;216:25;223:6; 234:17,18,25;235:14,15; 236:19;241:15;245:22; 246:1,11,25;248:22,25; 249:2;250:24;258:18; 260:6,18;261:4,25; 262:22;263:10;264:10; 265:17,25;266:5,6,12,19 rightfully (1) 111:1 right-hand (8) 22:12;29:19;92:12; 125:13;166:18;202:10; 236:24;251:14 rights (2) 151:13,14 rip (1) 48:12 rise (2) 28:20;117:19 risk (1) 40:12 risked (1) 88:11	Rita (1) 3:13 road (5) 48:9,13;49:15;50:6; 69:9 roadway (1) 82:2 rocket (1) 101:18 rode (2) 238:13,16 Rogerson (21) 8:24,24;43:11,12; 52:3,8;53:4;55:22; 58:18,20;238:8,22; 251:20,21,22,23,24; 252:3;253:4;265:12; 269:8 R-O-G-E-R-S-O-N (1) 251:21 Rogerson's (1) 55:23 role (1) 215:11 roll (2) 44:4;58:25 rolled (1) 39:4 rolling (1) 68:5 rolls (1) 39:3 rookie (1) 48:19 room (16) 6:21;12:12,16;22:6; 32:19;34:8,16;89:11; 91:2;92:7;154:12,13; 210:18;211:16;236:21; 240:16 rooms (2) 33:2;113:20 rotate (2) 29:24;31:18 Roughly (2) 81:2;234:18 round (2) 211:18,19 route (1) 238:10 rub (1) 52:1 rubbing (1) 59:9 rude (2) 68:21,22 rule (1) 4:14 ruled (1) 152:14 rules (5) 4:11;13:13;26:23; 30:11;175:7	ruling (2) 170:23;240:22 run (13) 16:25;17:6;53:13,18; 72:17;108:20;145:16; 20:155:24;191:13; 197:12;228:15;263:17 run-in (1) 134:23 running (16) 36:9,22;40:14;108:11; 110:25;113:2;114:7; 145:14;158:2,17;187:1; 2,205:18,22;206:4; 229:14 runs (1) 123:21 S sad (1) 137:3 safe (1) 49:21 Safety (32) 3:4;11:1;25:25;26:2; 27:1,10;42:16;46:21; 54:23;61:23;66:13,17; 19;67:8;70:17;71:1; 79:12,19;80:2;81:13; 85:4;111:8,9,10;125:22; 152:14;165:7;220:2; 223:5;227:24;244:9; 262:3 Safety's (1) 202:21 sally (2) 57:5,10 Sam (4) 65:15,16,22;66:6 Samantha (25) 7:25;8:18;125:6,16; 142:14;169:1,16; 170:15;176:1,14; 177:12;178:18,22; 179:23;181:21,23;186:8; 20:188:4;190:17,18; 197:25;198:4,10,14 Samantha's (1) 196:25 same (26) 23:14;37:2;38:14; 45:3,12,14;50:15;53:24; 55:2;56:14;59:21; 110:17;115:16,19; 120:9;164:20,21; 201:22;206:9,17;213:2; 215:19;216:8;232:13; 245:21;262:21 sanction (1) 20:3 sanitizer (1) 160:24	Sara (1) 25:16 sat (6) 35:5;58:7;85:6;140:5; 193:21;203:21 satisfaction (1) 74:13 Saturday (1) 37:6 save (1) 59:23 saw (48) 13:19;14:4;20:19; 35:6,13;37:22;40:14,17; 22;41:12;52:8;58:20; 61:7;69:5,6;72:12; 73:11;87:14,14,15; 93:20;98:4;108:9,11; 109:18;110:6,24;24,24; 111:20;114:20;115:24; 117:21;156:1;180:7,8; 187:7;192:15;193:10; 11;226:2;229:13,20; 232:25;257:15;260:25; 264:5,6 saying (27) 16:19;67:20;77:19; 94:7;95:9,10,15;96:16; 101:6;114:13,14;117:14; 20;121:11;139:23; 145:11;146:17;158:1; 173:8,9;176:20;179:15; 188:7;192:15;195:2; 196:9;199:12 scale (1) 62:13 scared (5) 38:23;100:15;101:11; 128:23;149:14 scary (1) 104:25 scenario (2) 115:16;120:7 scene (17) 38:1,2;55:21;110:19; 195:16,23;197:5;205:6; 207:15;238:10,14,25; 239:17;253:5;256:12; 14;263:24 Schedule (1) 88:5 Schmidt (1) 26:15 school (7) 23:12,23;104:16,23; 105:15;112:15;185:8 scientist (1) 101:18 scream (2) 36:13;141:2 screaming (5) 38:18;46:17;130:15; 141:20;145:13	screen (2) 29:16;229:21 search (26) 39:16,25;42:2,15,15; 52:6;59:3;74:22,23; 76:17;77:10,15;86:19; 96:2,4;105:8;106:8; 131:21,22;139:12; 169:15,15,18;193:14; 194:15;231:23 searched (12) 52:4;58:17,23;77:19; 96:3;138:22;139:2; 147:8;151:17;194:23; 195:3;262:12 searching (3) 58:14;75:25;138:21 seat (1) 59:6 second (19) 11:4;15:5,12;16:10; 10;30:18;48:10;50:14; 25;58:15;99:15;127:4; 139:5;182:9;185:22; 215:24;235:23;240:1; 256:10 seconds (1) 180:20 secrecy (1) 29:2 secretary (33) 3:18,21;6:23;7:2,7,10, 13,16,18,20,24;8:2,4,6,9, 12,14,16,18,20,22,25; 9:2,4,6,9,16;10:22; 90:14;91:4,6,11;162:1 section (2) 108:17;113:7 sections (1) 112:12 secure (2) 49:21;57:6 secured (1) 227:3 security (11) 33:19,22;40:19,22; 41:1;61:1;77:15;89:14; 93:3;207:5;239:14 seeing (1) 225:25 seem (2) 138:15;176:24 seemed (10) 137:4;156:8,9;170:14; 179:1;182:3,6;239:18; 242:1;260:23 seems (2) 45:9;178:9 sees (3) 107:25;184:19;229:1 seizure (2) 105:9;106:8 send (4)

88:19;161:9;162:18, 19 sending (1) 87:24 Senior (4) 64:18;65:6,14;261:18 seniority (1) 261:19 sensation (1) 182:6 sense (6) 90:1;110:14,22; 122:22;191:24;200:23 sent (8) 87:4,5;88:13;89:1; 209:2;238:9;243:15; 247:19 sentence (8) 240:5;242:8,14; 257:11,13,18;258:11,14 sentences (1) 258:18 separate (10) 47:22;64:18;111:4; 114:11;135:4;259:17; 260:2;261:23;262:15,17 separated (3) 150:5;265:15,24 separately (2) 150:6,9 sequencing (1) 29:21 sergeant (2) 60:5;247:20 series (4) 34:3,7;64:12;170:12 seriously (1) 86:25 serve (2) 23:16;205:7 served (4) 13:3;78:21;85:2; 111:11 service (6) 12:4;13:4;25:7,9,18; 63:1 services (14) 22:25;25:20;26:5; 27:2,7;53:23;55:4; 69:11;87:20;119:9,15; 220:9;237:12;252:4 serving (1) 13:2 session (6) 10:18,19,21,23;84:23; 88:25 sessions (1) 105:18 set (2) 31:18;117:25 sets (1) 181:20 setting (1)	27:9 settle (1) 106:19 seven (3) 63:9,14;66:1 seven-minute (2) 201:21;202:3 Seventy (3) 98:18,19;99:2 Seventy-five (2) 83:5,7 several (23) 17:4;20:7;26:6,10; 27:25;31:8;36:15,18; 47:17;48:8;51:11;53:10; 60:10;84:3;85:7;87:21; 106:4,23;170:15;177:7; 227:2;234:5,8 severity (1) 44:19 sexual (1) 140:15 shadows (1) 191:24 shall (2) 3:18;10:10 Sharon (2) 8:4;87:7 Shawn (9) 3:3;7:4;10:24;12:22; 15:12;16:3;22:13,17; 25:16 sheet (3) 224:10;231:8,15 sheriffs (1) 223:18 Sheriffs' (1) 105:21 Sheriff's (9) 65:16,19;66:7,12,16; 78:14;141:5;222:19; 223:17 shift (1) 250:3 shifts (1) 32:4 shirt (3) 131:2;134:24;265:23 shook (1) 42:13 shooting (1) 226:15 shop (1) 32:24 short (3) 56:10;69:11;71:9 shortly (2) 168:19;245:23 shot (3) 140:3;177:5,6 shots (1) 87:2 shoulder (16)	39:22,23;41:15,22,23; 99:10,13;134:19;135:8; 156:14;189:5,6;206:15; 208:13;214:19;260:14 shoulders (1) 134:24 shouting (1) 14:7 shove (2) 96:25;97:4 show (13) 19:2;34:8;49:1;54:7; 55:6;125:22;148:14; 151:25;152:4;167:14; 232:21;233:9;252:17 showed (3) 158:24;207:9,10 showing (1) 236:22 shown (3) 7:12;53:7;232:23 shows (2) 54:24;164:23 shriek (3) 36:12,14;72:11 shrieking (1) 72:15 shrill (1) 36:12 shrouded (1) 191:24 shut (1) 57:7 sic (5) 8:23;25:5;31:13; 117:15;148:7 side (15) 5:17;12:11;13:5;33:6; 43:22;47:4,4;134:1,15; 192:11;210:4;240:15; 16:248:4,4 sides (1) 4:6 side-sweeping (1) 200:25 sidewalk (4) 39:4;47:19;178:15; 207:14 sight (1) 86:22 sign (1) 246:1 signature (1) 65:9 signed (2) 111:8;224:25 signify (1) 7:4 signs (3) 16:21;58:8;101:4 similar (2) 34:5;45:14 simple (4)	44:20;51:6;70:6;182:4 simply (13) 20:24;21:13;28:1; 29:10;36:14;47:1,9; 48:3;60:1;68:2;70:22; 178:7;211:16 simulated (1) 120:8 sincere (1) 258:6 sit (49) 45:17,18,21,25;46:9; 10,10,11;51:6;57:18,21, 22;58:6,7;89:2;95:12; 125:1;131:6;132:23; 136:11;140:4;156:4; 159:23,24,25;176:13,16, 21;177:3,8;193:18,20, 21,24;195:13;210:17,22; 231:24;254:6,9,16,21; 255:12,23;256:2; 262:23;263:2,12,15 sitting (12) 32:19;34:19;35:23; 52:20;139:21,22;149:18; 19;195:12;233:23; 236:10;265:18 situation (13) 48:7;86:9;87:5; 111:13;117:25;121:9; 123:5;187:24;218:19; 219:17;255:2;259:6,13 situations (4) 21:6;76:24;121:16; 224:24 six (3) 25:7;85:23;240:2 Sixty (3) 212:20,20;213:1 skip (1) 235:23 skipping (1) 176:4 sleep (1) 13:25 slide (1) 96:22 slight (1) 82:13 small (6) 34:5;35:10;52:7,17; 155:3;198:24 smaller (1) 178:8 smart (3) 128:11;131:5;135:22 smell (2) 44:6;110:20 smells (1) 110:21 smoke (1) 227:17 smoking (1)	227:11 smooth (1) 204:25 snatch (1) 97:5 snatching (1) 61:3 sneak (1) 102:4 soak (1) 127:11 soccer (1) 200:23 Social (2) 24:11;88:24 soft-spoken (1) 258:5 sole (1) 18:16 solely (2) 19:13;161:21 somebody (22) 15:10;17:2,13;26:20; 53:18;55:7;70:25;96:21; 114:2;116:11;138:8; 139:11;144:18;148:1; 150:17;162:18;196:16; 228:2,16,20;233:23; 244:19 somebody's (6) 14:18;15:3,7;17:1; 35:20;58:3 somehow (2) 15:8,9 someone (32) 20:24;21:14;25:2,2; 33:12;35:18;44:21;46:5; 58:13;64:1;68:14,15; 74:22;76:14;78:18; 79:20;139:12,13;140:4; 183:11,25;184:22; 188:18;189:21,22; 203:11;207:11;221:24, 25;243:22;248:22;249:7 someone's (4) 19:11;44:12;52:19; 201:8 someplace (2) 143:25;211:21 something's (1) 209:4 sometimes (6) 31:15,16;52:18;69:10, 12;224:23 somewhere (4) 30:23;65:1,9;223:22 son (5) 17:15;25:15;65:24; 67:5,15 son's (1) 67:12 soon (1) 201:24

Edwin S. Sorrell v. SCDPS

Sorrell (155) 3:3;7:5,6;10:25;12:22; 23;13:16;14:4,22;15:12; 16:3,12;17:19;18:1,7; 19:9;20:9;21:25;22:7; 13,14,17,21;26:21; 29:13;30:2;37:4;47:11; 60:13;63:17;69:25;70:2; 71:18;83:9;93:10,12; 95:20;96:24;97:15;98:3; 99:9,17,23;101:20; 107:17;112:1;113:11; 120:11;124:25;126:25; 127:24;129:8,13; 130:24;133:3,21,24; 135:3;137:9,16,21; 138:6,20;139:1,5,14,23; 140:13,24;141:6;142:7; 144:17;151:23;159:8; 22;167:4;168:2,21; 170:12;174:13;179:7; 180:3;184:10;202:24; 205:6,20;207:16,19,22; 208:14,17;209:14;210:4; 7,11,25;211:22;212:14; 213:3,8,10,13;214:1,22; 215:4;216:2,12,20; 217:7,11,13,15,21,24; 218:2,9,23;219:5,18; 220:10;221:5,8,10,12, 15,18,21,25;222:23; 224:1;225:10;226:2; 230:20;231:14;235:22; 237:16,22;238:3,22; 240:3,6;241:9,11; 242:16;245:7,20;250:1; 252:8;254:4;255:9,16; 256:24;257:22;258:1; 259:15	36:3,7;130:19;201:8; 204:22;230:4,5,6 sounds (2) 37:17;206:1 South (29) 3:3,5,13;10:25;24:3,5, 14,19;27:8;31:7,12;32:7; 8;41:22;53:11,24,25; 56:2,3;59:2;70:20; 79:11,18;85:3;104:22; 130:9;211:17;226:16; 227:24 Spaht (24) 7:20,24;9:6,7,7;45:5; 50:15;64:13,14,19,21; 65:6,14;72:18,19;73:22; 75:13;81:21,24;128:23; 171:5;174:24;178:5; 203:22 S-P-A-H-T (2) 7:21;9:7 speak (19) 12:15;22:5;92:6; 103:23;125:8;126:18; 132:9,21;166:12;197:2; 202:6;203:23;208:16; 224:18,19;236:20; 240:19;251:11;255:24 speaking (6) 123:10;139:22; 141:24,25;184:7;241:7 speaks (1) 240:9 special (1) 23:5 specific (3) 37:7;85:1;174:15 specifically (10) 33:20;37:11;85:15; 100:18;117:12;167:11; 173:20;175:16;190:17; 240:1 speed (1) 182:24 speeding (1) 120:21 spend (1) 90:1 spending (1) 81:7 spinal (1) 57:25 splash (1) 35:7 split (1) 32:18 spoke (4) 75:2;76:22;99:7; 132:25 spoken (1) 132:21 spots (1) 35:9	spotty (1) 179:13 spread (17) 41:17,17;73:13;95:16; 128:2,4,8;129:19;131:5; 13;135:11;136:3; 168:24;200:24;206:14; 229:7,253:9 spur (1) 168:5 square (1) 34:15 squatting (1) 176:17 squeaky (1) 110:2 stability (1) 131:11 stacks (1) 25:6 stage (1) 106:20 stains (1) 127:14 stamped (1) 163:22 stand (9) 9:11;18:13;93:15; 132:22;142:15;156:7; 160:1;176:22;208:3 standard (7) 19:25;76:20;85:21; 114:24;115:6;150:20; 244:18 standing (18) 40:2;41:18,25;43:1; 133:2;134:16;156:15,16, 21;179:15;192:1;206:5, 10,14;208:11;256:1; 263:1;265:20 standpoint (1) 122:12 stands (1) 54:19 start (8) 22:3;124:19,22;144:5; 187:1,1;223:22;236:15 started (14) 11:11;15:4;22:24; 43:13;68:5;72:1;140:21; 168:16;175:22;177:24; 181:2,21;256:2;265:22 starting (1) 100:2 starts (1) 16:19 State (47) 3:9,11,14,16,4;24; 7:23;9:19;10:12;11:25; 12:14;13:2;22:4;27:8; 31:5,12;32:2;41:22; 53:3,5,12;70:20;79:13; 91:14;92:2;104:3;	105:19,24;106:5;111:16, 17,19;118:25;125:5; 149:11;166:19;172:7; 202:11,19;203:22; 223:15;228:7;234:21; 237:1,21;240:18;247:7; 251:18 stated (19) 73:5;74:6,12,19;75:8; 77:12;99:17;137:16; 139:4;140:7;216:2; 217:23;224:13;228:6; 238:16;247:8;256:21; 260:1;262:6 statement (55) 5:13,25;6:20;30:6; 74:14;75:8,19;76:1,9,12; 77:14,19,25;78:2,6,10; 90:13;99:7,9;100:13,14; 136:1;137:7;167:11; 174:5,6;178:2;180:11; 182:10;190:20;195:7; 209:18;210:12;212:14; 217:2,16,22;218:2; 224:3,8;239:21,25; 241:7,8,17;242:2; 252:14,21;255:3,4; 256:5;257:5,11;259:25; 265:15 statements (10) 12:18;19:8;27:23,24, 25;30:11;72:21;90:11; 153:21;231:11 States (3) 23:1;106:22,23 stating (2) 217:13;240:7 station (3) 71:20;72:6;142:25 statute (8) 20:5;48:4;108:2,15, 19;111:25;116:14; 121:20 stay (3) 57:14;86:22;239:15 stayed (3) 188:25;246:6,8 staying (2) 95:11;189:2 steadiness (1) 123:15 steel-reinforced (1) 33:14 step (4) 37:19,19;68:11,11 stepped (7) 36:10,24;37:18,23; 42:7;43:9,22 steps (1) 41:13 stickler (2) 13:11,12 sticks (1)	211:11 still (25) 9:24;16:3;17:19; 28:22;31:5;33:12;38:22; 40:5,8;41:3,5;49:3;57:8; 60:6;63:15;67:24;73:1; 91:19;107:20;180:3; 185:7;206:5;232:25; 245:18;256:1 stomach (4) 140:3,5;177:5,6 stones (1) 36:18 stood (2) 51:25;255:18 stop (12) 38:17,20,21;53:11; 55:5;69:7;79:4;135:9; 169:11,11;204:25; 238:13 stopped (4) 17:18;105:14;120:21; 238:20 store (1) 34:21 stores (1) 32:25 stories (1) 110:1 story (6) 43:19;45:14;69:15,23, 24;210:5 straight (7) 13:6;131:24;147:9,17; 178:25;201:4;211:19 strain (1) 181:10 strange (3) 177:13;178:9,13 straying (1) 69:16 street (24) 32:11,12,21;33:4; 39:3;44:4;51:14;67:8; 113:2,9,19,21;114:3; 121:18;143:4;149:18; 150:15;155:6;158:17; 159:11;168:14;183:9; 230:1,1 streetlights (1) 191:25 streets (1) 183:13 strength (1) 123:15 stressed (1) 224:23 stretching (1) 193:7 strong (5) 109:25;122:18; 159:13,14;264:13 stronger (1)

184:8 struck (3) 178:3;179:2;191:8 struggle (1) 172:14 struggling (1) 173:2 student (16) 85:19;200:5,8;218:20; 219:2;221:4,8,13,14,18, 21,23;226:1,5,7;227:11 students (1) 219:14 studio (3) 32:15,18;253:7 study (2) 36:25;88:24 stuff (10) 40:25;95:11;102:4; 114:8;136:8;157:16; 183:6,23;231:8;263:17 stun (1) 106:10 style (1) 33:1 subdued (1) 259:13 subject (5) 24:10;85:17;110:4; 194:22;259:23 subjects (9) 113:22;156:19; 207:13;210:8;245:21; 257:20;258:20;260:24; 262:15 submit (3) 60:2;79:25;247:17 submitted (4) 21:19;61:2;118:8; 161:15 subpoena (2) 171:7,8 subpoenaed (1) 171:16 subqualified (1) 23:3 subsequent (2) 113:14;264:9 subsequently (3) 11:15;28:8;167:10 substandard (1) 28:21 substantial (1) 25:10 substantiate (1) 61:8 success (1) 62:8 sudden (2) 35:9;143:10 Suddenly (1) 15:11 sufficient (1)	117:19 suggest (4) 138:9;249:11,19,22 suggesting (2) 246:23;248:24 suggestion (1) 249:10 suing (2) 158:25,25 suit (2) 74:9;159:3 summarize (1) 65:13 summary (5) 5:25;78:1;216:9; 220:21;221:1 summer (1) 24:12 summons (5) 48:11;109:1;120:20, 25;177:16 Sunday (2) 37:6;86:4 superhero (1) 182:12 supervisor (12) 26:6,13;28:1,22;55:6, 10,15;77:8,23;78:3,7; 243:13 supervisors (5) 20:20;53:14;54:9; 55:5;88:20 support (1) 32:7 supported (1) 18:9 suppose (8) 128:13;147:9;155:1; 160:8;162:19;187:14, 25;195:6 supposed (8) 101:12;148:11,13; 156:19;170:23;193:14; 196:13;227:5 Supreme (1) 117:16 sure (35) 33:23;34:17;40:6; 41:2;65:7;68:10;73:8; 79:14;80:20;88:10; 89:10;96:21;98:17; 101:15;128:14;137:13; 138:21;141:7;142:14; 165:17;176:23;179:19; 195:1;201:24,24;202:6; 204:21;212:2,230:10; 233:21;236:20;240:14; 249:24;260:22;264:18 surfaces (1) 176:16 surgery (5) 45:25;46:1,3,4;50:2 surprise (9)	45:2;127:6,15,19; 168:8,13;170:1;199:19; 241:17 surprised (7) 199:9;241:20;256:22; 258:16,20,24;260:17 surprising (1) 39:19 surprisingly (1) 112:23 surrounded (1) 244:14 surrounding (2) 67:12;123:20 surveillance (2) 134:2;138:9 suspend (1) 16:16 suspended (3) 16:7;17:21;53:21 sustain (3) 133:15;173:24;174:10 Sustained (2) 129:3;182:23 Swanson (41) 7:25;8:1,18,19;45:11, 14;73:6,19,22;75:12; 77:16;82:8;99:10; 124:21,22;125:4,6,6,14, 16,20;126:17,23;133:14; 163:2;174:14;180:3; 203:21;205:9;206:13; 208:8,8;212:6;214:2,18; 215:8;217:3,18,25; 243:1;259:18 Swanson's (3) 213:12,23;215:17 swayed (1) 215:5 swear (2) 9:12;91:7 sweet (1) 56:10 swiped (1) 160:23 sworn (9) 22:18;29:2;92:15; 104:8;125:17;166:25; 202:15;237:8;251:25 synopsis (3) 207:6;212:3,11 system (12) 17:8,12,16;28:6; 44:15;46:25;47:3;51:9; 62:1;94:4;121:2,2 systems (3) 32:16;34:7;115:22 T table (3) 22:9;124:4;202:8 tacks (1)	88:10 tail (1) 58:3 tailbone (11) 45:24;46:1;57:23; 95:15;140:1;153:25; 154:3;156:8;176:15,21; 254:16 tailbones (1) 160:3 talk (15) 29:6;67:11,15;75:14; 149:24;153:16;161:17, 19;196:22;214:24; 234:3;235:12;246:14; 249:24;255:21 talked (6) 29:3,4;66:14;97:12; 153:18;156:3 talking (25) 30:18;81:3,9;95:3; 100:5;112:18;123:12, 17;145:8;149:19; 155:15,18,21;176:6; 177:2;200:16;211:10; 216:4;225:18;233:20; 236:16;240:17,25; 241:1;256:10 Talks (1) 220:7 tape (3) 54:16;58:12;214:6 target (4) 158:5,6,7;199:18 taught (18) 105:5,10,11,14,15,15; 109:20,23;114:23; 115:7;122:18;123:7; 262:14,17,20;264:11,15, 16 teach (2) 23:13;107:20 teaching (1) 105:13 Teal (1) 3:13 tease (1) 198:10 technically (6) 23:14;24:25;31:17; 32:19;182:22;238:7 techniques (1) 191:9 technology (1) 23:24 teenagers (1) 123:1 telephone (1) 203:23 television (1) 32:13 telling (8) 53:22;97:20;101:1;	197:11;217:24;247:6; 256:4;261:9 tells (1) 262:24 ten-minute (1) 71:12 Teresa (4) 8:7;85:4;87:23;88:2 term (3) 13:4;204:21;212:7 Terminated (8) 16:6,6,8;30:25;71:3; 85:20;102:8;107:17 termination (9) 3:2;10:24;18:13,17; 70:12,13,14;111:6; 122:11 terminology (2) 216:12;230:11 terms (4) 10:10;23:23;114:19; 261:19 terribly (1) 90:4 terrified (1) 128:23 terroristic (3) 86:1,6;87:9 Terry (1) 9:2 test (1) 114:14 testified (15) 22:18;63:22;82:7; 84:22;92:15;104:8; 106:4,13,21;125:17; 166:25;189:12;202:15; 237:8;251:25 testifies (2) 61:2,7 testify (10) 6:22,23;12:9,13; 15:24;55:7;82:3;85:5; 91:3;106:3 testifying (7) 6:13,19;90:16,23; 91:3;202:1;233:1 testimony (25) 4:13;6:3,7,9;13:21,17, 25;71:19,24;72:11,15, 20;73:12;74:8,20;75:24; 82:12;91:8;92:1;103:24; 120:11;122:9;133:7; 166:14;251:12;265:13 Thanks (3) 66:1,7,9 theirs (2) 206:24;213:1 theory (1) 187:14 therefore (2) 172:7;184:21 therein (1)

Edwin S. Sorrell v. SCDPS

107:11 thesis (1) 104:19 thinking (5) 40:18;44:19;170:23; 214:13;236:4 third (11) 26:4;37:16;49:16; 72:21;99:15;185:23; 189:23;195:3,5;216:8,15 Thirty (3) 65:3,3;112:23 though (10) 74:23;77:2;81:6; 153:12;155:5;169:3; 176:24;181:6;217:12; 263:18 thought (26) 20:2;35:18;39:15; 48:17;50:1;69:22;74:7; 110:6;114:16;115:5,23; 25;128:7,17;136:2,3; 158:10;168:7;176:10; 178:13;191:15;198:2; 199:6;241:23;244:12; 255:5 thoughts (2) 11:22;173:1 threat (12) 41:9;75:1,17;76:2,4; 10;77:3;86:10;87:21; 88:13;221:11;226:19 threatened (6) 122:23;211:13;219:2; 3,19;221:13 threatening (5) 18:22;20:10,16; 122:20;260:11 threats (4) 86:1,6,20;87:9 three (89) 12:10;13:19;14:6,10; 19;15:17;16:13,13;18:8; 15,21;21:1;23:19;38:10; 21;39:5,6,7;40:7;41:4; 42:11,17;47:22;49:17; 19;50:11;51:10,14;53:1; 54:21;59:24;60:14; 62:25;63:8,9,13;67:1; 73:11,14;77:2,5;78:4; 81:16;82:15;94:18;96:2; 3;97:9;109:4;110:12; 112:1;113:10;115:3,11; 125:22;126:8;128:2; 129:22;141:15;148:3; 168:19;194:22;195:2; 199:21;203:5;204:19; 24;205:7,12;206:7; 207:13,23;208:5; 209:22;210:8;216:10; 217:17,25;237:16; 240:2;241:13,18,20; 242:22;252:8;253:8;	258:20;259:21;263:12 threw (4) 148:1;168:19;197:24; 198:4 throughout (6) 106:22;118:25; 170:13;174:16;176:8; 177:11 throw (22) 38:18;43:21;44:12,16; 45:16;50:21;68:14; 143:11,14;144:19,23; 154:17;155:24;168:11; 12;186:22;197:12; 198:2;199:7,11,16,16 throwing (39) 14:6;35:18,20;44:25; 25;47:18;64:15,23; 68:16;70:15;94:4;108:3; 11,12;113:1;114:8; 127:8,9;128:21;130:13; 144:6;145:6;154:18; 155:6;158:8,18;168:16; 170:10;187:20;198:10; 16,18;199:10,23;213:22; 229:14;238:4;253:14; 264:3 thrown (2) 256:16,19 thump (4) 201:7,7,7,7 ticket (32) 48:12;49:14;51:5,7; 66:22,23;67:5;108:24; 109:2;111:4,7,8,9; 114:11;120:15,23;121:8; 14,24;148:11;152:9,10; 12;153:1;196:5,8; 227:22;228:2;246:11; 255:25;264:24;265:2 tickets (5) 51:10;67:1;80:2; 227:23;245:18 tified (1) 52:10 Tighe (1) 25:15 tight (4) 38:5;74:9;96:5,18 tightly (1) 181:10 tightness (1) 42:19 til (1) 44:2 times (12) 17:4;26:11;27:17; 40:8;41:4;93:14;106:5; 12,17;138:10;177:7; 185:12 today (22) 3:10;9:13;11:12;18:3; 51:21;55:7,22;59:13;	68:20;86:15;91:8;97:20; 115:15;120:21;124:21; 171:11;184:7;234:6,20; 235:18;236:2;266:20 together (2) 152:6;246:7 told (39) 7:12;50:2;54:7;57:21; 69:24;86:5,17;87:15; 94:10;100:1;128:1; 131:18;135:18,22; 140:4;146:12;151:9,11; 159:20;165:18;169:24; 181:18;193:9;208:10; 210:4;211:20;215:23; 219:5,9;221:9,15; 227:11;234:7;242:1,16; 254:8,21;256:2;261:21 tolerate (2) 20:24;21:13 tone (7) 123:11;145:7,8; 182:11;184:6;189:18,19 tonight (1) 234:9 took (25) 37:18;43:13;51:2,4; 57:10,16;67:6;86:21; 104:18;108:7;109:9; 115:14;135:19;144:5; 160:10;162:7;169:13; 21;219:22;220:2;222:3; 243:19;247:20;260:5; 265:14 tools (6) 54:12;55:17;56:1,2,3, 4 top (10) 38:5;51:23;62:14; 67:7;79:7,9;131:1; 227:23,25;242:1 toss (2) 187:4;197:14 tossed (5) 129:7;186:24,25; 197:15,17 tossing (3) 127:10;128:22;168:17 total (3) 22:25;148:3;244:15 totality (2) 46:13,24 totally (3) 146:17;159:6;160:23 touch (3) 67:2,3;110:20 touching (4) 42:20;43:2,7;156:22 tough (1) 159:14 tourists (1) 27:11 toward (2)	27:19;257:22 towards (8) 41:8;144:18;178:25; 181:4;197:16,18;213:9; 257:20 town (4) 127:6;168:4;169:25; 256:21 track (1) 106:16 traffic (8) 53:11;55:4;69:5; 78:24;79:1,4,10;183:6 trail (1) 66:15 trained (4) 60:23;115:10;191:9; 217:13 training (9) 23:7,9,12,20;41:21; 47:12;56:18;105:23; 120:8 tranquility (2) 46:15;216:11 transcription (1) 248:3 transference (2) 50:3,8 transmission (1) 238:2 transmitted (1) 60:4 transpired (19) 11:9;12:6;71:14;90:8; 103:3,20;125:3;166:10; 167:12;202:4;209:10; 212:5;222:20;225:9; 236:18;242:21;250:20; 251:10;266:18 transpiring (1) 255:15 Transport (11) 53:25;56:3;243:4; 244:6;245:6,16;246:15; 19;262:20;263:21,22 Transportation (1) 3:8 transported (22) 15:17;51:25;55:14; 56:6,7;59:7;77:7; 133:18,19;137:8,18; 141:7;150:6,9,12;151:2; 6;197:5;243:1;245:19; 259:17;263:20 transporting (2) 137:10,22 trash (1) 147:23 treated (5) 49:22;116:1;122:13; 247:13;260:25 treatment (1) 117:18	trial (1) 173:13 trick (1) 245:13 tried (16) 13:9;19:22;20:21; 21:3;52:1,25;74:24; 87:23;99:23,25;100:6; 135:17,24;170:3;189:5; 246:16 tries (1) 221:19 trip (1) 221:19 trooper (1) 223:15 trouble (1) 245:9 true (10) 119:12;146:1;153:22; 218:3;228:18;229:15; 249:15;263:15;264:11, 17 truth (8) 9:14,14;56:13;67:17; 91:9,9;97:20;123:14 truthfully (1) 175:6 try (11) 64:18;69:19;83:16; 95:20;103:15;155:24; 175:9;185:4;231:8; 234:23;246:19 trying (52) 13:25;15:12;17:19; 18:22;26:22;39:11; 48:25;49:2;53:17;63:7; 75:14;81:8;95:4;102:3; 5;115:9;116:19;137:21; 144:19,24;158:3,11; 172:14,15,18;174:8,8, 17,25;179:19;180:15; 182:18,23;185:19;191:2, 3;198:9,14;199:3; 228:21;231:20,23,23; 236:6;239:15;245:13; 14;247:8;255:9;258:25; 259:2;263:11 turn (16) 24:20;29:13;39:5,12; 40:4;41:5;61:16;72:1; 76:2;80:2;83:3;147:13; 215:19;221:22;228:18; 246:18 turned (13) 26:20;36:17;39:16; 41:13;63:21;76:22; 146:8;164:19;169:7; 192:20;201:9;255:24; 256:1 TV (4) 50:20;110:2;221:22; 229:21

Twenty-one (1) 186:11 twice (1) 140:3 two (80) 11:7;18:8;27:21;28:3; 29:8;30:15;31:16;32:18; 39:15;42:10;12:45:12; 17:47:22;50:18;20; 57:11;59:24;63:7;64:25; 65:5;10:13;68:11;70:15; 72:20;73:19;74:16; 76:24;81:12;17:84:10; 86:21;93:8;94:5;20; 95:10;11;101:2;103:5; 110:12;112:12;115:18; 118:17;124:19;126:16; 127:4;128:25;129:11; 136:9;147:11;20;22; 152:5;6;153:10;178:6; 181:20;195:2;199:22; 206:16;208:10;215:9; 216:18;18;217:11; 231:3;236:3;8;239:16; 240:2;245:21;246:6; 250:5;258:18;260:2; 261:23;262:3;263:20; 265:20 type (14) 27:24;30:12;66:5;10; 85:13;96:1;159:4;205:1; 210:18;219:16;224:2,8; 9;259:3 typed (1) 160:25	189:9;10;224:14,24; 238:12;239:6,18; 248:19;253:21 underlying (6) 108:25;111:5;121:23; 225:19;21;226:24 understood (2) 135:25;260:4 unequal (1) 28:16 unfairly (1) 247:13 unfamiliar (1) 214:24 unidentified (1) 199:22 uniform (6) 40:25;78:24;79:1,10; 122:21;123:4 unique (1) 187:23 United (2) 23:1;106:22 University (10) 3:14;59:1;85:22,25; 104:17,18;105:16; 226:15,16,17 unjust (1) 247:1 unlawful (3) 18:10;20:15;122:11 unless (5) 79:18;91:2;132:21; 170:25;246:9 unnecessary (2) 257:6;259:5 unquote (8) 213:13;217:14;218:1; 221:16,17,19,20,25 unreasonable (4) 231:21;232:1,2,3 unruly (2) 114:1;177:12 unsearched (1) 59:6 unsure (3) 100:22,24;101:11 unsustained (1) 28:12 unusual (3) 200:1,4;229:24 unwanted (1) 114:1 up (100) 7:12;12:15;16:19,23; 22:5;29:25;31:15;35:6; 38:8,20,21;40:16;42:25; 45:11;49:1,13;53:7; 54:11;55:6;58:15;60:6; 8:65;17:73;13;74:10,12; 19;76:22;77:1,4,7; 85:13;92:6;94:10;98:4; 99:12;103:24;110:21;	115:17;116:7,20; 117:22;125:8,9;126:18; 127:20;128:3;130:2; 131:3;132:13;141:1; 142:2;143:21;144:13; 16;145:10;146:13,24; 147:12,22;154:21,24; 155:1;157:14,20,23; 166:13;168:21;170:3; 176:22;178:17;179:12; 181:22,23,25;183:15,18; 21,24;184:18;185:17; 192:2,19;198:8;201:22; 202:6;208:5;211:21; 226:10;228:25,25; 235:9;236:20;245:16; 18;247:3;248:12; 251:12;255:18;256:24 upon (4) 47:11;82:1;109:2; 111:11 upper (7) 22:11;92:12;125:13; 166:18;202:10;236:24; 251:14 uprisen (1) 38:22 upscale (1) 33:7 upset (2) 29:4;223:16 urine (1) 44:15 USC (3) 59:2;105:15;146:11 use (17) 44:11;57:23;60:17; 109:24,25;110:5; 114:21;123:10;177:18; 208:14;221:21;230:24; 231:16;236:9;264:12,12, 16 used (15) 13:22;44:14;57:23; 108:9;112:19;117:2; 159:10;188:10,13; 216:12;229:9,9,19; 236:23;249:15 useful (1) 236:9 uses (1) 112:14 Using (2) 122:18;188:11 usually (4) 188:15;209:9;259:7; 262:16 utilizing (1) 46:7	28:20 various (1) 106:5 vehicle (6) 53:14,19;54:13;79:3; 5;262:21 verbal (1) 49:10 verbally (3) 28:11;117:17;225:2 verbatim (1) 48:5 verbiage (1) 37:12 verify (1) 12:10 version (3) 5:2;11:13;218:4 versus (2) 107:20;117:15 vest (1) 40:24 veteran (2) 12:23;88:1 victim (6) 39:9,10,14,15;40:5; 41:10 video (62) 36:3;53:8,15;54:3,4,6, 7,10,13;55:16,19,23; 58:12;133:22;134:2; 137:18;138:9;144:20; 145:1,2;151:4;157:24; 158:2;204:4,6,11,12,18, 20,25;205:1,8,13,19; 206:13;207:5,9,10; 214:18;229:6,13;230:4, 7,13;232:21,25;233:9, 20;235:8,15,18,19,23; 236:11;244:2,7;246:18; 247:14;250:23,24;264:5, 6 videos (1) 54:23 videotape (2) 130:7;207:8 Vietnam (1) 140:3 viewing (1) 26:8 views (2) 34:8,8 villify (2) 170:14;174:17 villain (1) 182:12 violate (1) 52:11 violated (6) 18:25;19:14;56:14,25; 59:5;64:16 violating (1) 102:9	violation (11) 47:2,25;49:4;68:6; 69:2,5;70:20;111:10; 113:6;116:22;225:4 violence (3) 86:2,6;206:4 visit (1) 168:7 visual (1) 34:9 voice (33) 53:15;54:10,25;55:16, 19,24;109:25;110:3; 114:7;122:18;123:4,11, 14,15,16;125:9;145:8; 159:11,14,14,20;165:16, 25;166:13;182:11; 184:7;189:18;200:15, 19;201:11;235:11; 240:17;264:13 voices (4) 114:7;130:15,22; 170:3 volume (1) 141:24 vote (1) 10:19 vulnerability (1) 49:8
U				W
ultimate (2) 116:19;265:1 ultimately (6) 80:8;121:1;146:12; 148:5;151:22;265:14 unarrest (1) 116:11 unavailable (8) 171:6,20;172:16,21, 23;173:4,7,19 uncommon (3) 203:10;223:7,21 uncooperative (12) 45:6,20;56:22,24; 74:24;75:19,21;78:5; 114:18;217:3,6;258:9 uncuffed (1) 150:24 under (33) 6:23;50:12,15,19,25; 74:10;82:10;91:3;108:2, 15,15;111:13;116:10; 121:20;134:6;136:19,21, 24;173:21;174:5; 181:22,24;182:2,4;				wait (5) 45:24,24;111:16; 119:24;206:23 waited (1) 170:11 waiting (3) 51:25;176:12;262:4 walk (7) 48:13;49:14;57:18; 74:12;76:14;113:18; 145:16 walked (4) 34:13;57:2;73:17; 156:13 Walker (2) 7:14,15 walking (4) 27:9;145:17;183:11; 205:23 walks (4) 50:6;110:21;228:25, 25 wall (53) 39:6,13,17,18,21;40:4, 7;41:14,19,24;44:24; 45:3;50:11;73:13,14; 94:11;99:13;108:12; 116:8;117:22;128:2,4; 129:20;130:8;131:12, 13;136:17;146:13; 147:12,16;165:18;

Edwin S. Sorrell v. SCDPS

168:23,23;178:16,17,23; 179:15,18;192:3,19; 201:5;205:15,17;206:8, 15;207:24;208:6,11; 214:9;253:9,17,18,19 walls (1) 265:17 wants (2) 69:15;79:22 warned (1) 16:7 warning (2) 99:22;100:3 warrant (1) 224:24 Warren (1) 3:14 Washington (1) 24:1 watch (6) 33:25;34:1;235:1; 251:3,5,6 watching (2) 34:25;230:9 water (48) 43:20,25;44:1,3,5,13, 20;45:1,16;64:23;68:14, 16;70:16;72:12;113:1, 11;115:2,11;127:8,14, 19,21;128:21;129:7,9; 130:14;143:25;145:7; 154:25;168:10;170:10; 187:13,15,17;197:12,14, 15,24;198:15;199:5; 205:4,5;207:13,14; 213:22;256:22;257:3; 264:3 waters (1) 228:12 way (59) 11:19;15:1,19,19; 16:14,15,17;17:7;19:4; 33:7;38:5,41;25;42:1; 50:23;51:12;56:8;57:7; 60:5,8;61:18;67:21,25; 72:8;99:18;111:12; 115:19;116:1;123:8; 127:7;131:25;136:23, 25;140:18;143:17,19,22; 151:12,12;160:5;170:17, 25;175:13,20;178:16,22; 179:1,3;232:9;235:9; 236:13;239:18;247:10; 251:1;257:20,21;258:3, 25;260:11,25 ways (2) 47:17;223:20 weakest (1) 178:11 weapon (4) 42:9;44:14;195:4; 221:23 weapons (5)	40:5;42:15;147:3; 156:24;192:3 wearing (3) 38:3;42:20;131:17 Website (1) 216:3 week (1) 221:14 weeks (2) 34:20;81:2 weight (1) 181:3 welcome (2) 103:2;154:17 well-behaved (2) 137:23;138:16 weren't (15) 17:10;49:2;129:12; 135:15;160:3;198:16, 18;206:5;244:16; 245:12;258:24;259:25; 260:17;262:8;264:7 wet (5) 127:10,12,13;198:19; 199:15 What's (12) 30:20;35:25;43:15,16, 18;18;45:10,22;52:9,25; 230:22;232:10 wheel (1) 68:5 Wherever (1) 31:17 whoa (1) 199:7 whole (18) 9:13,14;16:22;48:4; 89:2;91:9;106:9;111:4; 114:11;123:19;140:20; 164:14;174:16;177:21; 247:22;251:3,3,6 who's (3) 17:20;20:25;75:20 whose (5) 154:16;186:5;229:3; 230:13;265:3 wider (2) 39:22,23 width (9) 39:22,23;41:23,23; 99:10,13;206:15; 208:13;214:19 wife (1) 25:15 William (2) 7:20;210:22 willing (1) 76:19 window (5) 34:5;53:13;141:1; 175:22;177:24 windows (5) 33:8;34:22;35:2;	183:14,18 Windsor (1) 105:16 wings (1) 227:2 wipe (1) 189:5 wiping (3) 135:7;260:14;265:22 Wise (6) 7:16,17;8:10,11; 52:19;60:9 wish (2) 6:3;172:1 withhold (1) 138:3 within (10) 10:8;20:5,5;53:4;73:9; 87:21;112:14;119:4,8; 195:10 without (7) 52:25;177:9;193:1; 206:11;211:19;221:17; 233:23 witness (102) 3:22;5:19,22;6:17; 7:11;12:13;18:13;20:7; 21:21,23;22:2;61:6,6; 69:15;71:7;84:20,25; 89:7,9,12;90:2,6,15,19; 91:10;92:3,8,13;97:24; 102:16,18,19,25;103:2; 106:3,25;107:5;119:22; 120:1,3,6,13,16,19; 121:8,12;123:25;124:1, 4,7,9,11,15;126:19; 138:4;162:22,24; 165:23;166:2,6,7; 170:19;171:7,9,14,20; 172:6,7,9,9,16,18,21,23; 173:4,6,19;175:15; 182:14;200:14,18,21; 201:13,17,21;212:22; 215:16;231:11;232:18; 233:7,18;234:17;235:4, 5,9,16;236:15;240:21; 250:12,16;266:12,17 witness' (1) 233:11 witnessed (1) 44:18 witnesses (35) 3:19;4:14;5:9,15,15; 6:11,12,16,18,21,22,24; 7:1;9:11,15,18;12:9; 18:6,13;19:7,16;21:17; 60:25;103:5;204:2; 234:1,8,20;235:13; 236:1,9;239:9;254:4,5,6 woman (1) 176:1 women (1) 150:12	wonderful (1) 27:11 word (15) 38:19;48:5;57:23,25; 78:15,16;168:18;188:10, 13,16;224:10;229:19; 230:24;231:16,22 wording (1) 189:20 words (10) 36:14,15;72:15; 132:10;179:5;188:14; 216:17;222:17;224:12; 259:4 work (18) 19:22;20:23;21:4; 24:11,22;31:25;59:1; 60:1;69:1;79:18;86:4; 88:24;93:6;175:12; 199:1;231:9;234:9; 235:12 worked (10) 20:23;27:8;31:7; 93:16;97:15;101:19; 105:4;203:22;250:1,4 working (12) 13:22;24:12,17;26:5; 31:5;69:10;83:13;93:2, 9,14;185:7;237:14 workplace (3) 26:12,17,19 works (4) 95:3;100:5;209:20; 223:20 world (1) 58:8 worried (4) 100:14;147:14; 180:13,22 worry (1) 87:1 worthy (1) 184:21 wow (2) 40:1;68:24 write (13) 48:11;80:1;108:24; 111:3;121:13,24;149:3; 190:20;195:7;209:17; 210:12;264:24;265:2 writing (8) 10:7;47:22;49:14; 120:23;121:8;196:1; 232:12;245:18 written (5) 10:13;111:7;114:10; 120:15;222:9 wrong (11) 15:20;27:14;78:15; 162:3;179:3;188:6,9; 189:13;191:6;229:21; 251:9 wrongdoing (3)	27:3,4;54:24 wrongful (2) 152:17,19 wrote (12) 51:10;77:21;87:18; 111:8,10;137:19; 161:21;220:7;226:1; 247:21;248:7;255:4 X Xena (1) 3:12 Y y'all (21) 12:8;17:14;44:24; 57:3;67:19;87:12; 119:14;128:21,23; 130:13,14;132:17; 136:11;140:23;141:13; 143:24;152:1;183:9; 186:2;195:12;196:14 y'all's (2) 11:16,22 year (10) 26:4;30:25;31:3,4; 88:17;104:23;163:25; 164:10;185:5,6 years (31) 13:4;22:25;23:2,18, 21;25:4;26:1,27:8,13, 22;31:8;38:4;48:22; 53:10;54:21;58:22; 62:25;63:13;65:3;84:10; 95:2;104:24;105:5,12, 12,14;112:23;123:2; 143:18;188:1;225:11 yell (2) 38:19;141:1 yelled (1) 221:6 yelling (13) 37:9,14;38:19;72:16; 113:1;114:7;121:17; 130:14;141:20;144:19; 145:13;155:15;168:22 young (13) 37:23;42:19;45:18; 48:16,19;49:9;51:22,24; 52:11;64:21;95:7;100:4; 219:17 younger (2) 24:20;52:2 Youth (3) 24:4,14,19 Z Zackary (1) 7:16

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1 APPEAL OF TERMINATION HEARING
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3 SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY

4 COPY

5 TAPE TRANSCRIPTION OF PROCEEDINGS
6
7

8 BEFORE: STATE EMPLOYEE GRIEVANCE COMMITTEE

9 DATE: AUGUST 8, 2011
10 CONTINUED FROM JUNE 27, 2011

11 TIME: 9:00 AM

12 LOCATION: South Carolina Office of Human Resources
13 8301 Parklane Road, Suite A220
14 Columbia, SC

15 REPORTED BY: MARIA D. DEMPSEY, Registered
16 Professional Reporter
17
18
19

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23 ALSO PRESENT:

24 State Employee Grievance Committee:

25 Committee Attorney: Warren Ganjehehani

Chairman: Herbert Cooper, Department of
TransportationGerald Murphy, State Accident Fund
Lesia Kudelka, Labor, Licensing & Regulation
Xena Hampton, Department of Mental Health
Rita Teal, South Carolina State UniversityCommittee Assistant: Joseph Miller, State
Human Resources Division

1 MR. COOPER: This is the second day of
2 the hearing in the appeal of termination instituted
3 by E. Shawn Sorrell against the South Carolina
4 Department of Public Safety being held in Columbia
5 this 8th day of August, 2011. A record is being
6 made of the hearing.

7 For the record, my name is Herbert
8 Cooper, Department of Transportation. And other
9 members of the State Employee Grievance Committee
10 present are Gerald Murphy, State Accident Fund; Xena
11 Hampton, Department of Mental Health; Lesia Kudelka
12 with Labor, Licensing & Regulation; and Rita Teal
13 with the South Carolina State University.

14 The committee attorney is Warren
15 Ganjehsani, attorney general's office. The
16 appellant is represented by M. Malissa Burnette,
17 attorney at law, and John A. O'Leary, attorney at
18 law. The employee agency is represented by Rachel
19 Erwin, assistant general counsel. Assisting the
20 committee is Joseph Miller with the Human Resources
21 Division.

22 Each side will be given the opportunity
23 at the appropriate time to ask questions of the
24 witness. The presiding officer, any member of the
25 committee or the committee attorney may direct

273

1 questions to any party or witness at any time during
2 the proceedings.

3 Before closing the hearing, the
4 presiding officer will allow both parties to present
5 a brief summary or a closing statement if they so
6 desire. The appellant will have the option of
7 closing first or last.

8 I wish to point out that only testimony
9 and evidence pertinent to the grounds on which the
10 appeal is based or pertinent to the charges on which
11 the agency's action is based will be allowed.
12 Testimony or evidence which is repetitive or
13 cumulative will not be permitted.

14 Are there any questions by either party?

15 MS. ERWIN: No.

16 MR. COOPER: The appellant, the agency,
17 witnesses, or anyone else related to the case are
18 not to discuss the case with any member of the State
19 Employee Grievance Committee before, during, or
20 after the hearing until the final decision is
21 reached. The only time the case is to be discussed
22 is during the formal hearing procedures. The matter
23 is still considered to be pending before the
24 committee during the time involved in the request
25 for reconsideration of the committee's decision or

1 until the time has passed for an appeal to the
2 administrative law court. The only time the case is
3 to be discussed is during the formal hearing
4 procedures.

5 After hearing this appeal, the committee
6 will report its finding and its decision in writing
7 to the employee and the employee agency within 20
8 calendar days of the conclusion of the hearing. The
9 decision will be filed on terms of administrative
10 review. This hearing remains in executive session.

11 All right. I believe we're waiting
12 for -- when we stopped the first day, you were
13 calling the witnesses.

14 MS. ERWIN: Yes, sir.

15 MR. COOPER: So if we can continue at
16 that point, and I need to verify that the ones you
17 do call all have been sworn in.

18 So Mr. Secretary, if you can just verify
19 before they start, otherwise I'll need to start.

20 MS. ERWIN: We've got captain -- the
21 three remaining witnesses are Captain Allen Curtis,
22 Chief Zach Wise, and Mr. Keel. And all three were
23 sworn in.

24 MR. COOPER: There are three witnesses
25 then?

Transcription of Proceedings on August 8, 2011 - October 25, 2011

275

1 MS. ERWIN: Yes. Yes, sir.

2 MR. COOPER: Who's going first?

3 MS. ERWIN: Captain Curtis, please.

4 MR. COOPER: I need to remind you to
5 speak clearly to ensure you're picked up by the
6 microphone and to advise you that the binder on the
7 table in front of you contains information that may
8 be referred to during the questioning, and that each
9 page is numbered in the upper right-hand corner.

10 So would you please start by stating
11 your full name.

12 MR. CURTIS: Allen J. Curtis.

13 ALLEN J. CURTIS

14 being first duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MS. ERWIN:

17 Q. Captain Curtis, where are you employed?

18 A. South Carolina Department of Public
19 Safety, Bureau Protective of Services. I'm assigned
20 to the headquarters division, that would be mostly
21 administrative. I'm over at the -- now, I'm
22 currently over at the field offices of our contract
23 areas.

24 Q. Okay. And are you familiar with the
25 events involving Mr. Sorrell with the Criminal

1 Justice Academy -- excuse me -- with the arrest of
2 Mr. Spaht, Ms. Swanson, and Mr. Keith on March the
3 28th of 2010?

4 A. I'm aware of it, yes.

5 Q. And did you have a chance, subsequent to
6 the arrest, to review the arrest report prepared by
7 Mr. Sorrell?

8 A. I'm not sure at which point I looked at
9 the report. I think it was sometime afterwards that
10 I looked -- that I looked, that I got to view the
11 incident report.

12 Q. Okay. I mean, is it a normal process
13 that you're going to look at every incident report
14 that comes in?

15 A. I mean, when you look at the approval
16 process, when the officer fills out a report, the
17 way our approval system works is it goes to the
18 supervisor, usually a sergeant. A division sergeant
19 signs off on those. Unless there's a direct report.
20 I have several sergeants that have direct reports to
21 me. So when I submit a report it gets directly
22 reviewed.

23 I look at a lot of the reports that are
24 for follow-up for investigations because
25 investigations kind of falls under my area. So some

277

1 of those that are needed to be followed up on
2 investigation, I look at those a little bit closer.

3 Q. Okay. Do you recall whether or not you
4 actually looked at that report prior or after a
5 complaint was filed by the three individuals?

6 A. Probably just a little bit before,
7 maybe.

8 Q. As far as the report itself, the
9 report -- let me go back. My pages are not -- I
10 believe if we go to Page 34, unless -- I believe
11 that may be the correct page.

12 Is that a copy of the incident report
13 from that evening?

14 A. Uh-huh.

15 Q. Okay. And based on I guess the
16 narrative of -- that's involved, at face value, does
17 it appear that it was a proper arrest?

18 A. I mean, at face value, I mean, the way
19 we look at them is it's not a great report. It, you
20 know, probably meets the minimum, you know. My
21 assumption, I guess by reading it is that I wouldn't
22 have thought that they were arrested just for
23 throwing water balloons.

24 I would have thought disorderly conduct,
25 being the nature of it, is that being that they were

1 either up in his face or maybe drunk or something, I
2 don't know. It just, like I said, it's not a great
3 report, but I don't think there's anything to me
4 that totally red flagged it that -- yeah.

5 Q. Okay. And it had, I guess sufficient
6 language that made you think, looking at it cursory,
7 it would have met -- met the requirement?

8 A. Right.

9 Q. Let me ask you this: You mentioned that
10 had you just read the language that they were
11 throwing water balloons that would have alerted you
12 that there was nothing that would have meant -- if
13 it had just said that they were just throwing water
14 balloons, would that have been sufficient facts to
15 demonstrate to you that there was probable cause for
16 an arrest from disorderly conduct?

17 A. No. I mean, not for just throwing water
18 balloons.

19 Q. What were you trained, I guess, at the
20 academy and instructed as far as what the legal
21 standard was, what constitutes the disorderly
22 conduct?

23 A. I mean, we do in-service training on
24 this every year. It's a legal update and we've all
25 viewed it, and disorderly conduct is usually either

279

1 someone who's drunk or is somebody who is up in your
2 face using fighting words, a lot of profanity,
3 doing, you know, a lot of -- a lot of finger, you
4 know, finger pointing, aggressive, in your face.

5 Q. Okay. And did you have a chance to -- I
6 guess subsequent to this, did you go back and
7 retrieve the videotape that we -- of the incident at
8 the Lottery Commission that was videotaped outside?

9 A. Well, after -- after a complaint was
10 filed, it came down to me that this complaint was
11 filed. And the videotapes, typically, for these
12 buildings are in like a DVR type thing and they're
13 going to cycle out and they're only going to run for
14 about three days.

15 And so I was requested to go down to
16 retrieve the DVR that would be -- showed the lobby
17 area, that would show, you know, the front door
18 where all this would have occurred, to retrieve
19 that.

20 Q. Okay. And did you have a chance to
21 review that videotape?

22 A. I looked at some of it. What I was
23 looking to do is just try and get as much of the
24 whole incident because I basically had to get with
25 one of our IT folks to do it to get as much before

1 and then a little bit after to cover that span of
2 time.

3 Q. Was there anything that you observed as
4 far as conduct-wise of the three individuals that
5 evening that would have met the standard that you've
6 testified to, that would have established probable
7 cause for an arrest for public disorderly conduct?

8 A. I mean, nothing that I saw. I mean,
9 what I saw was I saw the water balloon part and then
10 the other -- the other part that I mainly remember
11 seeing was when they were in the lobby coming in.
12 It just seemed like they were cooperative and I
13 didn't really see anything there.

14 Q. Okay. Let me ask you this, Captain
15 Curtis: Are you familiar with a prior incident with
16 Mr. Sorrell that occurred at the Criminal Justice
17 Academy?

18 A. If you're referring -- I think it's the
19 one in 2008?

20 Q. Yes, sir.

21 A. My familiarity with it is that there was
22 a complaint that was lodged by a student against
23 Mr. Sorrell through the academy that the -- at the
24 time the interim director was Randy King -- and
25 Captain Hancock and I went down to talk to Mr. King

281

1 because he was upset about it, and just to sit down
2 and talk about it. And when we came in and we --
3 I'm assuming you want me to just --

4 Q. What was the -- what were the facts as
5 far as what the interaction, the nature of the
6 complaint was from the student, if you remember?

7 A. Well, the nature of the complaint was
8 that -- that at the time what happened was, I guess
9 there was a thing that came out of, you know, about
10 someone who had been kicked out of the -- out of the
11 academy or whatever, and I think the crux of it was
12 Mr. Sorrell came and saw it, and for whatever reason
13 decided to lock the academy down. It had a student
14 that refused to go in or didn't want to, you know,
15 comply with his order, his director or whatever.

16 And the concern for Mr. King was that,
17 you know, this is kind -- this is of an
18 administrative type scenario. These are rules
19 violations, having somebody that you go into a
20 building and he was basically ready to handcuff the
21 guy and take him to jail.

22 MR. O'LEARY: Objection. Calls for
23 speculation.

24 MR. GANJEHSANI: Ms. Erwin?

25 BY MS. ERWIN:

1 Q. Did the student complain?

2 What was the nature of the student's
3 complaint?

4 MR. O'LEARY: Objection. It's hearsay,
5 unless he has any personal knowledge of it.

6 MR. GANJEHSANI: If you will rephrase,
7 Ms. Erwin.

8 MS. ERWIN: Okay. Thank you.

9 BY MS. ERWIN:

10 Q. In essence, there was a situation, a
11 person had been -- had been, I guess removed from
12 the academy.

13 MR. O'LEARY: Objection. Leading.

14 MS. ERWIN: That was his prior
15 testimony, that the student had been removed and
16 Mr. Sorrell was concerned about the student
17 appearing.

18 MR. GANJEHSANI: I mean, the witness
19 said he does have some awareness of it. I think we
20 just need to be very careful of how the witness is
21 being asked to reconstruct something of which he was
22 aware or was not aware.

23 BY MS. ERWIN:

24 Q. Okay. There -- apparently there was the
25 student, once the academy was put in lockdown by

Transcription of Proceedings on August 8, 2011 - October 25, 2011

283

1 Mr. Sorrell, did not return to his dorm room; is
2 that your understanding?

3 A. That's my understanding.

4 Q. Okay. Are there policy provisions as
5 far as academy rules that require students to be in
6 the dorm rooms at certain times?

7 Is there a requirement that they be in
8 the dorm room?

9 A. There's a requirement but, you know, I
10 think that you can't order. You know, you can't
11 make somebody go somewhere in the academy.
12 Typically what happens with the academy is if you
13 got a rule violation, you can notate it and you pass
14 it on to the academy staff, Randy King or somebody,
15 and they'll deal with it because it's an
16 administrative matter.

17 Q. Okay. Would that policy violation
18 constitute an offense sufficient to give you
19 ~~probable cause to make an arrest for public~~
20 ~~disorderly conduct?~~

21 A. No, I wouldn't think so. No, not in
22 that instance.

23 MR. O'LEARY: Objection. The question
24 has nothing do with this case.

25 MR. GANJEHSANI: Overruled.

1 BY MS. ERWIN:

2 Q. Did you subsequent -- or let me ask you
3 this: That evening that the academy was put in
4 lockdown, was there any supervisors on the part of
5 Mr. Sorrell that were notified?

6 A. There were.

7 Q. There were?

8 A. There was a supervisor on duty.

9 Q. But were they notified? Did Mr. Sorrell
10 notify them?

11 A. No.

12 Q. When was the first that anyone, I guess
13 in the chain of command, had knowledge that the
14 academy had been put in lockdown?

15 A. I believe it was the next day.

16 Q. Did you have an occasion to go meet with
17 the academy staff regarding that incident?

18 A. I did.

19 Q. And what transpired during that meeting?

20 A. Well, again, the meeting was with Randy
21 King, who was the director back then, and I met with
22 him, and he basically expressed concern over that
23 incident.

24 And, you know, as we were talking he
25 basically expressed concerned overall that he had

285

1 had with Officer Sorrell. That, you know, he told
2 us that oftentimes he would go home and he was
3 concerned about him being there. That he just felt
4 like he was heavy-handed with a lot of the students.

5 MR. O'LEARY: Objection.

6 MR. GANJEHSANI: What grounds?

7 MR. O'LEARY: Hearsay.

8 MR. GANJEHSANI: Ms. Erwin?

9 BY MS. ERWIN:

10 Q. What was the general nature of the
11 meeting?

12 A. Well, I mean the general nature of the
13 meeting was that -- that this incident occurred and
14 we -- not so much to smooth it over, but to talk
15 with Mr. King. This is a contract area, it's a paid
16 contract area.

17 I mean, regardless, we have somebody who
18 has concern over one of our officers, the captain
19 and I are going to go over and sit down and see if
20 we can get it figured out if it's, you know...

21 I'm sure there's both sides of every
22 story. This is to find out what their side of it
23 is. And, you know, if it's a situation, you know,
24 where our officers are not doing what, you know,
25 we're requested to do or doing it in an -- you know,

1 in an unprofessional manner, so that we can go back
2 and deal with it.

3 Q. Okay. Were you requested to remove
4 Mr. Sorrell from the academy assignment?

5 A. Yes, we were.

6 Q. Subsequent to that incident, Mr. Sorrell
7 has testified that he attended counseling. Are you
8 familiar with that arrangement and when that was set
9 up?

10 A. Yes.

11 Q. What was the nature of that counseling
12 or that -- the counseling that he was asked to
13 attend?

14 A. Well, I believe the counseling was like
15 a anger -- anger management type counseling.

16 Q. And why did the -- I guess the Bureau of
17 Protective Services or the department feel that that
18 was necessary?

19 A. I think we felt because of this, of this
20 situation and some of the things that were expressed
21 by Mr. King, we just felt like at the time that
22 there was enough concern within the agency that it
23 would be -- it would be a good idea to get him into
24 some sort of -- some sort of counseling program.

25 Q. Okay. And did you ever attend or

Transcription of Proceedings on August 8, 2011 - October 25, 2011

287

1 accompany Mr. Sorrell to those counseling sessions?

2 A. Just the first one just because
3 Dr. Hammonly (phonetic) requested that somebody kind
4 of outside of his direct chain of command because I
5 guess he felt like it was an uncomfortable thing to
6 have a supervisor, whatever, to appear with him, but
7 he needed somebody to sit in.

8 So I went to the first meeting that I
9 guess it was like an introduction type thing, just
10 for that first -- that first session.

11 MS. ERWIN: And that was the only
12 occasion that you attended.

13 That's all I have.

14 CROSS-EXAMINATION

15 BY MR. O'LEARY:

16 Q. Just a couple questions, sir. About the
17 academy incident in '08, what was your job?

18 Were you a supervisor and captain at
19 that point?

20 A. Yeah, I was the captain at the time.

21 Q. Okay. And you were aware that the
22 academy has certain doors that you're not allowed to
23 come in after a certain hour that are locked?

24 A. Uh-huh.

25 Q. Were you aware that the student that was

1 in question in this case had been terminated from
2 the academy on Friday, the Friday before?

3 A. Uh-huh.

4 MR. GANJEHSANI: Captain, if I could --
5 if you could just verbalize your answers. The
6 microphone is trying to pick up.

7 THE WITNESS: Yes, yes.

8 BY MR. O'LEARY:

9 Q. Yes, you're aware of it?

10 A. Yes, I'm aware of it.

11 Q. So he comes back to the academy after
12 he's terminated; is that your understanding?

13 A. My understanding was that it was
14 possible that he could have come back.

15 Q. Well, if he was there complaining about
16 how he was treated, it would seem that he was back;
17 wouldn't you agree?

18 A. My understanding was the complaint was
19 made afterward. I'm not sure exactly when the
20 complaint was lodged.

21 Q. And the complaint was on February 14th
22 of '08. Was that was the incident day?

23 A. Yeah.

24 Q. And were you aware that very same date
25 there was a shooting at a college in Ohio where a

Transcription of Proceedings on August 8, 2011 - October 25, 2011

289

1 student came in and shot up the college?

2 I mean, are you aware of that or not?

3 Just yes or no.

4 A. No, not really.

5 Q. Okay. So would you say that the
6 security of the academy is an important issue when
7 people come back and maybe are mad at the academy or
8 other students?

9 A. Yeah, obviously.

10 Q. Okay. And you're aware that they had
11 incidents at the academy in the late '80s where a
12 husband came to the academy with weapons?

13 Are you aware of any of those instances?

14 A. Humm.

15 MR. GANJEHSANI: Captain?

16 THE WITNESS: I'm sorry.

17 MR. GANJEHSANI: I understand. Thank
18 you.

19 BY MR. O'LEARY:

20 Q. Were you aware that there was a rape at
21 the academy of an auditor?

22 A. No.

23 Q. Okay. So his job is to provide security
24 for all the officers that are there, correct?

25 A. Right.

1 Q. And there are certain rules and those
2 rules are that those doors are locked at a certain
3 time, correct?

4 A. Correct.

5 Q. And you're not supposed to be in the
6 cafeteria area after a certain point in time too;
7 isn't that correct?

8 A. That's correct.

9 Q. And there's only one access into the
10 academy and that at that point in time would have
11 been the academy cafeteria door; would you agree
12 with that?

13 A. I would agree.

14 Q. Okay. Now, let's just -- let's go ahead
15 here to -- did you ever see any documents first that
16 he said to Mike Lanier -- have you seen any
17 printouts?

18 A. I have not.

19 Q. Okay. Are you aware that he contacted
20 Mike Lanier the night of that incident at the
21 academy three times?

22 A. Yes.

23 Q. You are aware of that. Okay. Now, as
24 to the date of the actual incident that he's here
25 today for, you said you saw a video of them coming

Transcription of Proceedings on August 8, 2011 - October 25, 2011

291

1 into the lobby?

2 A. That's correct, that was after.

3 Q. Where did you get that video?

4 A. I obtained it from the IT department in
5 the -- in that building.

6 Q. So there's other videos in this case
7 that show him actually walking into the lobby?

8 A. No, it was the video of after he had
9 arrested them, he brought them back into the lobby.

10 Q. Okay.

11 A. He was, I think, processing, writing
12 these tickets, whatnot.

13 Q. Now, would you agree with me that the
14 face of that report shows that these people were
15 boisterous and unruly; would you agree?

16 A. Yeah, I mean, on the face of it, it
17 seems.

18 Q. Wouldn't an important element of that
19 report be the time of day? It's early in the
20 morning?

21 A. Uh-huh.

22 Q. And it's in downtown residential
23 combination business area?

24 A. Uh-huh.

25 Q. That all comes into play, doesn't it?

1 And based upon your training, is it your
2 understanding that an officer needs probable cause
3 to write a ticket too?

4 A. No, not write a ticket.

5 Q. You don't need probable cause to write a
6 ticket?

7 A. Well, I mean, if you're going to -- if
8 you're going to make a -- you need to have probable
9 cause, but you can either make an arrest or in some
10 circumstances you can write a ticket. I would think
11 on a disorderly it's the same.

12 Q. And you're aware of the state law on
13 16 -- I'm sorry. The state law says under
14 16-17-530 -- if you could just read A. Take a look
15 at that and see. Sorry about my marks on there.

16 A. Be found on any highway or at any public
17 place or public gathering in a grossly
18 intoxicated -- intoxicated condition.

19 Q. Did you read first part? You read B,
20 you skipped to B. You read didn't read A.

21 A. No, I just read A.

22 Q. Okay.

23 A. It said, be found --

24 Q. Let's read this here. Public gathering
25 in a grossly intoxicated condition (or.) But go

Transcription of Proceedings on August 8, 2011 - October 25, 2011

293

1 ahead, read the or.

2 A. Or otherwise conducting himself in a
3 disorderly or boisterous manner.

4 Q. Or is in there and that's an important
5 part of it, isn't it?

6 A. Uh-huh.

7 Q. So it could be either of those?

8 A. Uh-huh.

9 Q. Okay. And you weren't there that night
10 that this occurred, were you?

11 A. No.

12 Q. Did you ever interview that person that
13 made the complaint at the academy?

14 A. No, I did not.

15 Q. Did not. Okay. But you're aware he was
16 thrown out of the academy and came back?

17 A. Correct.

18 Q. And you don't think that might be
19 trespass if you were thrown out and coming back
20 after hours?

21 A. Again, it would depend on what the
22 arrangement is with agency or, you know.

23 Q. You're aware the academy sends a letter
24 to people they're terminating and saying you are
25 hereby terminated, cannot enter the property of the

1 academy at 5400 Broad River Road?

2 Are you aware of that?

3 A. Yeah.

4 Q. Okay.

5 MR. O'LEARY: Beg the Court's
6 indulgence.

7 BY MR. O'LEARY:

8 Q. How many officers were working at the
9 academy at that time in '08; do you know?

10 Is it one per shift or two?

11 A. One per shift.

12 Q. Did they have inmates housed out there
13 in '08 or do you know?

14 A. They have them housed, I don't know how
15 late. Those inmates are all supervised and then
16 they stay probably through dinner and then they take
17 them out.

18 Q. Okay.

19 A. Take them back to the institution.

20 Q. Are you aware at one point they were
21 living there in the basement?

22 Do you know if they were living there in
23 '08?

24 A. I don't believe they were.

25 Q. Okay. Just one other question. How

295

1 much time passed before you actually reviewed this
2 report?

3 A. Again, I couldn't tell you. I'm not
4 sure when -- when I reviewed it. Either before or
5 after a complaint was made. Again, that one doesn't
6 really fall into my -- into kind of my chain. It's
7 not one that I would normally approve. I generally
8 approve the reports of the guys that work under me
9 or I directly supervise.

10 Q. You didn't by any chance go down and get
11 those tickets nolle prossed against these three
12 people, did you?

13 A. No, that was not me.

14 Q. Who did it, do you know?

15 A. That was Captain Hancock.

16 Q. Captain Hancock did that. And do you
17 know who told Captain Hancock to do that?

18 A. I do not.

19 Q. You do not know. At what point -- I
20 mean, how did you know that he went down and did it?

21 A. I think he told me that he did it.

22 MR. O'LEARY: Okay. No further
23 questions.

24 REDIRECT EXAMINATION

25 BY MS. ERWIN:

1 Q. Just briefly. Captain Curtis, when
2 Mr. O'Leary was questioning you about the complaint
3 that was filed by the student, are you referring to
4 the student who was removed from the academy or the
5 student who had the interaction with Mr. Sorrell?

6 Are you aware of a complaint filed by
7 the student that was removed?

8 A. Well, I mean what had happened was that
9 after the student was removed and this interaction
10 occurred, the student went back to their chief and
11 their chief talked with Randy King about it.

12 Q. But which student are you referring to;
13 the student who had the interaction with Mr. Sorrell
14 the evening of the lockdown?

15 A. That's correct.

16 Q. Okay. So the student who was actually
17 removed that Mr. Sorrell had indicated appeared
18 later that evening. You're not aware that any
19 complaint was filed by that student?

20 A. No.

21 Q. Do you have any direct knowledge that
22 the student actually ever appeared on the academy
23 grounds that evening?

24 A. No.

25 Q. Okay. Is it normal or normal procedure

Transcription of Proceedings on August 8, 2011 - October 25, 2011

297

1 if the Criminal Justice Academy believes there is a
2 potential for an incident where a person may come
3 back, would they notify the chain of command at BPS
4 and ask for additional officers to be assigned?

5 A. Yes, they would have let us know.

6 Q. Were you asked that evening to have
7 anybody additional assigned that weekend?

8 A. No.

9 Q. And again, Mr. O'Leary asked you as far
10 as the statute dealing with public disorderly
11 conduct. Are you aware or in your legal update
12 training, have you ever been made aware of a case
13 that found a violation or upheld a conviction for
14 public disorderly conduct?

15 MR. O'LEARY: Objection. Not in the
16 scope of redirect.

17 MR. GANJEHSANI: I'll allow it.

18 BY MS. ERWIN:

19 Q. Are you aware -- he asked you if it
20 covered specific incidents, and I believe you read
21 the language dealing if the person was intoxicated.
22 You had mentioned individuals who had made
23 threatening comments.

24 Have you received a legal update
25 training where a case has determined that it is

1 something other than one of those incidents?

2 A. None that I can recall.

3 MS. ERWIN: Okay. That's all I have.

4 RECROSS-EXAMINATION

5 BY MR. O'LEARY:

6 Q. Just let me -- let me ask you. Your
7 understanding is that this statute -- if you're
8 boisterous or disorderly, that's a decision to be
9 made by the persons observing it; would you agree?

10 A. Again, my understanding of the statute
11 is that -- is that it's one who's either intoxicated
12 or is intoxicated or is somebody who's either up in
13 your face or possibly somebody who's just so loud
14 and so -- that they just can't be controlled. Maybe
15 that type situation.

16 Q. But you would agree with me that it
17 says, or conduct himself in a disorderly or
18 boisterous manner? Agree? That's what the statute
19 said and you just read.

20 A. Uh-huh.

21 Q. And running around at two in the morning
22 and throwing balloons, water balloons or whatever,
23 you don't think that could be boisterous and
24 disorderly?

25 A. I don't think it warrants arrest, no.

Transcription of Proceedings on August 8, 2011 - October 25, 2011

299

1 Q. No, that's not the question. The
2 question is: That -- that's probable cause for this
3 violation of this statute?

4 A. Throwing -- throwing water balloons?

5 Q. And being boisterous and running around
6 in a residential area at two or three in the
7 morning?

8 A. I don't -- I don't know that that's
9 necessarily boisterous. It may be disruptive or
10 loud or something, but I don't know that it's
11 boisterous.

12 Q. But you're saying it doesn't warrant
13 arrest, but you didn't say it didn't warrant a
14 ticket, did you?

15 A. You can write a ticket for it, that
16 would be fine.

17 Q. In a probable cause, you have to have
18 probable cause for either a ticket or an arrest,
19 correct?

20 A. Well, you might could write a ticket for
21 littering maybe, if they were littering and they
22 didn't pick anything up.

23 Q. Well, you see, that's the offense.
24 Somebody throws something down, he sees it, that's
25 littering, he writes a ticket.

1 A. Yeah.

2 Q. But you could be arrested for that too;
3 do you agree?

4 A. You want to do that -- I mean
5 personally, I wouldn't do it.

6 Q. Okay. I'm not saying -- I'm not saying
7 you would. I'm just saying but you could, couldn't
8 you?

9 A. You can arrest anybody for -- I mean,
10 you could arrest somebody for speeding. I mean,
11 it's a ticket. It's a ticketable offense now.

12 Q. But the underlying premise is that it
13 has to be based by probable cause?

14 A. Uh-huh.

15 MR. O'LEARY: Okay. No further
16 questions.

17 MR. COOPER: Anything else?

18 MS. ERWIN: That's all I have.

19 MR. COOPER: Any of the panel members
20 have any questions for this witness?

21 Can this witness be excused from these
22 proceedings?

23 MR. O'LEARY: We don't have a problem
24 with it.

25 MS. ERWIN: Yes.

Transcription of Proceedings on August 8, 2011 - October 25, 2011

301

1 MR. COOPER: Okay. Noted for the record
2 that this witness is being excused. Thank you,
3 captain.

4 (A recess transpired.)

5 MR. COOPER: Okay. We're back on the
6 record. Just want to remind you, you've heard it
7 before, to speak loudly and be sure to answer all
8 the questions so it can be picked up on the
9 recording.

10 MR. WISE: Yes, sir.

11 MR. COOPER: And again, to advise you
12 the binder contains information that may be referred
13 to during the questioning and each page is numbered
14 on the right-hand corner.

15 MR. WISE: Thank you.

16 MR. COOPER: Could you please state your
17 full name for the record.

18 MR. WISE: Zackary Wise.

19 ZACKARY WISE

20 being first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. ERWIN:

23 Q. And can you please indicate your
24 position with the department?

25 A. Chief of the Bureau of Protective

1 Services of the Division and Department of Public
2 Safety.

3 Q. Okay. And Chief Wise, are you familiar
4 with the incidents involving the Lottery Commission
5 and the arrest of the three individuals, Swanson,
6 Mr. Keith, and Mr. Spaht, back on March the 28th,
7 2010?

8 A. Yes, I'm familiar with it.

9 Q. Okay. And I believe you see the
10 complaint up on the screen in front of you. Did you
11 have a chance to review that complaint?

12 A. I did.

13 Q. Okay. Let me ask you this: What is the
14 reason that there was no -- I guess anything that
15 brought up a red flag or anything with this incident
16 report prior to the complaint?

17 A. Well, for starters I didn't see the
18 report until the complaint came in. However,
19 looking at it from face value, he has the right
20 terminology placed into the report.

21 Q. Okay. And what is that terminology?

22 A. Let's see here. You got the loud and
23 boisterous manner incident there, which that's part
24 of the statute you just referred to.

25 Q. Okay. And let me ask you this: If the

303

1 report had just indicated that you had an incident
2 where you had three people throwing water balloons
3 and no other language had been included in that,
4 would that have, in your opinion, established
5 probable cause for an arrest for public disorderly
6 conduct?

7 A. In my opinion, no.

8 Q. Okay. And again let me ask you: What
9 were you trained or were you trained at the academy
10 as far as the legal standard on what public
11 disorderly conduct constitutes?

12 A. In academy it talked about the being
13 intoxicated, loud, and boisterous and things of that
14 nature.

15 Q. Okay.

16 A. And of fighting words and that sort of
17 thing.

18 Q. So basically fighting words or a person
19 who is intoxicated?

20 A. Exactly.

21 Q. Okay. Did you have a chance to review
22 the videotape that's been referred to of the
23 incident at the Lottery Commission?

24 A. Yes, I've seen it.

25 Q. Was there anything on that video that

1 would have given you reason to believe there was
2 sufficient basis for an arrest for public disorderly
3 conduct?

4 A. No. There was no audio with it, but
5 just from face value, looking at the video, there
6 was nothing that stood out to me that would cause an
7 arrest to be made.

8 Q. And did you, in fact, ask Captain Curtis
9 to obtain that video?

10 A. Yes, I did.

11 Q. Okay. Did you have a chance to review
12 the complaints that were filed by Mr. Spaht and
13 Mr. Keith and Ms. Swanson?

14 A. Yes.

15 Q. Okay. Once you reviewed their complaint
16 was an investigation done?

17 A. Yes, it was. It was forwarded up to the
18 Office of Professional Responsibility.

19 Q. Okay. And let me ask you this, Chief
20 Wise: As far as the incident that evening, is it
21 your opinion that there was no sufficient probable
22 cause for an arrest of those individuals for public
23 disorderly conduct?

24 A. That's correct.

25 Q. Is it improper for an arrest to be made

Transcription of Proceedings on August 8, 2011 - October 25, 2011

305

1 where there is not sufficient probable cause?

2 A. Repeat that again?

3 Q. Is it improper for an arrest to be made
4 where there is no sufficient probable cause?

5 A. That's correct, it's improper to do
6 that.

7 Q. Does that constitute an abuse of power?

8 A. It can, yeah.

9 Q. As far as the other -- the complaints
10 you indicated you had reviewed, are there other
11 problems you have, in addition to the arrest of the
12 individuals, with Mr. Sorrell's conduct that
13 evening?

14 A. After reviewing the internal report done
15 by OPR or Office of Professional Responsibility,
16 there's a lot of red flags came up through the
17 interviews and things of that nature going through
18 the report.

19 Q. Okay. And what were those red flags?

20 A. Just in the way that the suspects were
21 treated. You know, the way the female was treated
22 and that sort of thing. So it was a combination
23 of -- it seemed like the investigation took a lot
24 longer than it should have on a dis -- if it was a
25 disorderly. So that the whole process seemed to

1 drag on a little bit too long for a disorderly.

2 Let's see. There was some other things
3 in there where just the whole line of questioning
4 and how the whole thing went down with the -- with
5 the interviews and things like that, with the
6 suspects. It was kind of a lengthy process for a
7 disorderly conduct.

8 Q. Okay. Did you -- you actually reviewed
9 the video, you said?

10 A. Yes.

11 Q. Did you see where Ms. Swanson was in
12 relation to the other individuals?

13 A. Yes.

14 Q. Okay. And did you observe Mr. Sorrell I
15 guess approaching her first?

16 A. It was kind of a grainy video, it wasn't
17 the best video in the world, but yes, I could, I
18 could see that.

19 Q. Okay. Did that appear odd to you?

20 A. It did, especially after -- like I said,
21 after reviewing the incident, the report and things
22 of that nature and then looking at -- there were two
23 other males there. Going to the female was a little
24 different.

25 Q. Okay. Did you recall Ms. Swanson

Transcription of Proceedings on August 8, 2011 - October 25, 2011

307

1 indicating in her statement that Mr. Sorrell made a
2 comment about her butt or making a comment she felt
3 just to embarrass her?

4 A. Yes, I did read that.

5 Q. Okay. Is that something that you
6 consider improper?

7 A. I do. I do.

8 Q. Mr. Sorrell had indicated too that he
9 had concerns with Ms. Swanson as far as being
10 searched. Is he authorized to search females?

11 A. Yes. We're taught in the academy how to
12 search a female but because nine times out of ten
13 you're not going to have a female on there to call
14 or available to back every other -- every male
15 officer up. So we are trained on how to do that.

16 Q. So if there had really been, I guess any
17 sort of true concern that she was a threat, that
18 could have been dealt with --

19 A. Exactly.

20 Q. -- immediately?

21 A. I mean, ideally, you'd like to have a
22 female on the scene, and if you got one available,
23 of course you'd bring the female on the scene. But
24 yet if there's not one available, you know, males
25 can search a female.

1 Q. Okay. Was there anything, I guess from
2 reading the statements and observing the video that
3 in your opinion the three individuals were not
4 compliant or not adhering to the directions of
5 Mr. Sorrell that evening?

6 A. Not that I could see. It seemed like
7 everybody was standing still, doing whatever they
8 were supposed to do. But of course, again, I
9 couldn't hear everything or hear anything, rather,
10 but just from looking at the video, I don't -- I
11 couldn't tell that anybody was out of order.

12 Q. And again, looking at the video,
13 Ms. Swanson, was she in a proper search position?

14 A. She appeared to be.

15 Q. Feet shoulder width apart, is that what
16 you're talking about?

17 A. Yes.

18 Q. And let me ask you this: There was
19 ~~testimony that there was a comment at the jail about~~
20 Ms. Swanson needing to be searched. Is that
21 something that officers are instructed to do or
22 required to do when they put someone in, to make a
23 specific instruction to the jail about the
24 individual being searched?

25 SA: No, that's the detention center's

Transcription of Proceedings on August 8, 2011 - October 25, 2011

309

1 responsibility at that point. Once the officer
2 drops them off at the jail, they take custody of
3 them. That's their responsibility at that point.

4 Q. Okay. Let me ask you, going back a
5 little bit earlier to the incident that was
6 discussed in reference to the Criminal Justice
7 Academy. Are you familiar with that incident?

8 A. Which incident did you say? I'm sorry.

9 Q. With the Criminal Justice Academy
10 involving the student that Mr. Sorrell had the
11 interaction with.

12 A. Yes, I'm familiar.

13 Q. Okay. And are you familiar with the
14 reasons that the department chose to require
15 Mr. Sorrell to attend the counseling?

16 A. Yes.

17 Q. Okay. And what were those reasons?

18 A. It was some anger management issues.

19 ~~We've had other incidents where we had to talk to~~
20 him, and we felt like that was the proper time. In
21 my view, as the chief, you know, I like to give
22 people second chances, so I'm going to make sure I
23 do all I can to resolve it. The resources are there
24 to get officers help if they need it.

25 Q. But you felt there had been, I guess,

1 sufficient pattern of behavior that necessitated --

2 A. Yes.

3 Q. -- this?

4 Okay. And again, to your knowledge,
5 were you ever contacted or were any supervisors ever
6 contacted that evening by anyone at the academy?

7 A. No.

8 Q. Were you contacted prior to that Sunday
9 evening once this student was terminated?

10 A. No.

11 Q. Is that a normal procedure, for them to
12 call you if they believe there's a threat or a
13 concern?

14 A. Yeah. Most of the agencies are there.
15 So if there's a belief that there's a threat, then
16 they would notify us so that we can be aware of it.

17 Q. And to your knowledge, was there ever
18 any documentation that that person ever actually
19 appeared to act out?

20 A. No.

21 Q. Okay. And was it the -- was
22 Mr. Sorrell -- the academy made a request for
23 Mr. Sorrell to be moved; is that correct?

24 A. Yes.

25 Q. Okay. Was Mr. Sorrell upset about the

Transcription of Proceedings on August 8, 2011 - October 25, 2011

311

1 change in assignment or?

2 A. Yes, because he felt like the officer,
3 he got the upper hand on him. That he got one over
4 on him. He wanted to make sure he saved face by
5 continuing to work out there. So he definitely
6 didn't want to be moved.

7 Q. But the department moved him, and I
8 guess the assignment at the Lottery Commission, what
9 did that entail?

10 A. It's a 24-hour post. Of course, the
11 guys, the officers work 12-hour shifts, and they're
12 there to provide security for the staff and the
13 public that comes into that area.

14 Q. Okay. Is there a lot of interaction
15 with the public in that arena?

16 A. Not on night shift. It's, you know, of
17 course maybe when the day shift is leaving, around
18 5:30, 6 o'clock, there may be a few holdovers, but
19 ~~for the most part, late in the evening there's~~
20 minimum staff there. Maybe computer folks.

21 Q. Okay. And let me ask you this, Chief
22 Wise: You had mentioned that there had been some
23 prior incidents involving Mr. Sorrell leading up to
24 even the academy incidents.

25 Do you recall what those incidents were?

1 A. There was -- there was just a couple
2 incidents out at the DSIT and places like that where
3 there were some complaints made, and so we just
4 dealt with those.

5 Q. Okay.

6 MR. O'LEARY: I didn't hear what you
7 said.

8 THE WITNESS: I'm sorry, DSIT, the CIO's
9 office, the Chief Information Office. They changed
10 their name. I said DSIT, but it's Chief Information
11 Office is what it is now, that's a post where that
12 officer stands as well, out on Broad River Road.

13 There was some complaints there from a
14 female employee that we looked into. Nothing came
15 out of it. But again, one of those situations where
16 we felt like Sorrell got --

17 MR. O'LEARY: Objection.

18 THE WITNESS: -- over-involved in the
19 situation.

20 MR. O'LEARY: My understanding is that
21 that complaint he was exonerated. I think it's
22 improper to bring that up.

23 MR. GANJEHSANI: Ms. Erwin?

24 MS. ERWIN: That's what he testified,
25 that it was investigated and...

Transcription of Proceedings on August 8, 2011 - October 25, 2011

313

1 MR. O'LEARY: But he was -- he was
2 exonerated.

3 MR. GANJEHSANI: If that's the case,
4 Ms. Erwin, you can bring that out on your
5 examination, I'll allow it.

6 BY MS. ERWIN:

7 Q. Had Mr. Sorrell been disciplined prior
8 to the academy incident and then this incident for
9 policy violations or any sort of infractions?

10 A. Yes, at least two times.

11 Q. Okay. Had Mr. Sorrell himself made
12 complaints about employees?

13 A. Yes, he had.

14 Q. Were those complaints investigated by
15 yourself or by other individuals within the
16 department?

17 A. Yes.

18 Q. Was Mr. Sorrell notified of the outcome?

19 A. No, he wasn't. And that's not our
20 procedure. If someone makes a complaint, we do
21 follow up with it and we take initial steps to deal
22 with it, but we won't go back and tell them what the
23 outcome was.

24 Q. So it's investigated, but the individual
25 is never going hear anything back as far as

1 discipline?

2 A. No.

3 Q. Any sort of --

4 A. Yeah, we wouldn't have any reason to
5 tell them what kind of disciplinary action was taken
6 on another employee.

7 Q. Okay. As far as equipment, I think
8 Mr. Sorrell testified that there was a question
9 about whether or not he had been provided cameras in
10 his car or other things like that.

11 Is that something that the Bureau of
12 Protective Services normally does as far as
13 equipment in their vehicles?

14 A. For the vehicles that are on patrol,
15 yes, we have the cameras and the videotapes in the
16 car.

17 Q. The individuals who have post
18 assignments such as the academy or the Lottery
19 Commission and so forth, do they have --

20 A. No, no.

21 Q. Okay.

22 A. There wouldn't be any need for --
23 especially in my commission, there wouldn't be any
24 need for.

25 Q. Chief Wise, just one final question.

Transcription of Proceedings on August 8, 2011 - October 25, 2011

315

1 Can you just give us, I guess a nutshell synopsis of
2 why you believe, I guess after this incident, it was
3 necessary to recommend termination for Mr. Sorrell?

4 A. After looking at the incident in its
5 totality and just realizing that this is a situation
6 that it didn't have to be -- we didn't have to be in
7 this particular situation with this incident. And
8 looking at Sorrell's history, we realized that this
9 is something that's obviously going to continue to
10 go on, especially after we've got counseling, we've
11 had prior disciplinary actions. We felt like at
12 that point, it was just going to continue to happen.
13 So we had to make it a tough decision, was to go
14 ahead and terminate.

15 Q. Okay. And the termination was based on
16 the charge of improper conduct?

17 A. Yes.

18 Q. And does the department's policy allow
19 for termination in those instances?

20 A. Yes. I think it might be Level 1, 2
21 termination or something to that effect.

22 Q. Okay. Those are all the question --
23 there was a -- I guess a question earlier. To your
24 knowledge, did Officer Harris ever suggest or notify
25 Ms. Swanson or Mr. Keith or Mr. Spaht to file a

1 complaint?

2 A. Now, I heard that from hearsay, but I
3 didn't know -- firsthand knowledge, I don't know
4 that he did do that.

5 Q. Okay. If an individual made an inquiry
6 to a supervisor about being mistreated or at least
7 alert to them they felt that they had been
8 mistreated and wanted to file a complaint, what
9 would the supervisor's responsibility be?

10 A. His responsibility -- his or her
11 responsibility is to tell a person what their rights
12 are and how they can go about making a formal
13 complaint.

14 Q. And if an individual approached a
15 supervisor, that would have been the proper --

16 A. Right, that have been the proper thing
17 to do, was to advise them as to what they need to do
18 to file a complaint.

19 Q. But to your knowledge, he never actually
20 did that?

21 A. To my knowledge, no.

22 MS. ERWIN: Okay. That's all I have.

23 CROSS-EXAMINATION

24 BY MR. O'LEARY:

25 Q. Okay. Just a couple of questions. You

317

1 said that this report on it's face is fine, correct?

2 A. Yeah.

3 Q. I mean, it shows probable cause?

4 A. Right.

5 Q. And you're aware that the statute
6 doesn't require to you be drinking or anything else
7 to be disorderly?

8 A. That's correct.

9 Q. In fact, there was a lot of arrests in
10 the '60s under this ordinance where the protesters
11 are in the streets and they're sitting there --

12 MS. ERWIN: I'm going to object. I
13 mean, we don't have any direct knowledge.

14 MR. O'LEARY: No, I'm just asking.

15 BY MR. O'LEARY:

16 Q. Are you aware -- I'm going to rephrase
17 that.

18 Are you aware that protesters have been
19 arrested under this ordinance?

20 A. Well, I wasn't born -- I was born in the
21 '60s, so I'm not sure. It may have been.

22 Q. Now, you said that -- I believe at the
23 Step 2 hearing, do you remember saying you didn't
24 really have any problem with this arrest?

25 A. I don't remember saying.

1 Q. You don't remember saying that. If it
2 was your neighborhood at two in the morning,
3 somebody running around and yelling in front of your
4 house throwing water balloons, do you think that's
5 proper?

6 A. Not proper, but you would go out and
7 check it out, see what's going on.

8 Q. Would you agree with me that it's a
9 decision that an officer makes as to whether they're
10 actually going to physically arrest someone,
11 correct?

12 A. Yeah.

13 Q. I mean, that's a decision, but the
14 underlying premise of anything, ticket or arrest, is
15 probable cause?

16 A. That's correct.

17 Q. And that probable cause determination is
18 made on the facts and circumstances as the original
19 officer that's responding sees it; isn't that
20 correct?

21 A. That's correct.

22 Q. Okay. And he interpreted the running
23 around at two in the morning, residential area,
24 throwing balloons as a violation of that ordinance
25 or that statute, correct?

Transcription of Proceedings on August 8, 2011 - October 25, 2011

319

1 A. That's what he interpreted.

2 Q. Yes, yes, he interpreted that, and he
3 put that in his report; isn't that correct?

4 A. That's correct.

5 Q. Now, you mentioned a couple things about
6 some other instances was -- one of the things that
7 he did is he reported some other people within the
8 department for using their computers to look up
9 pornography on a midnight shift, didn't he?

10 A. He did.

11 Q. And that was investigated, correct?

12 A. It was.

13 Q. That didn't make him real popular with
14 the other officers, did it?

15 A. I'm not sure. I think a lot of guys
16 don't come to me with that kind of stuff.

17 Q. Okay, okay. And he also -- there was a
18 problem at one point in his career at the State
19 House with the confederate flag; do you remember?

20 Do you remember the demand to burn the
21 flag down?

22 A. Right, right.

23 Q. He actually had voiced concerns about
24 the danger of that man to that monument in front of
25 the State House, didn't he?

1 A. I don't know if did to me or not, but
2 all of us were watching it, yes, sir.

3 Q. You watched him, but he's the one that
4 walked out on Main Street with a ladder, climbed up
5 over the fence and torched the flag, wasn't he?

6 A. It was a little bit lengthier story than
7 that, but yes, that's the outcome.

8 Q. That's the outcome?

9 A. Yes, yes.

10 Q. He was E-Slave (phonetic).

11 A. Right.

12 Q. Okay. But he had warned you about that
13 for a long time, hadn't he?

14 A. And all of us were watching him, yes,
15 sir.

16 Q. Okay.

17 A. Yes, sir.

18 Q. Now, the academy issue, are you aware
19 that there have been instances at the academy where
20 security was involved for the safety of the officers
21 that are living there?

22 Are you aware of that?

23 A. You said that security was involved?

24 Q. Yeah. That there was danger to some of
25 the officers at the academy?

Transcription of Proceedings on August 8, 2011 - October 25, 2011

321

1 A. I'm not aware of it, but I'm sure that
2 it has happened, I'm sure.

3 Q. And you're aware when you went there,
4 they had rules about locking the doors at certain
5 hours, being in your rooms at certain hours; isn't
6 that correct?

7 A. That's correct.

8 Q. And the reason for that was to try to
9 get control of the premises. There was only one
10 access, and that was the cafeteria door for years
11 after a certain hour, correct?

12 A. To my knowledge, yes, sir.

13 Q. You never worked at the academy, did
14 you?

15 A. No, sir.

16 Q. At the time he was working, was it just
17 one officer there at that instant?

18 A. Yes.

19 Q. And did you ever talk to the officer
20 that made the complaint?

21 A. Yes, I talked to Randy King as well.

22 Q. No, not Randy. I'm talking about the
23 actual officer that filed the complaint.

24 A. Oh, no.

25 Q. Okay. Your main objection to him was

1 that he was very militaristic and very strong in his
2 opinions and how he handles situations?

3 A. That's part of it, yeah.

4 Q. And he was a no nonsense type of guy?

5 A. Right.

6 Q. And wasn't that -- wasn't he hired to
7 really enforce the laws if he saw a violation?

8 What was he hired for?

9 A. Well, that's it, that's it. You may
10 enforce the laws of the State of South Carolina and
11 provide safety to the employees and the public.

12 Q. And he did and he got fired.

13 A. Yes, he did.

14 Q. Okay.

15 A. Because he wasn't following our
16 procedures, sir.

17 Q. Well, what the procedure was -- just
18 tell them, look, don't get involved unless it's a
19 major incident outside. Did you ever tell him that?

20 A. No.

21 Q. Did you ever tell him, don't go outside
22 if you see a ruckus outside?

23 A. No, sir.

24 Q. Did you know that the store across the
25 street, Granger Owings or whatever, had been broken

323

1 into within a couple weeks of this incident?

2 A. I did not.

3 Q. And you said you saw the video and you
4 got all these conclusions. You said the video was
5 grainy and it has no voice, correct?

6 A. Right.

7 Q. Okay. But from that, you had concluded
8 that he just didn't do it right?

9 A. Well, not just from that, but also from
10 the interviews that the OPR conducted.

11 Q. And you said that if he made -- you went
12 out of your way to say, well, if he made a comment
13 about the girl's body or whatever, however it was
14 phrased, that would be improper, correct?

15 A. Yes.

16 Q. You think that same man would have
17 searched the female if he was predisposed that way?

18 A. He should have.

19 Q. Do you think he had an obligation to
20 tell the jail when he took them in to be booked,
21 look, I really haven't searched this lady? That's
22 really what he was telling them, wasn't he?

23 A. I don't know what he was telling them,
24 but if he'd done his job he wouldn't have had to
25 tell them that because that's their job.

1 Q. And what's his job, to search her or pat
2 her down?

3 A. Yes. If you're going to put somebody in
4 your car, you have to know what's on them before you
5 put them in your car.

6 Q. But don't you think if he patted her
7 down, she's be saying he tried to grab her rear?

8 A. We don't know.

9 Q. But he took that -- he says, look, I'm
10 not going -- it's a female, correct?

11 A. Correct.

12 Q. And he had warned the jail when he got
13 there, I haven't searched her.

14 A. Don't put them in the car unless you
15 know what's on them. I wouldn't put -- what if she
16 had a gun? I wouldn't put them in the car unless I
17 know.

18 Q. She was handcuffed, correct?

19 A. Correct, correct.

20 Q. That would limit the access to a weapon,
21 correct?

22 A. Correct.

23 Q. To handcuff behind her back?

24 A. To my knowledge, she was. I wasn't
25 there, but to my knowledge she was.

Transcription of Proceedings on August 8, 2011 - October 25, 2011

325

1 Q. And he did a cursory pat-down of the
2 outer clothing and her hood; isn't that correct?

3 A. Yeah, but if he -- if he did that, he
4 would have felt the front part of her sweater that
5 he said he didn't check.

6 Q. But she obviously -- did she have a
7 weapon?

8 A. To my knowledge, no.

9 Q. I kind of get mixed emotions. I don't
10 know exactly which way you guys are going. You're
11 saying, well, he should, and he said bad things to
12 her because she was a female, but yet the same time
13 he went out of his way not to abuse her because she
14 was a female.

15 A. Searching someone is not abuse.

16 Q. Pardon me?

17 A. Searching someone is not abuse.

18 Q. Well, a certain type of search could be
19 an abuse. Officers aren't taught to do a full
20 pat-down on a female prisoner, are they?

21 A. No, they're taught how to properly pat
22 them down using the back of their hands to do the
23 test search, yes.

24 Q. Does that include the inner leg?

25 A. Yes.

1 Q. That's what they're taught?

2 A. Yes.

3 Q. Did you get complaints on that?

4 A. No.

5 Q. You're actually supposed to have a woman
6 do those searches, aren't you?

7 A. If there's one available.

8 Q. If there's one available, okay?

9 A. But if you don't have one available, the
10 officer has to do it.

11 MR. O'LEARY: I beg the Court's
12 indulgence.

13 BY MR. O'LEARY:

14 Q. Did you -- you didn't go and nolle pros
15 those tickets, did you?

16 A. No, sir.

17 Q. Are you aware that one of the
18 complainants here's father was an FBI agent?

19 A. Yeah, after the complaint came in, I
20 found out about that.

21 Q. And he didn't write you any e-mails or
22 anything, did he?

23 A. No, sir.

24 Q. Have you seen any of those e-mails he
25 wrote?

327

1 A. I did.

2 Q. And didn't he sign it, brother?

3 A. I can't remember.

4 MR. O'LEARY: Okay. No further
5 questions.

6 MR. COOPER: Questions?

7 REDIRECT EXAMINATION

8 BY MS. ERWIN:

9 Q. Just real brief. Chief Wise, in
10 reference to the complaints, does the department
11 investigate select complaints or do you look at who
12 the complaint's coming from or how are the
13 complaints handled?

14 A. They're looked at at face value.
15 They're all investigated.

16 Q. So does it even matter who somebody's
17 father is, if it came from their mother, their
18 father, themselves individually?

19 A. It has nothing to do with it.

20 Q. It's going to be investigated?

21 A. It's going to be investigated.

22 MS. ERWIN: That's all I have.

23 RECROSS-EXAMINATION

24 BY MR. O'LEARY:

25 Q. Just one last question. If it's being

1 investigated, would you go nolle pros the tickets
2 that's served as the basis for it before you
3 completed everything?

4 A. Yes. Whenever the -- for one, the court
5 case was coming up, and then two, when I get
6 directions to do that, I will.

7 Q. Who gave you directions?

8 A. The general counsel.

9 Q. The general counsel said to suppress it?

10 A. Yes, sir.

11 Q. Get rid of the ticket?

12 A. Yes.

13 Q. All prior to anything being complete?

14 A. Right.

15 Q. And who's general counsel?

16 A. Rob Bogan.

17 Q. It was Rob at the time.

18 A. Yeah.

19 MR. O'LEARY: Okay. Thank you.

20 MR. COOPER: Any other questions?

21 MS. ERWIN: That's all I have.

22 MR. COOPER: Any panel members have
23 questions for Chief Wise?

24 Can this witness be excused from these
25 proceedings?

329

1 MR. O'LEARY: You may.

2 MS. ERWIN: Thank you, sir, for
3 representing, sir.

4 THE WITNESS: Thank you.

5 MS. ERWIN: Call Mr. Keel.

6 (A recess transpired.)

7 MR. COOPER: Mr. Keel, would you please
8 state your full name.

9 MR. KEEL: Mark Anthony Keel.

10 MARK A. KEEL

11 being first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. ERWIN:

14 Q. And your position now is?

15 A. My position currently is I'm a chief of
16 the South Carolina Law Enforcement Division.

17 Q. And prior to that?

18 A. I was director of the Department of
19 Public Safety.

20 Q. And are you familiar with the events
21 leading up to the termination of Mr. Sorrell?

22 A. Yes, ma'am, I am.

23 Q. Okay. And can you explain to the
24 committee the basis for deciding that termination
25 was the proper action?

1 A. Well, the termination was based upon my
2 opinion that the arrests were improper, probable
3 cause did not exist, and that I believe that the
4 officer abused his authority and discretion.

5 Q. And in reference, I guess first to the
6 arrest being improper, what was your -- how was your
7 decision made in reference to that?

8 A. Well, based upon the statements that
9 were given both by the officer and the individuals,
10 based upon reviewing the videotape, I did not
11 believe and could not detect that there was this
12 boisterous and loud behavior.

13 I think that one statement -- and I
14 think Mr. Sorrell testified too -- is that he could
15 not hear anything from inside the building where he
16 was located. When he walked outside of the
17 building, apparently he heard one scream and as soon
18 as they saw him, they complied with his -- his cause
19 for them to get against the wall.

20 I think the female, he says that -- I
21 don't know if he said she didn't follow his rules or
22 that she was disobedient, but he had to tell her
23 more than a couple of times, I think made her turn
24 around and put her hands behind her back or put her
25 hands on the wall. But the bottom line is, he said

Transcription of Proceedings on August 8, 2011 - October 25, 2011

331

1 that the two males complied -- complied, you know,
2 instantly.

3 And so you take that into account, the
4 fact that they were throwing water balloons and they
5 could be seen on the videotape actually picking up
6 the balloon waste or picking it up before, I think
7 he even actually -- before he even came outside.
8 And I did not believe that that constituted probable
9 cause for an arrest of disorderly conduct.

10 Q. And you mentioned that you felt that the
11 behavior that evening constituted an abuse of
12 authority. What is your -- what's the reason in
13 your belief that the --

14 A. Well, I just think, you know, we can --
15 we can talk about -- all day about the fact that he
16 has discretion. You know, I was not there, he was
17 there, obviously. But the fact that he has
18 discretion doesn't mean that -- doesn't mean that
19 you, you know, have discretion to make an arrest
20 that I don't believe is proper, and I don't believe
21 this arrest was proper. I don't believe probable
22 cause existed to make this arrest. And that's the
23 decision that I made.

24 Q. Did you have a chance to review, I guess
25 the OPR file in this case including the -- I guess

1 the statements of the three witnesses, Mr. Spaht,
2 Ms. Swanson, and Mr. Keith?

3 A. I did.

4 Q. Did you have a chance to review
5 Mr. Sorrell's statement?

6 A. I did. And I think one of the things
7 that bothered me most about -- about that was the
8 fact that somewhere in the statement that he gave,
9 he talked about the two officers being compliant --
10 or the two -- two of the individuals or two male
11 subjects being compliant, and the female not being
12 compliant. And he was asked about, well, why would
13 you arrest those two if they were compliant? And I
14 think he said that, you know, if one goes they all
15 go. And that's just not the way our system is
16 supposed to work.

17 Q. Okay. Did you have any concerns as far
18 as -- other than the arrest, did you have concerns
19 with any way that Mr. Sorrell interacted with those
20 three individuals that evening?

21 A. Well, I thought his tone was improper.
22 I mean, I think when you walk outside and you see
23 three young people, you know, throwing water
24 balloons and what, I believe to be a pretty innocent
25 situation, you know, they're not -- they weren't mad

Transcription of Proceedings on August 8, 2011 - October 25, 2011

333

1 at one another, they weren't fighting among one
2 another. They're doing it as a joke.

3 And just I think, you know, some of his
4 terminology -- I think the fact of the way he -- it
5 seemed that he focused on the female, you know, more
6 so than he did the two male subjects, I thought was
7 improper.

8 I've been a police officer for 34 years.
9 If I had been there and I thought that there was
10 some -- something up and no good, I would have been
11 focusing on the one that I feel could harm me the
12 worst, and that would have probably been one of the
13 male individuals besides the female.

14 But his focus on her, again, I just
15 didn't think that conduct was proper. There were
16 some comments made that I didn't think was as
17 professional as they could have been.

18 Q. And once you I guess came to the DPS,
19 ~~did you have a chance to I guess go throughout the~~
20 state and discuss your expectations with officers as
21 far as what was warranted or what should transpire
22 in their interaction with employees?

23 A. I did. I started in April of '09, and I
24 spoke with all the troopers. We met with all the
25 BPS officers, we met with all the state transport

1 police officers, and we had discussion that I had
2 with them on what I expected their -- my
3 expectations were with them to conduct themselves in
4 a professional manner. That we were public
5 servants, and that we were here to protect the
6 public and serve the public. And that what I
7 expected them -- I expected them to treat people
8 like they would want themselves or their children to
9 be treated.

10 Q. And let me ask you, Mr. O'Leary has
11 asked earlier as far as the decision to have the
12 tickets in this case dismissed. Were you involved
13 in that decision-making process?

14 A. I did. I made that decision myself.

15 Q. Okay. And how did you come to the point
16 of deciding that the tickets needed to be nolle
17 prossed or removed from the court system?

18 A. Well, as soon as I determined the facts
19 of this -- as soon as I determined and got the
20 information and looked at the facts of this case and
21 I looked at all the statements. And I actually sat
22 and talked with Mr. Sorrell himself for I don't
23 know, probably -- I would say probably two and a
24 half, three hours maybe. A long conversation that
25 he and I had, and I told him when he left my office

335

1 that day that I did not believe he had probable
2 cause to make the arrest.

3 Again, I've been doing this 34 years and
4 I didn't believe that he had probable cause. Also
5 am an attorney and I didn't -- I didn't believe that
6 the facts supported -- even though what he had
7 written in his statement, I didn't believe the
8 facts, the ultimate facts that were written about
9 this case supported a probable cause to make an
10 arrest or write a ticket.

11 And so at that point, I asked my general
12 counsel, Rob Bogan, if he would review the case, and
13 I wanted his opinion also. And he came back to me
14 and agreed that he did not believe there was
15 probable cause to make these arrests. And at that
16 point, I am the one who had the cases dismissed.

17 Q. Okay. And has that ever occurred, to
18 your knowledge, within any situation that you've
19 dealt with the department, where a complaint's been
20 filed that the charges were dismissed?

21 A. Yes, it has. There have been other
22 cases.

23 Q. Is it common?

24 A. It's not common, thankfully, but there
25 are occasions that charges are made that we think

1 are either -- either they are the wrong charge that
2 should not have been made under a particular code
3 section or it's a charge that we feel is improper.

4 Q. And do you believe that it's your duty
5 to ensure that those charges are disposed of?

6 A. I believe my job is to uphold the law,
7 and if I think the law is not being upheld or I
8 think the law has been used improperly, I think it's
9 as much my job to make an arrest as it is to see
10 that justice is done with having a case dismissed,
11 if that's appropriate.

12 Q. Okay. And the termination of
13 Mr. Sorrell was based on -- I think you said your
14 belief that it was abuse of power that the arrests
15 were made, treatment of the individuals, that it was
16 all I guess encompassed under --

17 A. It was a combination of everything to do
18 with just the improper conduct that I thought took
19 place on that evening.

20 Q. Okay. And does the policy of the
21 department allow for a termination of an employee
22 for its violation?

23 A. Yes, it does. It allows, I think that
24 Level 1, a reprimand to termination.

25 Q. Was Mr. Sorrell's termination in any way

337

1 a result of his bringing violations to your
2 attention or to the department's attention?

3 A. No, none whatsoever. That is probably
4 the first time that I can remember actually having a
5 conversation with Mr. Sorrell, was after this
6 incident. So I mean, I was not aware of -- I was
7 not aware of some of these other incidents that's
8 been discussed.

9 I knew about them, obviously, before
10 I -- before I made a decision. But I mean prior to
11 that, they had not been brought to my attention
12 until I -- you know, any time I'm doing a
13 disciplinary action, I would always review a
14 individual's past record, and that is when I
15 discovered some of these other things.

16 Q. To your knowledge, are you aware of any
17 case or any situation where the court has determined
18 that a charge of disorderly conduct that did not
19 involve a person either being intoxicated or using
20 the fighting words or threatening words to a police
21 officer?

22 A. I don't know of one, no, ma'am. All the
23 training that I know that the academy has provided
24 recently says that in order to make a disorderly
25 conduct charge, you look for a gross intoxication,

1 threats, or fighting words.

2 MS. ERWIN: That's all I have.

3 CROSS-EXAMINATION

4 BY MR. O'LEARY

5 Q. Director -- chief, chief, I apologize.

6 A. All right.

7 Q. Would you say your understanding is that
8 this report is as its face, would constitute
9 probable cause though, correct?

10 A. Yes.

11 Q. You just didn't believe the report?

12 A. Well, I didn't. After -- after -- I
13 didn't think the facts of the case supported the
14 report.

15 Q. Okay. Now, let me ask you a couple of
16 questions here. You went to Rob, reviewed it.
17 Couldn't Rob or legal staff have made a motion to
18 the court, because the jurisdiction in this case
19 really is in the court once they're arrested or a
20 ticket is issued. Why didn't they just file a
21 motion in front of the court for a hearing?

22 A. They could have done -- I mean, there's
23 obviously more than one way to handle it.

24 Q. Okay.

25 A. I asked that the cases be dismissed.

339

1 They were coming up for trial and I did not believe
2 that these cases were cases that should have been
3 made, and I asked that they be dismissed, and that's
4 what took place.

5 Q. Okay. Let me ask you this: You said
6 something about he couldn't hear -- our client
7 couldn't hear from inside the building, but their
8 offices are on the fourth floor, correct?

9 A. That's correct.

10 Q. So it wouldn't be unusual you couldn't
11 hear through the sealed windows?

12 A. No, no, not at all. I'm just saying to
13 support this loud, loud and boisterous behavior. I
14 mean, he didn't hear anything, he couldn't have
15 heard anything until he walked out the door.

16 And I think his own testimony was that
17 he heard an initial scream and then of course once
18 they knew he was there, you know, it was quiet.

19 Q. But there was no audio from once he
20 leaves the building at all on any of these videos?

21 A. That's correct, but he can't -- he can't
22 also testify that they were loud and boisterous if
23 they only hears one scream, you know, even though
24 what he might think they're doing outside.

25 Q. But you'll agree he heard them running

1 around and he heard a scream?

2 A. I don't think he heard them running
3 around. He may have saw them running around on the
4 video.

5 Q. You saw the video, they were running
6 around too. Even though they said they weren't
7 running around, they were running around. Do you
8 agree with me?

9 A. But running around doesn't constitute --
10 doesn't constitute disorderly conduct.

11 Q. And you indicated about the focusing on
12 the female. She was the only one that really didn't
13 comply with him.

14 A. He said that.

15 Q. So you would focus on the one that
16 wasn't complying with you; would you agree with me?

17 A. Well, again, I've been doing this 34
18 years. I would size people up and if she is up
19 against the wall, but she keeps turning around, and
20 I've got two males subjects here that I think are
21 more harm -- could do more harm to me than her, and
22 she was furthest away from him also, I would focus
23 on the male subjects before I would focus on her
24 even though -- if she's standing at the wall and
25 keeps turning around, I'd tell her to turn around, I

341

1 still would be focusing more on the male subjects
2 than I would the female.

3 Q. But you would agree every officer is not
4 going to react the same and that's one of the
5 problems with law enforcement.

6 A. Not going to deny that.

7 Q. And you said you didn't really know
8 about these other instances in the past?

9 A. I didn't know other than -- I mean, once
10 obviously we came to a grievance here in a grievance
11 process and after I had -- prior to making a
12 decision to terminate, obviously I asked for a
13 disciplinary record, which I always do in every case
14 before I would take the disciplinary action, and
15 went back and reviewed then the facts of the other
16 complaints that had been made previously.

17 Q. Would we even be here today if he'd just
18 written a ticket?

19 A. Might not be. It's a possibility.

20 MR. O'LEARY: No further questions.

21 Thank you. I appreciate it, chief.

22 REDIRECT EXAMINATION

23 BY MS. ERWIN:

24 Q. Mr. Keel, just one question. As far as
25 in relation to writing a ticket or doing an arrest,

1 in effect, there are charges made against an
2 individual in both situations.

3 A. Right.

4 Q. But there's a vast difference in as far
5 as repercussions for that person as far as what
6 happens to them from that evening?

7 A. No question.

8 Q. Okay. So if you get a ticket, you get
9 to go home, go to your own house, do whatever you
10 need to do. If you're arrested, obviously you're
11 liberty's deprived until such time that you can post
12 bond or do whatever?

13 A. And that's -- again, that's where I
14 believe it was abuse of discretion because of the
15 fact that a full custody arrest was made in a case
16 where kids were basically throwing water balloons.
17 And I thought that that was improper, and I thought
18 it was over the top and it was above -- above what a
19 normal officer -- normal and prudent officer would
20 make a case such as that.

21 Q. Were there even sufficient facts based
22 upon your review, to even write a ticket for the
23 charge of public disorderly conduct?

24 A. I don't think there was, no, not in my
25 opinion. Not after all the facts were, you know --

Transcription of Proceedings on August 8, 2011 - October 25, 2011

343

1 after all the statements were made and all the facts
2 were determined, I don't think that the case for
3 disorderly conduct -- even if he had written a
4 ticket and gone to court, I don't believe the facts
5 establishes a conviction for disorderly conduct.

6 MS. ERWIN: That's all I have.

7 RECROSS-EXAMINATION

8 BY MR. O'LEARY:

9 Q. Just a couple of extra questions. If
10 they had gone to court on a ticket or on an arrest
11 warrant, the court could impose 30 days either way,
12 couldn't it?

13 A. The court could have, but the court also
14 could have found them not guilty.

15 Q. But they also could have found them
16 guilty if they didn't have the same opinion you did?

17 A. That's their opinion.

18 Q. Okay.

19 ~~A. I don't think that the court -- I don't~~
20 think that the facts supported a charge for
21 disorderly conduct.

22 MR. O'LEARY: No further questions.

23 MS. ERWIN: That's all I have.

24 MR. COOPER: Any of the panel members
25 have any questions for Mr. Keel?

1 I have one. I didn't understand your
2 testimony --

3 THE WITNESS: Yes, sir.

4 MR. COOPER: -- I was writing.

5 It says that you reviewed the incident
6 that night, a combination of the things that you saw
7 that night showed improper conduct that evening and
8 that that's what you based your facts on.

9 So the decision to terminate was just
10 based on that? Because later on you said that you
11 reviewed other things before --

12 THE WITNESS: No, the decision -- in
13 other words, when these cases would come to us, the
14 way they would come, we would get a complaint. OPR
15 would investigate that complaint. Once a file was
16 completed, that file would be brought to me out of
17 review, the entire file. I would review -- I would
18 review their prior disciplinary action before I
19 would make a determination on what the discipline
20 was going to be.

21 And that's what I did in this case, just
22 as I've done in every other case.

23 MR. COOPER: Okay. I misunderstood
24 then, because I thought you said that just what you
25 saw that night was what constituted improper conduct

345

1 in the termination.

2 THE WITNESS: Well, I think -- I
3 think -- well, no. I think in the combination, but
4 what I'm saying is the facts of the case that night,
5 you know, where seeing what I saw on the video,
6 reading the individuals' statements with regards to
7 what occurred, reading his -- Mr. Sorrell's
8 statement as to what occurred and the fact that he
9 said that two of the individuals were compliant but
10 chose to arrest them all because one -- you know,
11 one goes they all go. That is not a theory that we
12 in law enforcement, you know, should base our
13 decisions on when it comes to making -- making those
14 types of arrest or those type writings, those type
15 of citations.

16 It's a culmination of everything that
17 went on that night with regards to the whole case
18 that was completed to OPR investigation, that was
19 completed, that I reviewed prior to making a
20 decision.

21 MR. COOPER: That clarifies it. Thank
22 you. Anybody else have any other questions?

23 Can this witness be excused?

24 MR. O'LEARY: He can be excused if he'd
25 like.

1 MR. COOPER: For this record, this
2 witness is being excused. At this point we're ready
3 to hear closing statements. And the appellant has
4 the option of going first or last, but before we do
5 that, we might take a short break.

6 MS. BURNETTE: We would also -- we have
7 a rebuttal witness and a recall of Mr. Sorrell.

8 MR. COOPER: Prior to that, we're going
9 to take a short break. Say 10 minutes? Does that
10 suffice for everyone.

11 MR. O'LEARY: Thank you.

12 (A recess transpired.)

13 MR. COOPER: Mr. Sorrell, you remember
14 my directions before, speaking clearly into the
15 microphone?

16 THE WITNESS: Yes, sir, I have.

17 MR. COOPER: Would state your name again
18 for the record?

19 THE WITNESS: My name is Edwin Shawn
20 Sorrell, sir.

21 MR. COOPER: Thank you.

22 MS. BURNETTE: Thank you, Mr. Chairman.

23 E. SHAWN SORRELL

24 being first duly sworn, testified as follows:

25 DIRECT EXAMINATION

Transcription of Proceedings on August 8, 2011 - October 25, 2011

347

1 BY MS. BURNETTE:

2 Q. Mr. Sorrell, since you testified there
3 have been a number of witnesses for the defense
4 who've gone into great detail about the incident at
5 the Criminal Justice Academy. And you listened to
6 that testimony?

7 A. Yes, ma'am, I have.

8 Q. And would you describe where you were
9 assigned during February 2008?

10 A. I was assigned over at the Criminal
11 Justice Academy over on Broad River Road.

12 Q. And what were your duties during that
13 time?

14 A. To secure the grounds and buildings, and
15 grounds people and persons of the academy here.
16 Also called security.

17 Q. What was your shift or what hours did
18 you work?

19 A. I think we were on the 1800 to 18 --
20 06 -- 6 PM to 6 AM shift. Midnight shift.

21 Q. And do you recall an incident which
22 occurred around sometime in February 2008, around
23 the 17th or 18th of February?

24 A. Yes, ma'am, I do.

25 Q. Okay. And what occurred during that

1 time?

2 A. Simply put, there was -- on Friday the
3 14th --

4 MS. ERWIN: Mr. Chairman, I just think
5 Mr. Sorrell addressed this specifically in his
6 direct testimony before as far as what happened with
7 the academy incident. So I think that's been
8 covered in his direct testimony.

9 MR. GANJEHSANI: What specifically,
10 Ms. Burnette or Mr. O'Leary, whichever one of you
11 wants to speak to this -- what specifically is the
12 witness being asked to rebut that he has not already
13 testified to or that has been drawn out on
14 examination since he testified?

15 MS. ERWIN: He testified specifically
16 earlier that there was an incident that occurred
17 that he was directed to go to counseling, what he
18 did, as far as who he contacted that evening, so
19 that's --

20 MR. GANJEHSANI: I understand,
21 Ms. Erwin.

22 MS. BURNETTE: There has been testimony
23 that he did not contact his supervisors. There's
24 been testimony that -- about what he did and did not
25 do, that he did not go into detail in his direct

Transcription of Proceedings on August 8, 2011 - October 25, 2011

349

1 testimony, as we did not know that it was necessary.
2 at that time. And we're going to make this brief,
3 and we don't want to repeat things and we will try
4 not to do that.

5 MR. GANJEHSANI: I'll allow some
6 latitude, Ms. Burnette. I would ask that if he
7 strays too far off topic for your questioning, that
8 you help, of course, correct him.

9 MS. BURNETTE: I understand. Thank you.

10 MR. GANJEHSANI: And nothing personal,
11 Mr. Sorrell.

12 THE WITNESS: I understand, sir, I can't
13 be long-winded. No offense.

14 MR. GANJEHSANI: Please continue,
15 Ms. Burnette.

16 BY MS. BURNETTE:

17 Q. Mr. Sorrell, what incident did you feel
18 that you were called upon to address specifically?

19 A. In a nutshell, there were several
20 students that approached me stating that there was a
21 student back on campus that had made threats of
22 physical violence on Friday when he was expelled
23 from the Criminal Justice Academy. Their concerns
24 were he is here, he is on the campus, what do we do.
25 They knew he had made threats of violence. We had

1 not been informed of that violence.

2 MS. ERWIN: And Mr. Chairman, I hate to
3 belabor the point, but we've -- this was all
4 information he's testified to. I mean, I'd like to
5 specifically get to whatever it was that I guess we
6 brought out in our testimony that was not addressed.

7 MS. BURNETTE: I'm laying the framework
8 for that.

9 MR. GANJEHSANI: Your objection is
10 noted, Ms. Erwin, but I am going to give
11 Ms. Burnette some wiggle room here. So you may
12 continue, Ms. Burnette.

13 BY MS. BURNETTE:

14 Q. All right. Did you specifically contact
15 anyone at the Criminal Justice Academy concerning
16 what actions you were taking?

17 A. I specifically contacted Mr. Mike
18 Lanier. Mike Lanier is the individual who we
19 contact if there's an occurrence at the academy.

20 Firstly, we contact him, then we will contact our
21 supervisor, which I also did in the form of an
22 e-mail that was sent out at 0500 -- 05 -- excuse me
23 0508 AM I sent out.

24 Q. All right. Let's go back to Mr. Lanier.
25 He was head of the Criminal Justice Academy?

351

1 A. Yes, he was.

2 Q. And how did you contact him?

3 A. Contacted him telephonically three times
4 utilizing my cell phone. I called him once when I
5 first was informed that there was a threat of
6 violence against the academy. I began immediately
7 to lock down that academy, simply shutting the
8 doors, locking them down, putting students inside
9 the building to prevent their harm on the outside.

10 I had contacted him three times. Once
11 at the beginning, once during, as I was searching
12 the building. I had two students that were familiar
13 with the individual who made threats of violence. I
14 did not know him by sight. So was just smart for me
15 to carry somebody behind me that could recognize him
16 by face, that's the guy, that's the gentleman. I
17 would be more alerted to who it was.

18 And at the end of the circumstance once
19 everything -- building had been locked down,
20 everything was secured, I went back in, looked up
21 the DVR where we have cameras in the academy. I
22 know how to utilize the machine. I went back and
23 specifically called Mr. Mike Lanier and told him
24 frame number so and so the gentleman entered the
25 east wing of the building and went down the hallway.

1 Can't see where he went after that.

2 Second time I see him on the camera is,
3 again, he's standing in the hallway with a group of
4 students. Obviously no violence being committed:

5 And thirdly, to assure Mr. Lanier there
6 is no threat now because I see him whole frame
7 number so and so going out the door. It appeared as
8 if he was just simply coming back to say hey to
9 some -- you know, hey or bye to some of his fellow
10 classmates.

11 But I called Mike Lanier three times and
12 that was the last time, was to tell him the building
13 is secure, all the people are safe, the gentleman
14 has left through the east wing door and camera
15 number.

16 Q. Was that the protocol that you thought
17 you were supposed to follow?

18 A. Yes, ma'am.

19 Q. Okay. And at any time did you contact
20 your supervisors or supervisor at the Department of
21 Public Safety?

22 A. Yes, ma'am. By radio. I had called on
23 the telephone and I'm not sure if I called him on
24 the cell phone or from the office, but I did contact
25 him that week and then again, once again at 5:06 in

353

1 the morning.

2 Q. And who was it that you contacted?

3 A. That was Corporal Larry Walker.

4 Q. Okay. And what was his position with
5 respect to you?

6 A. He was a supervisor. We have a
7 supervisor, but they're not on site. He was
8 stationed at the State House. By the time all this
9 was over he didn't come out to the academy, he was
10 stationed at the State House, and they were required
11 to have a certain number people at certain places.
12 And once it was over, there was no need for him to
13 come to the academy.

14 Q. All right. And you sent him an e-mail
15 at what time?

16 A. 0508, according to the e-mail.

17 Q. Is that on February the 18th, 2008?

18 A. Yes, ma'am. Yes, ma'am.

19 Q. And is this a copy of the e-mail that
20 you sent to him?

21 A. Yes, ma'am.

22 Q. I'm going to show that to you.

23 MS. BURNETTE: Introduce it. I'd like
24 to introduce this as Employee's -- I don't know what
25 exhibit number that will be.

1 THE WITNESS: In this particular e-mail,
2 I do state several things about the risk that was
3 not reported to us. As several people have
4 testified today, there's a lot of, you know, they
5 were supposed to do that nobody did.

6 In this e-mail you'll see my extreme
7 concern for the safety of the Ms. Sharon Mitchell.
8 She is the first person that a student would have
9 contacted if they came back to that academy. She's
10 the first one there on the Sunday night. Out of
11 concern for her and the other people, I drafted this
12 e-mail and to notify him of my specific concerns of
13 that night.

14 BY MS. BURNETTE:

15 Q. Did he -- did Mr. Larry Walker in any
16 way express some concern that you had not followed
17 proper protocol by not contacting him sooner,
18 anything like that?

19 A. Not at all, ma'am.

20 Q. And did you also do an incident report?

21 A. Yes, ma'am, I did.

22 Q. Okay. And is this a copy of the
23 incident report --

24 A. Yes, ma'am.

25 Q. -- that you prepared.

Transcription of Proceedings on August 8, 2011 - October 25, 2011

355

1 MS. BURNETTE: We offer this as the next
2 exhibit.

3 MR. COOPER: Number 4, John?

4 MR. O'LEARY: That's fine.

5 BY MS. BURNETTE:

6 Q. And why would you prepare an incident
7 report? Is that part of the protocol as well?

8 A. Well, it's a part of the protocol of the
9 academy; if something occurs, then you make police
10 report. A lot of times they're simply for
11 information only. You would send it up for
12 information only just to inform the chain of command
13 that something occurred at the academy and we needed
14 to document it.

15 But this particular case, Mr. Maxwell --
16 I wanted Mr. Maxwell charged with coming back to the
17 academy, trespassing. And the other individual
18 charged with public disorderly conduct for refusing
19 to comply when I was trying to secure the academy
20 and save lives. He was detrimental in my
21 performance trying to get everyone safe and secure.
22 He would not comply. That's the gentleman who filed
23 the complaint.

24 Q. Now, on Page 110 of the exhibit book,
25 there's the April 11th, 2008 notice of Law

1 Enforcement Assistance Program memorandum that has
2 been referred to sending you to the EAP program.
3 You've heard testimony today that that was for anger
4 management.

5 A. Yes, ma'am, I've heard that.

6 Q. Okay. And does anywhere on this
7 document -- does it say that you're being sent there
8 for anger management?

9 A. No, ma'am. There was -- there's
10 absolutely nothing in that letter that states
11 anything about anger management. In fact, there are
12 several mistruths in that letter that were
13 specifically addressed to Teresa Kitchens over at
14 human resources.

15 The minute I received the letter, Teresa
16 Kitchens -- the day I was presented with the letter,
17 Teresa Kitchens stayed over at BPS expecting my
18 phone call because she knew I was going to have some
19 questions about that letter. And I did go in and

20 sit down and physically discuss the contents of that
21 letter with Ms. Kitchens.

22 Q. But you did, in fact, go to counseling;
23 is that correct?

24 A. Yes, ma'am, I did.

25 Q. And you cooperated, did you not?

357

1 A. Yes, ma'am, I did.

2 MS. BURNETTE: I have nothing further.

3 CROSS-EXAMINATION

4 BY MS. ERWIN:

5 Q. Just briefly. Mr. Sorrell, you
6 indicated that -- I guess your testimony is you sent
7 an e-mail to a supervisor at 5 o'clock in the
8 morning. Did you ever request assistance in
9 searching?

10 A. No, ma'am, I did not.

11 Q. Okay. So you never asked for any backup
12 or anybody to come assist you?

13 A. No, ma'am, I did not.

14 Q. Okay. Did Mike Lanier ever respond that
15 evening?

16 A. Mike Lanier --

17 Q. Did he ever appear out to the academy?

18 A. Mike Lanier did not appear at the
19 academy that night, no, ma'am.

20 Q. Okay. I think your testimony was in the
21 report that you were going to arrest the student for
22 public disorderly conduct because he wouldn't go
23 into his room; is that correct?

24 A. Yes, ma'am.

25 Q. Okay.

1 A. That's not the totality of the
2 circumstance.

3 Q. But you didn't like the fact that he
4 wouldn't go into his room?

5 A. I didn't like the fact that he placed
6 himself and about 500 other students at harm because
7 he failed to comply.

8 Q. But your testimony was earlier that you
9 had students that accompanied behind you --

10 A. Yes, ma'am.

11 Q. -- during your search?

12 A. Yes, ma'am.

13 Q. So you were allowing students to
14 accompany you and not direct that they appear?

15 A. I did take two students with me, ma'am,
16 to assist me in the search.

17 Q. Okay. You indicated that -- the
18 notice -- you had some concerns, and I think you
19 talked to Ms. Kitchens about the notice. And your

20 testimony was, I think today, that it's been
21 incorrectly characterized as anger management, but I
22 believe that's what your testimony was on direct
23 examination when you first testified, correct?

24 That it was for counseling for anger
25 management type issues?

359

1 A. I'm confused on the question, ma'am.

2 Q. When you testified the first time on
3 direct testimony, did you not at that time say the
4 counseling was for anger management issues?

5 A. I don't believe I've ever referred to
6 anger management as an issue.

7 Q. Does this paragraph, the first
8 paragraph, if we can get it back up. The first
9 paragraph states your recent behavior has caused
10 considerable concern for your well-being on several
11 occasions. You've displayed overly aggressive and
12 antagonistic behavior when dealing with individuals
13 you encounter.

14 A. Well --

15 Q. That doesn't alert to you that they have
16 concerns about anger management?

17 Yes or no?

18 I mean, does that alert you the
19 department has concerns about your anger or your
20 overly aggressive manner in dealing with the
21 individual public?

22 A. The verbiage does not indicate anger
23 management. The verbiage indicates overly
24 aggressive and antagonistic. I will need context
25 where it contested with human resources.

1 MS. ERWIN: Okay. That's all I have.

2 THE WITNESS: Yes, ma'am.

3 MS. BURNETTE: Nothing further.

4 MR. COOPER: Questions from the panel?

5 Thank you, Mr. Sorrell. You can be excused. For

6 the record, Mr. Sorrell is excused.

7 Before we proceed, are there any other
8 witnesses?

9 MR. O'LEARY: No.

10 MS. BURNETTE: No, sir.

11 MS. ERWIN: Nothing for me.

12 MR. COOPER: Now we're about to hear
13 closing statements. The appellant has the option to
14 go first or last, and I'm asking you at this time
15 which do you prefer?

16 MS. BURNETTE: I will close last.

17 MR. COOPER: Close last. Okay. So
18 Ms. Erwin, are you ready now or do you need some
19 time to prepare? We'll take our short recess.

20 (A recess transpired.)

21 MR. COOPER: You're okay to go now?

22 MS. ERWIN: Ladies and gentlemen. I
23 appreciate your attention during the two days that
24 we've had the testimony and I know that
25 Mr. Ganjehsani is going to charge you later as far

361

1 as the standard and the review, but I'd like to just
2 begin that by stating that -- I'm mean, you're well
3 aware that you're going to look at the testimony
4 that's been presented and whether or not there's
5 evidence to support the agency's decision. Not
6 looking back kind of Monday morning quarterbacking,
7 and would you have made the same decision or could
8 there have been another decision made, but whether
9 or not what happened meets the state and statutory
10 guidelines, and whether or not the agency showed --
11 there are facts that support the agency's decision.

12 I think when you look at the totality of
13 everything that's been presented to you, you're
14 going to understand and you're going to come to the
15 conclusion that what the agency did was proper.
16 You've heard testimony from Chief Wise and Director
17 Keel that there's no dispute that the agency's
18 policy provides that incidence of improper conduct
19 even one time can allow for termin -- anything up to
20 and including termination. And that was the reason
21 that was stated to Mr. Sorrell in his termination
22 letter for why his employment was being terminated
23 from the department.

24 I think it's important to look at that
25 termination letter. If we can bring that back up, I

1 think it's on Page -- it's in there several times.
2 Page 6. If we go down to the -- if we look at the
3 language that was notified, given to Mr. Sorrell
4 that notified him. I mean, there are several things
5 and these are the things that I think in summation
6 Mr. Keel hit on with his testimony.

7 I think what Mr. Sorrell would like for
8 you to do is look at the situation and just say,
9 well, this was a simple matter of I was terminated
10 just because I made arrests that shouldn't have been
11 made. If you look at that language it's very clear
12 that this is more than just a situation that was
13 involved that evening.

14 First and foremost, it is the agency's
15 position that there was no probable cause. If you
16 look at the facts and the testimony that's been
17 presented, there's no case that's ever been given to
18 a law enforcement officer that says public
19 disorderly conduct is occurring whether it's not
20 either a person who is grossly intoxicated, a person
21 who is making threatening words or fighting words or
22 somehow challenging a police officer.

23 Merely making a comment to the police
24 officer is not sufficient. Questioning, asking
25 something during the process is not sufficient.

363

1 You've got to actually make a threat, if there's
2 some kind of harm to him, or again being, you know,
3 grossly intoxicated.

4 There's no evidence whatsoever that
5 that's the case. There's no evidence that any three
6 of the individuals -- there's nothing in the report
7 that says they did anything that constituted that
8 severe behavior, that they made any kind of threat,
9 that they made any sort of fighting words, anything
10 related to anything close to that evening. Just was
11 not there. So that was part of what's identified in
12 that letter.

13 The other part was just the manner in
14 which he interacted with them, threatening them,
15 bullying them. Again, you heard testimony from the
16 individuals involved. The female was, by position,
17 the least threatening of all. I mean, she's boxed
18 into a corner, last one that could get away. First
19 one that Mr. Sorrell goes to. Smallest one of the
20 three individuals.

21 According to her testimony, was in the
22 proper search position. Even the security guard
23 that Mr. Sorrell brought up said her feet were
24 shoulder width apart. There's nothing she was doing
25 that was being disorderly during that event, nothing

1 that would have constituted sufficient groundwork to
2 support a charge of public disorderly conduct.

3 You heard the comments from the
4 witnesses. It was all a very theatrical event for
5 Mr. Sorrell. You know, a very pleased tone. The
6 manner in which he spoke to them. It was a
7 different manner than any of the other officers that
8 evening. No one else, they said, treated them the
9 same way. And accordingly, you know, they were
10 different.

11 Ms. Swanson specifically testified that
12 she was so concerned that she was afraid to even ask
13 another question. After the manner in which she was
14 treated, she was concerned. Her concern was relayed
15 to the officers involved, but she said she was
16 concerned about the search process. She's never
17 been arrested. She's -- you know, she's totally
18 beside herself she's being taken to jail. And she's
19 unfamiliar with that process, doesn't know what
20 that's going to involve.

21 You saw the video. They weren't being
22 disruptive. As she testified. You specifically saw
23 on the video each time the balloons were thrown,
24 they were leaning down picking up the pieces.
25 That's not the behavior of people who are out

365

1 causing such a ruckus.

2 And again, you heard nothing from any
3 other reports that 911 was called, that there was
4 anything that was such a disturbance, that their
5 behavior would have constituted improbable conduct.

6 You look at the disciplinary policy.
7 Again, even a first incidence can support that. But
8 it wasn't the first incidence. There was a pattern
9 of behavior, as Chief Wise testified, where
10 Mr. Sorrell has a tendency to overreact.

11 Again, you've got the academy incident.
12 There's no testimony that that person was ever
13 observed. Obviously, the academy knew the situation
14 that evening prior to close of business when that
15 person was released. No one was ever alerted. They
16 never availed themselves of the opportunity they had
17 to contact the department, to get additional
18 personnel out there for additional security because
19 there was no need.

20 If there had been anything improper, if
21 that had been anything that was truly a concern,
22 Mike Lanier would have responded that evening. Mike
23 Lanier was on the witness list. Mike Lanier was
24 never called to testify because Mike Lanier was one
25 of the individuals who wanted Mr. Sorrell removed

1 because of the behavior, because of the way he was
2 act reacting -- excuse me -- to the individuals.

3 You have the academy assignment where
4 the people you are dealing with primarily are law
5 enforcement officers. These are people who are
6 law-abiding. And again, even Mr. Sorrell's
7 testimony through the report he introduced today, he
8 wanted to arrest that person for public disorderly
9 conduct because he would not go in his room.
10 There's no testimony that that would have supported
11 a charge.

12 And that's what we have. The department
13 at this time tried to salvage, tried to work with
14 Mr. Sorrell. Sent him to the counseling in hopes to
15 have an officer they could retrain, an officer that
16 already had been trained. But the behavior
17 continued.

18 And you have an escalation from a threat
19 of arresting a person for a charge that can't be
20 supported according to the case law, according to
21 the facts that were presented, to an actual event
22 where you have an arrest of not one person, but
23 three individuals.

24 And as Mr. Keel testified, there's a
25 vast difference. His testimony was even reviewing

367

1 the facts, everything that was presented, once the
2 complaint had been received by the department, the
3 people had been interviewed, the tape had been
4 reviewed, there wasn't sufficient cause there to
5 even issue a citation to the individuals for public
6 disorderly conduct.

7 But there is a vast difference between
8 issuing a citation that may cause an individual to
9 merely have to appear in court to escalating again
10 to an unnecessary level and abusing your authority
11 by actually custodially arresting three individuals.
12 Three individuals had to be sent to the detention
13 center, booked, processed, put into cells for
14 something that was not merited according to the
15 facts of the situation.

16 Again, I think if you look at it, as
17 Mr. Keel testified, one of his first things when he
18 came on board with the department was to go around
19 to the officers to -- I mean to speak to them
20 specifically as far as the conduct that he expects
21 of his employees, how we interact with the public,
22 what's tolerable, what's acceptable, what's not.

23 And the way in which Mr. Sorrell
24 conducted himself that evening, that's the last
25 thing I think you see in the letter, is the

1 threatening manner, the intimidation, the way he
2 dealt with them.

3 That's also a part of what's improper
4 here. Not just as if it weren't enough. The
5 arrests of three individuals, taking three
6 individuals to jail, depriving them of their
7 liberty, using your process and your authority as a
8 law enforcement officer, but the manner in which you
9 treat people.

10 There was no reason to make the comments
11 that he made to Ms. Swanson. As Mr. Keith
12 testified, during the whole search process, he said
13 he was so concerned because he could hear before he
14 even saw anything, him kicking her foot, pulling the
15 jacket back to the degree that he was kind of
16 concerned for her safety. There was none of that.
17 This -- the whole manner in which he did it was
18 unnecessary and unwarranted.

19 Now, on the other hand, Mr. Sorrell
20 wants you to believe that, well, there was this big
21 threat. Well, if there's a big threat, you would
22 have called somebody else out. You would have
23 called someone else to respond that evening. You
24 would have performed the pat-down search, as Chief
25 Wise says.

369

1 You know, if you believe this individual
2 has harm, that would have been done. At the academy
3 situation, if you believed there was -- that would
4 be a threat, you would have called somebody else.
5 You wouldn't have had unarmed students escorting you
6 through what you believe was some sort of danger
7 zone.

8 You've seen nothing from the academy
9 that they believed Mr. Sorrell acted appropriately
10 that evening. What you see is after the fact, when
11 the supervisors go to meet with the academy staff,
12 they're like, get him out and get him out now. If
13 he had acted properly, if the whole manner in which
14 he had conducted himself that evening was proper,
15 that conversation, that request never would have
16 been made. But it had been, again, as Captain
17 Curtis testified, is a combination of things.

18 You know their belief was he's overly
19 aggressive, he's heavy-handed with the students, and
20 again, we're talking about law enforcement officers
21 in training, some current law enforcement officers
22 who are out there for training. Not people who are
23 drunk coming out of bars that you have to be a
24 little overly aggressive with or you might have to
25 exert a little bit more authority. These are people

1 who by nature are going to be compliant. But yet
2 again, they even have problems with him there to the
3 point that they don't want him there, they want him
4 removed.

5 And so he gets removed to the Lottery
6 Commission, which is one of the lowest key positions
7 that the department has. As Chief Wise testified,
8 night shift, he may have some interaction briefly
9 between that 5:30 shift -- other than that, just
10 pretty much no interaction. And even in that
11 setting, Mr. Sorrell manages to again have an
12 interaction with the public, again where he's overly
13 aggressive, requires action that's not necessary
14 based on the facts.

15 I believe you will remember his
16 testimony; he referenced other incidents that had
17 taken place in the preceding months, and he believed
18 he had caught on video camera observing individuals
19 who had been vandalizing the building. And that was
20 his mindset when he walked out the door.

21 And I submit to you that his mind was
22 made up when he left that building that whoever
23 those individuals were they were being arrested.
24 And when he got outside and determined he didn't
25 have vandals, he created the situation where he was

371

1 going to make the -- try to make the facts support a
2 charge that was unsupported.

3 He had -- again, there was no indication
4 that their behavior that evening did anything that
5 had caused a disturbance for anyone, as he testified
6 during his direct testimony. There was no way he
7 could hear anything. There was nothing that was
8 being done.

9 When he went outside, again, the
10 statement he made was he waited behind one of the
11 columns at first because -- and I believe his direct
12 verbiage was, you don't rush into a gun battle.
13 There was nothing that you observed on the video,
14 nothing about the testimony that would make you
15 believe that what an officer was approaching when he
16 went out there that evening was anything close to a
17 gun battle. But that's the description that
18 Mr. Sorrell chose to give to that event in his
19 explanation of why he waited before he approached.

20 But there was nothing whatsoever about that
21 situation that even came close to those facts.

22 And that's just, in essence, the problem
23 with the history with Mr. Sorrell. He perceives
24 events to be more than they are. The academy
25 situation again, to be more than it was because

1 there was event somewhere else. There was no
2 indication from any of the academy staff that they
3 felt there was such a threat, that they wanted extra
4 personnel there. Even when they were called and
5 told, we think this person's here, nobody still
6 shows up because they don't believe the events are
7 as egregious or as dangerous as Mr. Sorrell does.

8 But that's the way he treats each
9 situation. And because he perceives it to be more
10 than it is, his behavior, his interaction with those
11 individuals is more than it needs to be.

12 And that, in essence, is what happened
13 on this evening -- excuse me, back in March of 2010.
14 But I think if you look at, again, the language of
15 the termination letter, the language -- excuse me,
16 the testimony that you've heard from the employees
17 with the department, it's clear that his behavior
18 was improper that evening. The manner in which he
19 treated the individuals, the manner in which he

20 spoke to them, arresting all three of them. Even as
21 Mr. Keel indicated arresting versus making the
22 custod -- I mean, making a courtesy summons.

23 The department, I believe, has acted
24 properly in regards to Mr. Sorrell, as Mr. Chief
25 Wise indicated. Tried to work with him, tried to do

Transcription of Proceedings on August 8, 2011 - October 25, 2011

373

1 this to sort of teach him some skills to try to help
2 him tone down his interaction with people, but it's
3 evident that we've moved again from situations where
4 we threaten arrests that aren't proper to actually
5 now effecting arrests that aren't proper. Again,
6 depriving individuals of their liberty.

7 One individual wasn't released, I
8 believe the testimony from Ms. Swanson, until the
9 following Monday. So I mean, one individual who
10 spent a whole weekend in jail because of, again, an
11 overreaction by an officer that wasn't proper.

12 But I think if you look at, again, the
13 case law as Mr. Ganjehsani will charge you, you will
14 find that there's sufficient facts to support the
15 agency's decision. Again, Mr. Keel did not make a
16 decision to have those charges dismissed until it
17 was carefully reviewed. He looked at everything
18 that had been presented. He sent it to someone
19 independently to look, to make sure they couldn't
20 come up with a plausible explanation for how you
21 could explain or document any sort of probable cause
22 to make those arrests. And only after that did he
23 do it.

24 And again, his testimony was, it's our
25 position as a law enforcement officer, your duty is

1 not only to enforce the law, but your duty as a
2 chief law enforcement officer for the Department of
3 Public Safety was to correct an incorrect charge
4 that an officer made, an unlawful charge that could
5 not be supported by law, could not be supported by
6 the facts.

7 And taking into the entire history of
8 Mr. Sorrell, his prior disciplinary history, the
9 escalation of the events, there was no other choice
10 that the department had, based on Mr. Sorrell's
11 conduct, other than to terminate him for these
12 events. And I appreciate it and I thank you for
13 your attention.

14 MR. COOPER: Thank you.

15 MS. BURNETTE: Thank you. It's a long
16 afternoon and a second day so we want you to know
17 how much we appreciate you taking time off from your
18 jobs to serve like this. It's like serving on a
19 jury. You get out of your normal routine and make
20 it a -- it's good in a way, but it's also hard work.

21 But you have a really important job and
22 we count on you to do the right thing, just like
23 Shawn Sorrell was doing his job and he wanted to do
24 the right thing. That's all he wanted to do is to
25 do the right thing.

375

1 And he was trained to do the right
2 thing. He spent 20 years in the Army. That's all
3 he wanted to do. He wanted to do his job. And he
4 had an extensive training to do that.

5 And, you know, I've gotten to know him a
6 good bit and he's sort of a black-and-white kind of
7 guy. It's either right or it's wrong, there's not
8 much in between, there's not much gray. Sort of
9 like my dad. You're not as old as my dad. But it's
10 either right or wrong. And you do the right thing.
11 That's what he wants to do.

12 And that's what he tells me. And he was
13 trying to do the right thing that night. I wouldn't
14 want to be a law enforcement officer and go out into
15 the street in the middle of the night when you see
16 some kind of commotion, just not know what's going
17 to be there. But people like Shawn Sorrell do that
18 and they do that for us.

19 And so we count on you to do the right
20 thing when somebody like Shawn Sorrell is fired and
21 loses his job. He was relying on his 20 years in
22 the Army and the training that he received to know
23 what to do in those situations. And then after he
24 finished in the army where he received medals and
25 awards, he came and served 10 more years at the

1 Department of Public Safety. And in his service
2 with the department, continued to want to do his job
3 and do the right thing.

4 And yet he annoyed some people when he
5 reported things that he thought weren't right. When
6 he reported people looking at pornography on the
7 computers. And, you know, that's annoying to some
8 people who think that's okay to do. And maybe he
9 got under people's skins sometimes. But he always
10 wanted to do the right thing and do his job.

11 So when he was assigned to the Lottery
12 Commission that night, he saw what little he could
13 see and he saw that there was a problem going on out
14 there. And they've tried to make light of it. Oh,
15 it's just water balloons. But as Shawn testified
16 and maybe you've read stories sometimes that water
17 balloons can contain urine, they can contain bleach.
18 People have been harmed, people have been blinded by
19 water balloons if they're hit in the face with them.

20 I mean, you just don't know what you might be facing
21 in these situations. So he wasn't going to take
22 anything for granted or think that it was just a
23 game. He had to find out what was going on when he
24 went out there.

25 Everybody's trying to second guess what

377

1 happened. All the people from the department who
2 testified, none of them were there. They weren't
3 there that night. None of them saw and heard what
4 Shawn saw. The only other person who was there was
5 the young African-American man who came in and
6 testified, Bernard Malone. And do you remember what
7 he said? He said number one, he and I never talked
8 before, before he came and sat down here. He had
9 not seen Shawn again after he worked there.

10 And he said, you remember, Shawn wasn't
11 rude, he wasn't a bully, he didn't hurt anybody, he
12 didn't curse. That the female was not cooperative.
13 That, you know, Shawn didn't do anything that was
14 out of the way. That he was professional. And that
15 he, you know, he was supportive of him.

16 And he didn't have any axe to grind, he
17 didn't have anything to gain from that testimony.
18 Just a nice young man who came in and testified and
19 told the truth. He was the only other person that
20 you heard from who was there that night.

21 Everybody else second guessed what
22 happened. The only two people you heard from in
23 these two days were young man Bernard Malone and
24 Shawn Sorrell. Those are the only two people you
25 heard from that knew what happened. All the

1 department's witnesses, the officers weren't there.

2 And video? Give me a break. I couldn't
3 know what was going on in that video except
4 Ms. Swanson who said, oh, no. There was no running.
5 Excuse me, I thought I saw a little running going on
6 there. And when she said, oh, we were whispering,
7 we were being quiet. Well, how about when she
8 doubled over? I did see that in the video. You
9 think she was whispering or was she shrieking when
10 that happened? I did see that.

11 So I'm wondering about her credibility.
12 She said, we were gently throwing the balloons on
13 the ground. I mean, we were whispering. It didn't
14 look like you could conclude that. Maybe, I don't
15 know, but I couldn't see much else.

16 And I don't know how they conclude what
17 else was going on after everybody's sort of moved
18 out of sight under the awning, it looked like. I
19 don't know how they can tell as much as they seem to
20 know about what was going on. I couldn't get all
21 that out of what was going on, what Shawn was doing
22 with them.

23 It seemed like a lot more information
24 than I could gain from looking at that grainy video.
25 And nobody from the department could certainly tell

Transcription of Proceedings on August 8, 2011 - October 25, 2011

379

1 what sounds were occurring outside. Only Bernard
2 Malone and Shawn Sorrell heard those sounds. None
3 of the officers and officials from the department
4 know that.

5 Bernard Malone says Shawn Sorrell was
6 professional, he didn't kick anybody's feet, nobody
7 could have been harmed, he didn't curse, he didn't
8 bully.

9 Bernard Malone, he has nothing to gain,
10 nothing to lose by his testimony. He is gone, he
11 doesn't work for this department, he never did work
12 for the department. Nothing to gain, nothing to
13 lose by his truthful testimony. He's credible.

14 Everybody else has got a stake in this
15 some way. Think about it. The young people who
16 testified have a lawsuit against Shawn Sorrell. The
17 folks over here who are testifying have a stake in
18 this, they want to win. Okay.

19 Bernard Malone has nothing to gain,
20 nothing to lose. Doesn't know any of us. Had no
21 contact with me, no contact with Shawn Sorrell
22 before or after that incident. Think about it. I
23 think he's the most credible person in the room. A
24 nice young man.

25 Now, what about the father, the FBI dad.

1 Okay. Sure, maybe the department dismisses charges
2 sometimes, but not often. We heard that, not often.
3 And, you know, it's just coincidental that, you
4 know, this e-mail is in there where the FBI dad is
5 referring to somebody over here as brother. It
6 seems awfully chummy to me.

7 Why don't you just let it run its
8 course? If it was a bad arrest, the justice system
9 will dismiss it, you know. It will happen. That's
10 what the justice system is for. But why fire a man
11 for doing what he thought was right and doing the
12 job as he was trained to do it?

13 John O'Leary testified. Now, he's
14 testified and been qualified as an expert witness
15 three or four hundred times in a court of law as an
16 expert witness in this field. He taught at the
17 Criminal Justice Academy for what, 15 years. And
18 been a lawyer, I don't know, 40 years, I don't know.

19 And he testified that there was probable
20 cause to arrest. And it's just not correct that
21 this should be dismissed because there's an FBI dad
22 getting involved in all this. Let it run its
23 course. But certainly, even if you do dismiss it,
24 why fire Shawn Sorrell? Look at him. He had not
25 had a disciplinary action since 2004. Look at him.

381

1 No disciplinary action since 2004.. It's in your
2 record, it's in there.

3 One month before he was fired, he
4 received an EPMS, all meets and exceeds. If there's
5 something really wrong with your behavior, why one
6 month before you fire a man don't you mention it?
7 If there's a problem, don't you mention it when
8 you're evaluating your performance?

9 One month before you fire the man, he
10 gets meets and exceeds on his evaluation. What is
11 going on? There's something wrong with that.

12 So if you don't like what he did, why
13 don't you write him up? I mean, really. Why fire a
14 man? But he has made the most of it. I mean, he's
15 gone on, he's finished his degree, he's a social
16 worker now.

17 You might have seen in the paper the
18 other day that the program he's working with, with
19 youth, has really gotten a lot of attention, gotten
20 some grants. And he's working really hard since
21 he's gotten his degree and he's working on his
22 internship now. It's really good.

23 But he would rather continue his work
24 here. He wants reinstatement. He wants to work
25 here because he's a dedicated law enforcement

1 officer. That's what he's been trained to do, as an
2 Army veteran, 10-year veteran with the department.
3 That's what he would prefer to do.

4 And it's just not fair to second guess
5 what he saw, what he heard, applied his training to
6 do the right thing, to do his job, to make an
7 arrest. And he had probable cause.

8 Now, you heard Mr. Keel testify. And I
9 think the department has made an error of law, and
10 it's really telling what Mr. Keel said on
11 cross-examination by Mr. O'Leary. He said that, on
12 questioning, and what if he had just issued a ticket
13 instead of an arrest? And I think Mr. Keel said, we
14 probably wouldn't be here.

15 But don't you need probable cause to
16 issue a ticket too? Yes. He had probable cause.
17 It's just that he made an arrest instead of issuing
18 a ticket. That's the problem. Thank you.

19 MR. COOPER: Thank you. We will now
20 receive instructions from our committee attorney.

21 MR. GANJEHSANI: Thank you,
22 Mr. Chairman. I'll now advise the committee on the
23 controlling law and provide instructions for the
24 following in rendering a decision. South Carolina,
25 first Section 8-17-340-E2 governs the committee's

Transcription of Proceedings on August 8, 2011 - October 25, 2011

383

1 role in this proceeding. Provides that the
2 committee may not alter or overrule an agency's
3 decision, unless the covered employee establishes
4 that the agency's decision prejudices substantial
5 rights of his and of one or more of the following:

6 A, in violation of constitution or
7 statutory provisions.

8 B, in excess of the statutory authority
9 of the agency.

10 C, made upon lawful procedure.

11 D, affected by other error of law.

12 E, clearly erroneous in view of the
13 reliable, probative, and substantial evidence on the
14 whole record.

15 Or F, arbitrary or capricious or
16 characterized by abuse of discretion or clearly
17 unwarranted exercise of discretion.

18 A decision is arbitrary if it is without
19 a rational basis, is based alone on one's will, and
20 not upon any course of reasoning or exercise of
21 judgment, is made of pleasure without adequate
22 determining principles or is governed by no fixed
23 rules or standards.

24 An agency need not exercise its
25 discretion identically in every case. The penalty

1 items within the authority of the agency is not
2 rendered invalid in a particular case because it is
3 more severe than sanctions imposed other cases. A
4 near unevenness in the application of a sanction
5 does not render its application in a particular case
6 unwarranted in law.

7 State employee grievance proceedings are
8 governed by the State Administrative Procedures Act,
9 which establishes a substantial evidence standard
10 review for agency decisions. Under the standard the
11 factual findings of the agency are presumed correct
12 and will be set aside only if unsupported by a
13 substantial evidence.

14 Substantial evidence is not a mere
15 scintilla of evidence nor is it evidence viewed
16 blindly from one side. Rather, it is evidence which
17 when considering the record as a whole, will allow
18 reasonable minds to reach the conclusion that the
19 agency reached in order to justify its action.

20 The possibility of drawing two
21 inconsistent conclusions from the evidence does not
22 permit an agency's conclusion from being supported
23 by a substantial evidence.

24 The burden is on the employee to prove
25 convincingly that the agency's decision is

Transcription of Proceedings on August 8, 2011 - October 25, 2011

385

1 unsupported by the evidence. To determine if the
2 employee has carried his burden of proof, the
3 committee must look at the entire record, including
4 the testimony presented and all written policies of
5 the agency.

6 Considering the record, the committee
7 may not overturn an administrative agency's finding
8 of fact unless there is no reasonable probability
9 that the facts could be as related by a witness upon
10 whose testimony the finding is based.

11 The committee is the sole judge of the
12 credibility and believability of the witnesses who
13 have testified in this case. In determining the
14 credibility of the witness, the committee may
15 consider any manner that has a reasonable tendency
16 to prove or disprove the truthfulness of the
17 witness's testimony, including the witness'
18 demeanor, the consistency or inconsistency of the
19 witness' testimony, whether the witness had any
20 cause to be biased or prejudiced in the testimony
21 given or whether the witness had interest in the
22 outcome this proceeding, and whether the witness'
23 testimony was made stronger or weaker by other
24 testimony and evidence.

25 In weighing conflicting testimony, the

1 committee may believe that testimony which convinces
2 it more heavily towards one view of facts as opposed
3 to the other. The committee is not bound to decide
4 the facts based on the number of witnesses produced
5 from one side as opposed to the number of witnesses
6 produced by the other.

7 The final test is not the number of
8 witnesses but the relative convincing force of the
9 evidence. The committee is free to accept a portion
10 of witness' testimony and reject a portion of the
11 witness' testimony.

12 Are there any additional instructions
13 requested or objections to the ones I've given?
14 Mr. Chairman?

15 MR. COOPER: At this time, the committee
16 will excuse the parties and continue in executive
17 session to deliberate. No votes will be taken while
18 the committee is in executive session. The parties
19 may wait for the deliberations to be concluded, but
20 we do not know when the deliberations will be
21 completed.

22 A written decision will be provided
23 within 20 calendar days at the conclusion of the
24 hearing. Are there any questions?

25 MS. BURNETTE: No, sir.

Transcription of Proceedings on August 8, 2011 - October 25, 2011

387

1 MR. O'LEARY: No.

2 MR. COOPER: The committee attorney will
3 remain to provide legal advice, but all other
4 parties are asked to leave the room. Thank you.

5 (A recess transpired.)

6 MR. COOPER: I will now entertain any
7 motions from the committee.

8 THE SECRETARY: I move that this
9 committee come out of executive session.

10 MR. COOPER: Do I have a second?

11 THE VOICE 2: I second.

12 MS. ERWIN: All in favor.

13 THE COMMITTEE: Aye.

14 MR. COOPER: All opposed?

15 We are now out of executive session. No
16 votes were taken while we were in executive session.

17 Is there any discussion?

18 No discussion.

19 I will now entertain motions from the
20 panel.

21 THE VOICE 2: Mr. Chairman, I move the
22 committee find that the agency decision was
23 supported by substantial evidence, that the agency
24 decision was not in violation of Section 8-17-340 E2
25 A, B, C, D, E or F.

1 MR. COOPER: Do you have a motion on the
2 floor? Do I have a second?

3 THE SECRETARY: Second it.

4 MR. COOPER: All in favor please signify
5 by saying Aye.

6 THE COMMITTEE: Aye.

7 MR. COOPER: All opposed? The vote is
8 five to zero in favor for the motion upholding the
9 agency's decision. The written decision will be
10 sent to both parties within 20 calendar days.

11 Thank you.

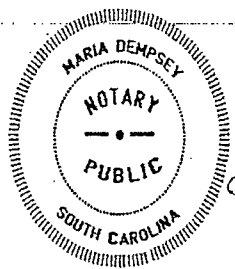
12 (The hearing was adjourned.)
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1 CERTIFICATE OF REPORTER

2
3 I, Maria D. Dempsey, Registered Professional
4 Reporter and Notary Public for the State of South
5 Carolina at Large, do hereby certify that the foregoing
6 tape transcript was produced to the best of my ability.

7 I further certify that I am neither related
8 to nor counsel for any party to the cause pending or
9 interested in the events thereof.

10 Witness my hand, I have hereunto affixed my
11 official seal this 8th day of November, 2011, at
12 Charleston, Charleston County, South Carolina.
13
14
15
16
17
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19



24 Maria Dempsey, RPR
25 My commission expires:
October 13, 2019

I N D E X

	Page	Line
WITNESS/EXAMINATION		
ALLEN J. CURTIS	275	13
DIRECT EXAMINATION BY MS. ERWIN	275	15
CROSS-EXAMINATION BY O'LEARY	287	14
REDIRECT EXAMINATION BY MS. ERWIN	295	24
RECROSS-EXAMINATION BY MR. O'LEARY	298	4
ZACKARY WISE	301	19
DIRECT EXAMINATION BY MS. ERWIN	301	21
CROSS-EXAMINATION BY MR. O'LEARY	316	23
REDIRECT EXAMINATION BY MS. ERWIN	327	7
RECROSS-EXAMINATION BY MR. O'LEARY	327	23
MARK A. KEEL	329	10
DIRECT EXAMINATION BY MS. ERWIN	329	12
CROSS-EXAMINATION BY MR. O'LEARY	338	3
REDIRECT EXAMINATION BY MS. ERWIN	341	22
RECROSS-EXAMINATION BY MR. O'LEARY	343	7
E. SHAWN SORRELL	346	23
DIRECT EXAMINATION BY MS. BURNETTE	346	25
CROSS-EXAMINATION BY MS. ERWIN	357	3
CERTIFICATE OF REPORTER	389	1
REQUESTED INFORMATION INDEX (No Information Requested)		
EXHIBITS (No Exhibits Proffered)		

Blank Page

Edwin S. Sorrell v. SCDPS

0	2011 (1) 272:5 24-hour (1) 311:10 28th (2) 276:3;302:6	absolutely (1) 356:10 abuse (9) 305:7;325:13,15,17, 19;331:11;336:14; 342:14;383:16 abused (1) 330:4 abusing (1) 367:10 Academy (80) 276:1;278:20;280:17, 23;281:11,13;282:12,25; 283:5,11,12,14;284:3, 14,17;286:4;287:17,22; 288:2,11;289:6,7,11,12, 21;290:10,11,21;293:13, 16,23;294:1,9;296:4,22; 297:1;303:9,12;307:11; 309:7,9;310:6,22; 311:24;313:8;314:18; 320:18,19,25;321:13; 337:23;347:5,11,15; 348:7;349:23;350:15,19, 25;351:6,7,21;353:9,13; 354:9;355:9,13,17,19; 357:17,19;365:11,13; 366:3;369:2,8,11; 371:24;372:2;380:17 accept (1) 386:9 acceptable (1) 367:22 access (3) 290:9;321:10;324:20 Accident (1) 272:10 accompanied (1) 358:9 accompany (2) 287:1;358:14 according (5) 353:16;363:21; 366:20,20;367:14 accordingly (1) 364:9 account (1) 331:3 across (1) 322:24 act (3) 310:19;366:2;384:8 acted (3) 369:9,13;372:23 action (10) 273:11;314:5;329:25; 337:13;341:14;344:18; 370:13;380:25;381:1; 384:19 actions (2) 315:11;350:16 actual (3) 290:24;321:23;366:21	actually (18) 277:4;291:7;295:1; 296:16,22;306:8; 310:18;316:19;318:10; 319:23;326:5;331:5,7; 334:21;337:4;363:1; 367:11;373:4 addition (1) 305:11 additional (5) 297:4,7;365:17,18; 386:12 address (1) 349:18 addressed (3) 348:5;350:6;356:13 adequate (1) 383:21 adhering (1) 308:4 adjourned (1) 388:12 administrative (7) 274:2,9;275:21; 281:18;283:16;384:8; 385:7 advice (1) 387:3 advise (4) 275:6;301:11;316:17; 382:22 affected (1) 383:11 afraid (1) 364:12 African-American (1) 377:5 afternoon (1) 374:16 afterward (1) 288:19 afterwards (1) 276:9 again (45) 284:20;293:21;295:3, 5;297:9;298:10;301:11; 303:8;305:2;308:8,12; 310:4;312:15;333:14; 335:3;340:17;342:13; 346:17;352:3,25,25; 363:2,15;365:2,7,11; 366:6;367:9,16;369:16, 20;370:2,11,12;371:3,9, 25;372:14;373:3,5,10, 12,15,24;377:9 against (8) 272:3;280:22;295:11; 330:19;340:19;342:1; 351:6;379:16 agencies (1) 310:14 agency (16) 272:18;273:16;274:7;	286:22;293:22;361:10, 15;383:9,24;384:1,10, 11,19;385:5;387:22,23 agency's (12) 273:11;361:5,11,17; 362:14;373:15;383:2,4; 384:22,25;385:7;388:9 agent (1) 326:18 aggressive (7) 279:4;359:11,20,24; 369:19,24;370:13 agree (14) 288:17;290:11,13; 291:13,15;298:9,16,18; 300:3;318:8;339:25; 340:8,16;341:3 agreed (1) 335:14 ahead (3) 290:14;293:1;315:14 alert (3) 316:7;359:15,18 alerted (3) 278:11;351:17;365:15 Allen (3) 274:21;275:12,13 allow (8) 273:4;297:17;313:5; 315:18;336:21;349:5; 361:19;384:17 allowed (2) 273:11;287:22 allowing (1) 358:13 allows (1) 336:23 alone (1) 383:19 alter (1) 383:2 always (3) 337:13;341:13;376:9 among (1) 333:1 anger (13) 286:15,15;309:18; 356:3,8,11;358:21,24; 359:4,6,16,19,22 annoyed (1) 376:4 annoying (1) 376:7 antagonistic (2) 359:12,24 Anthony (1) 329:9 apart (2) 308:15;363:24 apologize (1) 338:5 apparently (2) 282:24;330:17								
1	4 (1) 355:3 40 (1) 380:18	5	5 (1) 357:7 5:06 (1) 352:25 5:30 (2) 311:18;370:9 500 (1) 358:6 5400 (1) 294:1	6	6 (4) 311:18;347:20,20; 362:2 60s (2) 317:10,21	8	80s (1) 289:11	8-17-340 (1) 387:24 8-17-340-E2 (1) 382:25 8th (1) 272:5	9	911 (1) 365:3	A	above (2) 342:18,18
2	2 (4) 315:20;317:23; 387:11,21 20 (5) 274:7;375:2,21; 386:23;388:10 2004 (2) 380:25;381:1 2008 (5) 280:19;347:9,22; 353:17;355:25 2010 (3) 276:3;302:7;372:13	2	2 (4) 315:20;317:23; 387:11,21 20 (5) 274:7;375:2,21; 386:23;388:10 2004 (2) 380:25;381:1 2008 (5) 280:19;347:9,22; 353:17;355:25 2010 (3) 276:3;302:7;372:13									

appeal (4) 272:2;273:10;274:1,5	336:9;341:25;342:15; 343:10;345:10,14;	availed (1) 365:16	370:14;374:10;383:19; 385:10;386:4	blindly (1) 384:16
appear (7) 277:17;287:6;306:19; 357:17,18;358:14;367:9	357:21;366:8,22;380:8, 20;382:7,13,17	awards (1) 375:25	basement (1) 294:21	board (1) 367:18
appeared (5) 296:17,22;308:14; 310:19;352:7	arrested (8) 277:22;291:9;300:2; 317:19;338:19;342:10; 364:17;370:23	aware (37) 276:4;282:22,22; 287:21,25;288:9,10,24; 289:2,10,13,20;290:19; 23;292:12;293:15,23; 294:2,20;296:6,18; 297:11,12,19;310:16; 317:5,16,18;320:18,22; 321:1,3;326:17;337:6,7, 16;361:3	basically (6) 279:24;281:20; 284:22,25;303:18; 342:16	body (1) 323:13
appearing (1) 282:17	arresting (4) 366:19;367:11; 372:20,21	awfulness (1) 282:19	basis (4) 304:2;328:2;329:24; 383:19	Bogan (2) 328:16;335:12
appellant (5) 272:16;273:6,16; 346:3;360:13	arrests (9) 317:9;330:2;335:15; 336:14;362:10;368:5; 373:4,5,22	away (2) 340:22;363:18	battle (2) 371:12,17	boisterous (13) 291:15;293:3;298:8, 18,23;299:5,9,11; 302:23;303:13;330:12; 339:13,22
application (2) 384:4,5	aside (1) 384:12	awfully (1) 380:6	Beg (2) 294:5;326:11	bond (1) 342:12
applied (1) 382:5	assigned (6) 275:19;297:4,7;347:9, 10;376:11	awing (1) 378:18	began (1) 351:6	book (1) 355:24
appreciate (4) 341:21;360:23; 374:12,17	assignment (4) 286:4;311:1,8;366:3	ax (1) 377:16	begin (1) 361:2	booked (2) 323:20;367:13
approached (3) 316:14;349:20;371:19	assists (1) 314:18	Aye (3) 387:13;388:5,6	beginning (1) 351:11	born (2) 317:20,20
approaching (2) 306:15;371:15	assist (2) 357:12;358:16		behavior (16) 310:1;330:12;331:11; 339:13;359:9,12;363:8; 364:25;365:5,9;366:1, 16;371:4;372:10,17; 381:5	both (5) 273:4;285:21;330:9; 342:2;388:10
appropriate (2) 272:23;336:11	Assistance (2) 356:1;357:8		behind (5) 324:23;330:24; 351:15;358:9;371:10	bothered (1) 332:7
appropriately (1) 369:9	assistant (1) 272:19		belabor (1) 350:3	bottom (1) 330:25
approval (2) 276:15,17	Assisting (1) 272:19		belief (4) 310:15;331:13; 336:14;369:18	bound (1) 386:3
approve (2) 295:7,8	assuming (1) 281:3		believability (1) 385:12	boxed (1) 363:17
April (2) 333:23;355:25	assumption (1) 277:21		believes (1) 297:1	BPS (3) 297:3;333:25;356:17
arbitrary (2) 383:15,18	assure (1) 352:5		Bernard (6) 377:6,23;379:1,5,9,19	break (3) 346:5,9;378:2
area (9) 276:25;279:17; 285:15,16;290:6; 291:23;299:6;311:13; 318:23	attend (3) 286:13,25;309:15		beside (1) 364:18	brief (3) 273:5;327:9;349:2
areas (1) 275:23	attended (2) 286:7;287:12		besides (1) 333:13	briefly (3) 296:1;357:5;370:8
arena (1) 311:15	attention (6) 337:2,2,11;360:23; 374:13;381:19		best (1) 306:17	bring (4) 307:23;312:22;313:4; 361:25
Army (4) 375:2,22,24;382:2	attorney (8) 272:14,15,17,17,25;		biased (1) 385:20	bringing (1) 337:1
around (19) 298:21;299:5;311:17; 318:3,23;330:24;340:1, 3,3,6,7,7,9,19,25,25; 347:22,22;367:18	audio (2) 304:4;339:19		big (2) 368:20,21	Broad (3) 294:1;312:12;347:11
arrangement (2) 286:8;293:22	auditor (1) 289:21		binder (2) 275:6;301:12	broken (1) 322:25
arrest (47) 276:1,6,6;277:17; 278:16;280:7;283:19; 292:9;298:25;299:13, 18;300:9,10;302:5; 303:5;304:2,7,22,25; 305:3,11;317:24;318:10, 14;330:6;331:9,19,21, 22;332:13,18;335:2,10;	August (1) 272:5		bit (8) 277:2,6;280:1;306:1; 309:5;320:6;369:25; 375:6	brother (2) 327:2;380:5
	authority (7) 330:4;331:12;367:10; 368:7;369:25;383:8; 384:1		black-and-white (1) 375:6	brought (6) 291:9;302:15;337:11; 344:16;350:6;363:23
	authorized (1) 307:10		bleach (1) 376:17	building (13) 281:20;291:5;330:15, 17;339:7,20;351:9,12, 19,25;352:12;370:19,22
	available (6) 307:14,22,24;326:7,8, 9		blinded (1) 376:18	buildings (2) 279:12;347:14
				bully (2) 377:11;379:8
				bullying (1)

Edwin S. Sorrell v. SCDPS

363:15 burden (2) 384:24;385:2 Bureau (4) 275:19;286:16; 301:25;314:11 burn (1) 319:20 Burnette (24) 272:16;346:6,22; 347:1;348:10,22;349:6; 9,15,16;350:7,11,12,13; 353:23;354:14;355:1,5; 357:2;360:3,10,16; 374:15;386:25 business (2) 291:23;365:14 butt (1) 307:2 bye (1) 352:9	24;359:8;360:5;361:19; 25;365:7;376:17,17; 378:19 capricious (1) 383:15 captain (18) 274:20,21;275:3,17; 280:14,25;285:18; 287:18,20;288:4; 289:15;295:15,16,17; 296:1;301:3;304:8; 369:16 car (6) 314:10,16;324:4,5,14, 16 career (1) 319:18 careful (1) 282:20 carefully (1) 373:17 Carolina (6) 272:3,13;275:18; 322:10;329:16;382:24 carried (1) 385:2 carry (1) 351:15 case (37) 273:17,18,21;274:2; 283:24;288:1;291:6; 297:12,25;313:3;328:5; 331:25;334:12,20;335:9; 12;336:10;337:17; 338:13,18;341:13; 342:15,20;343:2;344:21, 22;345:4,17;355:15; 362:17;363:5;366:20; 373:13;383:25;384:2,5; 385:13 cases (7) 335:16,22;338:25; 339:2,2;344:13;384:3 caught (1) 370:18 cause (36) 278:15;280:7;283:19; 292:2,5,9;299:2,17,18; 300:13;303:5;304:6,22; 305:1,4;317:3;318:15; 17;330:3,18;331:9,22; 335:2,4,9,15;338:9; 362:15;367:4,8;373:21; 380:20;382:7,15,16; 385:20 caused (2) 359:9;371:5 causing (1) 365:1 cell (2) 351:4;352:24 cells (1) 367:13	center (1) 367:13 center's (1) 308:25 certain (12) 283:6;287:22,23; 290:1,2,6;321:4,5,11; 325:18;353:11,11 certainly (2) 378:25;380:23 chain (5) 284:13;287:4;295:6; 297:3;355:12 Chairman (6) 346:22;348:4;350:2; 382:22;386:14;387:21 challenging (1) 362:22 chance (10) 276:5;279:5,20; 295:10;302:11;303:21; 304:11;331:24;332:4; 333:19 chances (1) 309:22 change (1) 311:1 changed (1) 312:9 characterized (2) 358:21;383:16 charge (15) 315:16;336:1,3; 337:18,25;342:23; 343:20;360:25;364:2; 366:11,19;371:2; 373:13;374:3,4 charged (2) 355:16,18 charges (7) 273:10;335:20,25; 336:5;342:1;373:16; 380:1 check (2) 318:7;325:5 Chief (23) 274:22;296:10,11; 301:25;302:3;304:19; 309:21;311:21;312:9; 10;314:25;327:9; 328:23;329:15;338:5,5; 341:21;361:16;365:9; 368:24;370:7;372:24; 374:2 children (1) 334:8 choice (1) 374:9 chose (3) 309:14;345:10;371:18 chummy (1) 380:6 CIO's (1)	312:8 circumstance (2) 351:18;358:2 circumstances (2) 292:10;318:18 citation (2) 367:5,8 citations (1) 345:15 clarifies (1) 345:21 classmates (1) 352:10 clear (2) 362:11;372:17 clearly (4) 275:5;346:14;383:12, 16 client (1) 339:6 climbed (1) 320:4 close (6) 360:16,17;363:10; 365:14;371:16,21 closer (1) 277:2 closing (5) 273:3,5,7;346:3; 360:13 clothing (1) 325:2 code (1) 336:2 coincidental (1) 380:3 college (2) 288:25;289:1 Columbia (1) 272:4 columns (1) 371:11 combination (6) 291:23;305:22; 336:17;344:6;345:3; 369:17 coming (9) 280:11;290:25; 293:19;327:12;328:5; 339:1;352:8;355:16; 369:23 command (4) 284:13;287:4;297:3; 355:12 comment (5) 307:2,2;308:19; 323:12;362:23 comments (4) 297:23;333:16;364:3; 368:10 Commission (8) 279:8;302:4;303:23; 311:8;314:19,23;370:6;	376:12 committed (1) 352:4 Committee (27) 272:9,14,20,25,25; 273:19,24;274:5; 329:24;382:20,22; 383:2;385:3,6,11,14; 386:1,3,9,15,18;387:2,7, 9,13,22;388:6 committee's (2) 273:25;382:25 common (2) 335:23,24 commotion (1) 375:16 complain (1) 282:1 complainants (1) 326:18 complaining (1) 288:15 complaint (33) 277:5;279:9,10; 280:22;281:6,7;282:3; 288:18,20,21;293:13; 295:5;296:2,6,19; 302:10,11,16,18;304:15; 312:21;313:20;316:1,8, 13,18;321:20,23;326:19; 344:14,15;355:23;367:2 complaints (11) 304:12;305:9;312:3, 13;313:12,14;326:3; 327:10,11,13;341:16 complaint's (2) 327:12;335:19 complete (1) 328:13 completed (5) 328:3;344:16;345:18, 19;386:21 compliant (7) 308:4;332:9,11,12,13; 345:9;370:1 complied (3) 330:18;331:1,1 comply (5) 281:15;340:13; 355:19,22;358:7 complying (1) 340:16 computer (1) 311:20 computers (2) 319:8;376:7 concern (12) 281:16;284:22; 285:18;286:22;307:17; 310:13;354:7,11,16; 359:10;364:14;365:21 concerned (8) 282:16;284:25;285:3;
C cafeteria (3) 290:6,11;321:10 calendar (3) 274:8;386:23;388:10 call (5) 274:17;307:13; 310:12;329:5;356:18 called (13) 347:16;349:18;351:4, 23;352:11,22,23;365:3, 24;368:22,23;369:4; 372:4 calling (1) 274:13 Calls (1) 281:22 came (23) 279:10;281:2,9,12; 289:1,12;293:16; 302:18;305:16;312:14; 326:19;327:17;331:7; 333:18;335:13;341:10; 354:9;367:18;371:21; 375:25;377:5,8,18 camera (3) 352:2,14;370:18 cameras (3) 314:9,15;351:21 campus (2) 349:21,24 can (36) 274:15,18;283:13; 285:20;286:1;292:9,10; 298:2;299:15;300:9,21; 301:8,23;305:8;307:25; 309:23;310:16;313:4; 315:1;316:12;328:24; 329:23;331:14,15; 337:4;342:11;345:23,				

364:12,14,16;368:13,16 concerning (1) 350:15 concerns (9) 307:9;319:23;332:17, 18;349:23;354:12; 358:18;359:16,19 conclude (2) 378:14,16 concluded (2) 323:7;386:19 conclusion (5) 274:8;361:15;384:18, 22;386:23 conclusions (2) 323:4;384:21 condition (2) 292:18,25 conduct (39) 277:24;278:16,22,25; 280:7;283:20;297:11, 14;298:17;303:6,11; 304:3,23;305:12;306:7; 315:16;331:9;333:15; 334:3;336:18;337:18, 25;340:10;342:23; 343:3,5,21;344:7,25; 355:18;357:22;361:18; 362:19;364:2;365:5; 366:9;367:6,20;374:11 conducted (3) 323:10;367:24;369:14 conducting (1) 293:2 conduct-wise (1) 280:4 confederate (1) 319:19 conflicting (1) 385:25 confused (1) 359:1 consider (2) 307:6;385:15 considerable (1) 359:10 considered (1) 273:23 considering (2) 384:17;385:6 consistency (1) 385:18 constitute (5) 283:18;305:7;338:8; 340:9,10 constituted (6) 331:8,11;344:25; 363:7;364:1;365:5 constitutes (2) 278:21;303:11 constitution (1) 383:6 contact (11)	348:23;350:14,19,20, 20;351:2;352:19,24; 365:17;379:21,21 contacted (10) 290:19;310:5,6,8; 348:18;350:17;351:3, 10;353:2;354:9 contacting (1) 354:17 contain (2) 376:17,17 contains (2) 275:7;301:12 contents (1) 356:20 contested (1) 359:25 context (1) 359:24 continue (7) 274:15;315:9,12; 349:14;350:12;381:23; 386:16 continued (2) 366:17;376:2 continuing (1) 311:5 contract (3) 275:22;285:15,16 control (1) 321:9 controlled (1) 298:14 controlling (1) 382:23 conversation (3) 334:24;337:5;369:15 conviction (2) 297:13;343:5 convinces (1) 386:1 convincing (1) 386:8 convincingly (1) 384:25 COOPER (41) 272:1,8;273:16; 274:15,24;275:2,4; 300:17,19;301:1,5,11, 16;327:6;328:20,22; 329:7;343:24;344:4,23; 345:21;346:1,8,13,17, 21;355:3;360:4,12,17, 21;374:14;382:19; 386:15;387:2,6,10,14; 388:1,4,7 cooperated (1) 356:25 cooperative (2) 280:12;377:12 copy (3) 277:12;353:19;354:22 corner (3)	275:9;301:14;363:18 Corporal (1) 353:3 counsel (5) 272:19;328:8,9,15; 335:12 counseling (14) 286:7,11,12,14,15,24; 287:1;309:15;315:10; 348:17;356:22;358:24; 359:4;366:14 count (2) 374:22;375:19 couple (8) 287:16;312:1;316:25; 319:5;323:1;330:23; 338:15;343:9 course (9) 307:23;308:8;311:10, 17;339:17;349:8;380:8, 23;383:20 court (15) 274:2;328:4;334:17; 337:17;338:18,19,21; 343:4,10,11,13,13,19; 367:9;380:15 courtesy (1) 372:22 Court's (2) 294:5;326:11 cover (1) 280:1 covered (3) 297:20;348:8;383:3 created (1) 370:25 credibility (3) 378:11;385:12,14 credible (2) 379:13,23 Criminal (11) 275:25;280:16;297:1; 309:6,9;347:5,10; 349:23;350:15,25; 380:17 CROSS-EXAMINATION (5) 287:14;316:23;338:3; 357:3;382:11 crux (1) 281:11 culmination (1) 345:16 cumulative (1) 273:13 current (1) 369:21 currently (2) 275:22;329:15 curse (2) 377:12;379:7 cursory (2) 278:6;325:1 Curtis (10)	274:21;275:3,12,12, 13,17;280:15;296:1; 304:8;369:17 custod (1) 372:22 custodially (1) 367:11 custody (2) 309:2;342:15 cycle (1) 279:13 D dad (5) 375:9,9;379:25;380:4, 21 danger (3) 319:24;320:24;369:6 dangerous (1) 372:7 date (2) 288:24;290:24 day (12) 272:1,5;274:12; 284:15;288:22;291:19; 311:17;331:15;335:1; 356:16;374:16;381:18 days (7) 274:8;279:14;343:11; 360:23;377:23;386:23; 388:10 deal (3) 283:15;286:2;313:21 dealing (5) 297:10,21;359:12,20; 366:4 dealt (4) 307:18;312:4;335:19; 368:2 decide (1) 386:3 decided (1) 281:13 deciding (2) 329:24;334:16 decision (33) 273:20,25;274:6,9; 298:8;315:13;318:9,13; 330:7;331:23;334:11, 14;337:10;341:12; 344:9,12;345:20;361:5, 7,8,11;373:15,16; 382:24;383:3,4,18; 384:25;386:22;387:22, 24;388:9,9 decision-making (1) 334:13 decisions (2) 345:13;384:10 dedicated (1) 381:25 defense (1)	347:3 definitely (1) 311:5 degree (3) 368:15;381:15,21 deliberate (1) 386:17 deliberations (2) 386:19,20 demand (1) 319:20 demeanor (1) 385:18 demonstrate (1) 278:15 deny (1) 341:6 Department (38) 272:4,8,11;275:18; 286:17;291:4;301:24; 302:1;309:14;311:7; 313:16;319:8;327:10; 329:18;335:19;336:21; 352:20;359:19;361:23; 365:17;366:12;367:2, 18;370:7;372:17,23; 374:2,10;376:1,2;377:1; 378:25;379:3,11,12; 380:1;382:2,9 department's (3) 315:18;337:2;378:1 depend (1) 293:21 deprived (1) 342:11 depriving (2) 368:6;373:6 describe (1) 347:8 description (1) 371:17 desire (1) 273:6 detail (2) 347:4;348:25 detect (1) 330:11 detention (2) 308:25;367:12 determination (2) 318:17;344:19 determine (1) 385:1 determined (6) 297:25;334:18,19; 337:17;343:2;370:24 determining (2) 383:22;385:13 detrimental (1) 355:20 difference (3) 342:4;366:25;367:7 different (3)

Edwin S. Sorrell v. SCDPS

306:24;364:7,10 dinner (1) 294:16 direct (18) 272:25;275:15; 276:19,20;287:4; 296:21;301:21;317:13; 329:12;346:25;348:6,8, 25;358:14,22;359:3; 371:6,11 directed (1) 348:17 directions (4) 308:4;328:6,7;346:14 directly (2) 276:21;295:9 director (6) 280:24;281:15; 284:21;329:18;338:5; 361:16 dis (1) 305:24 disciplinary (10) 314:5;315:11;337:13; 341:13,14;344:18; 365:6;374:8;380:25; 381:1 discipline (2) 314:1;344:19 disciplined (1) 313:7 discovered (1) 337:15 discretion (8) 330:4;331:16,18,19; 342:14;383:16,17,25 discuss (3) 273:18;333:20;356:20 discussed (4) 273:21;274:3;309:6; 337:8 discussion (3) 334:1;387:17,18 dismiss (2) 380:9,23 dismissed (8) 334:12;335:16,20; 336:10;338:25;339:3; 373:16;380:21 dismisses (1) 380:1 disobedient (1) 330:22 disorderly (36) 277:24;278:16,21,25; 280:7;283:20;292:11; 293:3;297:10,14;298:8, 17,24;303:5,11;304:2, 23;305:25;306:1,7; 317:7;331:9;337:18,24; 340:10;342:23;343:3,5, 21;355:18;357:22; 362:19;363:25;364:2;	366:8;367:6 displayed (1) 359:11 disposed (1) 336:5 disprove (1) 385:16 dispute (1) 361:17 disruptive (2) 299:9;364:22 disturbance (2) 365:4;371:5 Division (5) 272:21;275:20; 276:18;302:1;329:16 document (3) 355:14;356:7;373:21 documentation (1) 310:18 documents (1) 290:15 done (8) 304:16;305:14; 323:24;336:10;338:22; 344:22;369:2;371:8 door (7) 279:17;290:11; 321:10;339:15;352:7, 14;370:20 doors (4) 287:22;290:2;321:4; 351:8 dorm (3) 283:1,6,8 doubled (1) 378:8 down (23) 279:10,15;280:25; 281:1,13;285:19;295:10, 20;299:24;306:4; 319:21;324:2,7;325:22; 351:7,8,19,25;356:20; 362:2;364:24;373:2; 377:8 downtown (1) 291:22 DPS (1) 333:18 Dr (1) 287:3 drafted (1) 354:11 drag (1) 306:1 drawing (1) 384:20 drawn (1) 348:13 drinking (1) 317:6 drops (1) 309:2	drunk (3) 278:1;279:1;369:23 DSIT (3) 312:2,8,10 duly (4) 275:14;301:20; 329:11;346:24 during (18) 273:1,19,22,24;274:3; 275:8;284:19;301:13; 347:9,12,25;351:11; 358:11;360:23;362:25; 363:25;368:12;371:6 duties (1) 347:12 duty (4) 284:8;336:4;373:25; 374:1 DVR (3) 279:12,16;351:21	325:9 employed (1) 275:17 Employee (12) 272:9,18;273:19; 274:7,7;312:14;314:6; 336:21;383:3;384:7,24; 385:2 employees (5) 313:12;322:11; 333:22;367:21;372:16 Employee's (1) 353:24 employment (1) 361:22 encompassed (1) 336:16 encounter (1) 359:13 end (1) 351:18 enforce (3) 322:7,10;374:1 Enforcement (13) 329:16;341:5;345:12; 356:1;362:18;366:5; 368:8;369:20,21; 373:25;374:2;375:14; 381:25 enough (2) 286:22;368:4 ensure (2) 275:5;336:5 entail (1) 311:9 enter (1) 293:25 entered (1) 351:24 entertain (2) 387:6,19 entire (3) 344:17;374:7;385:3 EPMS (1) 381:4 equipment (2) 314:7,13 erroneous (1) 383:12 error (2) 382:9;383:11 Erwin (51) 272:19;273:15; 274:14,20;275:1,3,16; 281:24,25;282:7,8,9,14, 23;284:1;285:8,9; 287:11;295:25;297:18; 298:3;300:18,25; 301:22;312:23,24;313:4, 6;316:22;317:12;327:8, 22;328:21;329:2,5,13; 338:2;341:23;343:6,23; 348:4,15,21;350:2,10;	357:4;360:1,11,18,22; 387:12 escalating (1) 367:9 escalation (2) 366:18;374:9 escorting (1) 369:5 E-Slave (1) 320:10 especially (3) 306:20;314:23;315:10 essence (3) 282:10;371:22;372:12 established (2) 280:6;303:4 establishes (3) 343:5;383:3;384:9 evaluating (1) 381:8 evaluation (1) 381:10 even (26) 311:24;327:16;331:7, 7;335:6;339:23;340:6, 24;341:17;342:21,22; 343:3;361:19;363:22; 364:12;365:7;366:6,25; 367:5;368:14;370:2,10; 371:21;372:4,20;380:23 evening (33) 277:13;280:5;284:3; 296:14,18,23;297:6; 304:20;305:13;308:5; 310:6,9;311:19;331:11; 332:20;336:19;342:6; 344:7;348:18;357:15; 362:13;363:10;364:8; 365:14,22;367:24; 368:23;369:10,14;371:4, 16;372:13,18 event (5) 363:25;364:4;366:21; 371:18;372:1 events (6) 275:25;329:20; 371:24;372:6;374:9,12 everybody (3) 308:7;377:21;379:14 Everybody's (2) 376:25;378:17 everyone (2) 346:10;355:21 evidence (18) 273:9,12;361:5;363:4, 5;383:13;384:9,13,14, 15,15,16,21,23;385:1, 24;386:9;387:23 evident (1) 373:3 exactly (4) 288:19;303:20; 307:19;325:10

EXAMINATION (10) 275:15;295:24; 301:21;313:5;327:7; 329:12;341:22;346:25; 348:14;358:23 exceeds (2) 381:4,10 except (1) 378:3 excess (1) 383:8 excuse (7) 276:1;350:22;366:2; 372:13,15;378:5;386:16 excused (8) 300:21;301:2;328:24; 345:23,24;346:2;360:5,6 executive (6) 274:10;386:16,18; 387:9,15,16 exercise (3) 383:17,20,24 exert (1) 369:25 exhibit (3) 353:25;355:2,24 exist (1) 330:3 existed (1) 331:22 exonerated (2) 312:21;313:2 expectations (2) 333:20;334:3 expected (3) 334:2,7,7 expecting (1) 356:17 expects (1) 367:20 expelled (1) 349:22 expert (2) 380:14,16 explain (2) 329:23;373:21 explanation (2) 371:19;373:20 express (1) 354:16 expressed (3) 284:22,25;286:20 extensive (1) 375:4 extra (2) 343:9;372:3 extreme (1) 354:6 F face (16) 277:16,18;278:1;	279:2,4;291:14,16; 298:13;302:19;304:5; 311:4;317:1;327:14; 338:8;351:16;376:19 facing (1) 376:20 fact (15) 304:8;317:9;331:4,15, 17;332:8;333:4;342:15; 345:8;356:11,22;358:3, 5;369:10;385:8 facts (30) 278:14;281:4;318:18; 334:18,20;335:6,8,8; 338:13;341:15;342:21, 25;343:1,4,20;344:8; 345:4;361:11;362:16; 366:21;367:1,15; 370:14;371:1,21; 373:14;374:6;385:9; 386:2,4 factual (1) 384:11 failed (1) 358:7 fair (1) 382:4 fall (1) 295:6 falls (1) 276:25 familiar (10) 275:24;280:15;286:8; 302:3,8;309:7,12,13; 329:20;351:12 familiarity (1) 280:21 far (24) 277:8;278:20;280:4; 281:5;283:5;297:9; 303:10;304:20;305:9; 307:9;313:25;314:7,12; 332:17;333:21;334:11; 341:24;342:4,5;348:6, 18;349:7;360:25;367:20 father (4) 326:18;327:17,18; 379:25 favor (3) 387:12;388:4,8 FBI (4) 326:18;379:25;380:4, 21 February (5) 288:21;347:9,22,23; 353:17 feel (4) 286:17;333:11;336:3; 349:17 Feet (3) 308:15;363:23;379:6 fellow (1) 352:9	felt (14) 285:3;286:19,21; 287:5;307:2;309:20,25; 311:2;312:16;315:11; 316:7;325:4;331:10; 372:3 female (21) 305:21;306:23; 307:12,13,22,23,25; 312:14;323:17;324:10; 325:12,14,20;330:20; 332:11;333:5,13; 340:12;341:2;363:16; 377:12 females (1) 307:10 fence (1) 320:5 few (1) 311:18 field (2) 275:22;380:16 fighting (8) 279:2;303:16,18; 333:1;337:20;338:1; 362:21;363:9 figured (1) 285:20 file (8) 315:25;316:8,18; 331:25;338:20;344:15, 16,17 filed (11) 274:9;277:5;279:10, 11;296:3,6,19;304:12; 321:23;335:20;355:22 fills (1) 276:16 final (3) 273:20;314:25;386:7 find (4) 285:22;373:14; 376:23;387:22 finding (3) 274:6;385:7,10 findings (1) 384:11 fine (3) 299:16;317:1;355:4 finger (2) 279:3,4 finished (2) 375:24;381:15 fire (5) 380:10,24;381:6,9,13 fred (3) 322:12;375:20;381:3 first (33) 273:7;274:12;275:2, 14;284:12;287:2,8,10, 10;290:15;292:19; 301:20;306:15;329:11; 330:5;337:4;346:4,24;	351:5;354:8,10;358:23; 359:2,7,8;360:14; 362:14;363:18;365:7,8; 367:17;371:11;382:25 firsthand (1) 316:3 Firstly (1) 350:20 five (1) 388:8 fixed (1) 383:22 flag (4) 302:15;319:19,21; 320:5 flagged (1) 278:4 flags (2) 305:16,19 floor (2) 339:8;388:2 focus (4) 333:14;340:15,22,23 focused (1) 333:5 focusing (3) 333:11;340:11;341:1 folks (3) 279:25;311:20;379:17 follow (3) 313:21;330:21;352:17 followed (2) 277:1;354:16 following (4) 322:15;373:9;382:24; 383:5 follows (4) 275:14;301:20; 329:11;346:24 follow-up (1) 276:24 foot (1) 368:14 force (1) 386:8 foremost (1) 362:14 form (1) 350:21 formal (3) 273:22;274:3;316:12 forth (1) 314:19 forwarded (1) 304:17 found (6) 292:16,23;297:13; 326:20;343:14,15 four (1) 380:15 fourth (1) 339:8 frame (2)	351:24;352:6 framework (1) 350:7 free (1) 386:9 Friday (4) 288:2,2;348:2;349:22 front (7) 275:7;279:17;302:10; 318:3;319:24;325:4; 338:21 full (5) 275:11;301:17; 325:19;329:8;342:15 Fund (1) 272:10 further (7) 295:22;300:15;327:4; 341:20;343:22;357:2; 360:3 furthest (1) 340:22 G gain (5) 377:17;378:24;379:9, 12,19 game (1) 376:23 Ganjehsani (22) 272:15;281:24;282:6, 18;283:25;285:6,8; 288:4;289:15,17; 297:17;312:23;313:3; 348:9,20;349:5,10,14; 350:9;360:25;373:13; 382:21 gathering (2) 292:17,24 gave (2) 328:7;332:8 general (7) 272:19;285:10,12; 328:8,9,15;335:11 generally (1) 295:7 general's (1) 272:15 gentleman (4) 351:16,24;352:13; 355:22 gentlemen (1) 360:22 gently (1) 378:12 Gerald (1) 272:10 gets (3) 276:21;370:5;381:10 girl's (1) 323:13 given (7)

Edwin S. Sorrell v. SCDPS

272:22;304:1;330:9; 362:3,17;385:21;386:13 goes (4) 276:17;332:14; 345:11;363:19 good (5) 286:23;333:10; 374:20;375:6;381:22 governed (2) 383:22;384:8 governs (1) 382:25 grab (1) 324:7 grainy (3) 306:16;323:5;378:24 Granger (1) 322:25 granted (1) 376:22 grants (1) 381:20 gray (1) 375:8 great (3) 277:19;278:2;347:4 Grievance (5) 272:9;273:19;341:10; 10;384:7 grind (1) 377:16 gross (1) 337:25 grossly (4) 292:17,25;362:20; 363:3 ground (1) 378:13 grounds (5) 273:9;285:6;296:23; 347:14,15 groundwork (1) 364:1 group (1) 352:3 guard (1) 363:22 guess (30) 277:15,21;278:5,19; 279:6;281:8;282:11; 284:12;286:16;287:5,9; 302:14;306:15;307:16; 308:1;309:25;311:8; 315:1,2,23;330:5; 331:24,25;333:18,19; 336:16;350:5;357:6; 376:25;382:4 guessed (1) 377:21 guidelines (1) 361:10 guilty (2) 343:14,16	gun (3) 324:16;371:12,17 guy (4) 281:21;322:4;351:16; 375:7 guys (4) 295:8;311:11;319:15; 325:10 H half (1) 334:24 hallway (2) 351:25;352:3 Hammonly (1) 287:3 Hampton (1) 272:11 Hancock (4) 280:25;295:15,16,17 hand (2) 311:3;368:19 handcuff (2) 281:20;324:23 handcuffed (1) 324:18 handle (1) 338:23 handled (1) 327:13 handles (1) 322:2 hands (3) 325:22;330:24,25 happen (2) 315:12;380:9 happened (10) 281:8;296:8;321:2; 348:6;361:9;372:12; 377:1,22,25;378:10 happens (2) 283:12;342:6 hard (2) 374:20;381:20 harm (7) 333:11;340:21,21; 351:9;358:6;363:2; 369:2 harmed (2) 376:18;379:7 Harris (1) 315:24 hate (1) 350:2 head (1) 350:25 headquarters (1) 275:20 Health (1) 272:11 hear (13) 308:9,9;312:6;313:25;	330:15;339:6,7,11,14; 346:3;360:12;368:13; 371:7 heard (23) 301:6;316:2;330:17; 339:15,17,25;340:1,2; 356:3,5;361:16;363:15; 364:3;365:2;372:16; 377:3,20,22,25;379:2; 380:2;382:5,8 hearing (13) 272:2,6;273:3,20,22; 274:3,5,8,10;317:23; 338:21;386:24;388:12 hears (1) 339:23 hearsay (3) 282:4;285:7;316:2 heavily (1) 386:2 heavy-handed (2) 285:4;369:19 held (1) 272:4 help (3) 309:24;349:8;373:1 Herbert (1) 272:7 hereby (1) 293:25 here's (1) 326:18 herself (1) 364:18 hey (2) 352:8,9 highway (1) 292:16 himself (7) 293:2;298:17;313:11; 334:22;358:6;367:24; 369:14 hired (2) 322:6,8 history (4) 315:8;371:23;374:7,8 hit (2) 362:6;376:19 holdovers (1) 311:18 home (2) 285:2;342:9 hood (1) 325:2 hopes (1) 366:14 hour (2) 287:23;321:11 hours (5) 293:20;321:5,5; 334:24;347:17 house (6) 318:4;319:19,25;	342:9;353:8,10 housed (2) 294:12,14 Human (3) 272:20;356:14;359:25 Humm (1) 289:14 hundred (1) 380:15 hurt (1) 377:11 husband (1) 289:12 I idea (1) 286:23 ideally (1) 307:21 identically (1) 383:25 identified (1) 363:11 immediately (2) 307:20;351:6 important (5) 289:6;291:18;293:4; 361:24;374:21 impose (1) 343:11 imposed (1) 384:3 improbable (1) 365:5 improper (20) 304:25;305:3,5;307:6; 312:22;315:16;323:14; 330:2,6;332:21;333:7; 336:3,18;342:17;344:7; 25;361:18;365:20; 368:3;372:18 improperly (1) 336:8 incidence (3) 361:18;365:7,8 incident (43) 276:11,13;277:12; 279:7,24;280:15;284:17; 23;285:13;286:6; 287:17;288:22;290:20; 24;297:2;302:15,23; 303:1,23;304:20; 306:21;309:5,7,8;313:8; 8;315:2,4,7;322:19; 323:1;337:6;344:5; 347:4,21;348:7,16; 349:17;354:20,23; 355:6;365:11;379:22 incidents (11) 289:11;297:20;298:1; 302:4;309:19;311:23,24; 25;312:2;337:7;370:16	include (1) 325:24 included (1) 303:3 including (4) 331:25;361:20;385:3, 17 inconsistency (1) 385:18 inconsistent (1) 384:21 incorrect (1) 374:3 incorrectly (1) 358:21 independently (1) 373:19 indicate (2) 301:23;359:22 indicated (9) 296:17;303:1;305:10; 307:8;340:11;357:6; 358:17;372:21,25 indicates (1) 359:23 indicating (1) 307:1 indication (2) 371:3;372:2 individual (13) 308:24;313:24;316:5, 14;342:2;350:18; 351:13;355:17;359:21; 367:8;369:1;373:7,9 individually (1) 327:18 individuals (33) 277:5;280:4;297:22; 302:5;304:22;305:12; 306:12;308:3;313:15; 314:17;330:9;332:10, 20;333:13;336:15; 345:9;359:12;363:6,16, 20;365:25;366:2,23; 367:5,11,12;368:5,6; 370:18,23;372:11,19; 373:6 individuals' (1) 345:6 individual's (1) 337:14 indulgence (2) 294:6;326:12 inform (1) 355:12 information (9) 275:7;301:12;312:9, 10;334:20;350:4; 355:11,12;378:23 informed (2) 350:1;351:5 infractions (1) 313:9

initial (2) 313:21;339:17	281:19;286:23;290:9; 291:1,7,9,25;295:6,6; 302:20;311:13;312:14; 323:1;331:3;346:14; 347:4;348:25;357:23; 358:4;363:18;367:13; 371:12;374:7;375:14	287:17;289:23; 323:24,25;324:1;336:6; 9;374:21,23;375:3,21; 376:2,10;380:12;382:6	knew (6) 337:9;339:18;349:25; 356:18;365:13;377:25	350:7 Leading (3) 282:13;311:23;329:21
inmates (2) 294:12,15	323:1;331:3;346:14; 347:4;348:25;357:23; 358:4;363:18;367:13; 371:12;374:7;375:14	jobs (1) 374:18	knowledge (16) 282:5;284:13;296:21; 310:4,17;315:24;316:3; 19,21;317:13;321:12; 324:24,25;325:8; 335:18;337:16	leaning (1) 364:24
inner (1) 325:24	371:12;374:7;375:14	John (3) 272:17;355:3;380:13	Kudelka (1) 272:11	least (3) 313:10;316:6;363:17
innocent (1) 332:24	intoxicated (11) 292:18,18,25;297:21; 298:11,12;303:13,19; 337:19;362:20;363:3	joke (1) 333:2	L	leave (1) 387:4
inquiry (1) 316:5	intoxication (1) 337:25	Joseph (1) 272:20		leaves (1) 339:20
in-service (1) 278:23	Introduce (2) 353:23,24	judge (1) 385:11	Labor (1) 272:12	leaving (1) 311:17
inside (3) 330:15;339:7;351:8	introduced (1) 366:7	judgment (1) 383:21	ladder (1) 320:4	left (3) 334:25;352:14;370:22
instance (1) 283:22	introduction (1) 287:9	jurisdiction (1) 338:18	Ladies (1) 360:22	leg (1) 325:24
instances (5) 289:13;315:19;319:6; 320:19;341:8	invalid (1) 384:2	jury (1) 374:19	lady (1) 323:21	legal (7) 278:20,24;297:11,24; 303:10;338:17;387:3
instant (1) 321:17	investigate (2) 327:11;344:15	Justice (14) 276:1;280:16;297:1; 309:6,9;336:10;347:5; 11;349:23;350:15,25; 380:8,10,17	language (8) 278:6,10;297:21; 303:3;362:3,11;372:14, 15	lengthier (1) 320:6
instantly (1) 331:2	investigated (8) 312:25;313:14,24; 319:11;327:15,20,21; 328:1	justify (1) 384:19	Lanier (15) 290:16,20;350:18,18, 24;351:23;352:5,11; 357:14,16,18;365:22,23, 23,24	lengthy (1) 306:6
instead (2) 382:13,17	investigation (4) 277:2;304:16;305:23; 345:18	K	Larry (2) 353:3;354:15	Lesia (1) 272:11
instituted (1) 272:2	investigations (2) 276:24,25		last (9) 273:7;327:25;346:4; 352:12;360:14,16,17; 363:18;367:24	letter (12) 293:23;356:10,12,15, 16,19,21;361:22,25; 363:12;367:25;372:15
institution (1) 294:19	involve (2) 337:19;364:20	Keel (17) 274:22;329:5,7,9,9,10; 341:24;343:25;361:17; 362:6;366:24;367:17; 372:21;373:15;382:8,10, 13	late (3) 289:11;294:15;311:19	Level (3) 315:20;336:24;367:10
instructed (2) 278:20;308:21	involved (10) 273:24;277:16; 320:20,23;322:18; 334:12;362:13;363:16; 364:15;380:22	keeps (2) 340:19,25	later (3) 296:18;344:10;360:25	liberty (2) 368:7;373:6
instruction (1) 308:23	involving (4) 275:25;302:4;309:10; 311:23	Keith (6) 276:2;302:6;304:13; 315:25;332:2;368:11	latitude (1) 349:6	liberty's (1) 342:11
instructions (3) 382:20,23;386:12	issue (5) 289:6;320:18;359:6; 367:5;382:16	key (1) 370:6	law (30) 272:17,18;274:2; 292:12,13;329:16;336:6, 7,8;341:5;345:12; 355:25;362:18;366:4, 20;368:8;369:20,21; 373:13,25;374:1,2,5; 375:14;380:15;381:25; 382:9,23;383:11;384:6	Licensing (1) 272:12
interact (1) 367:21	issued (2) 338:20;382:12	kick (1) 379:6	law-abiding (1) 366:6	light (1) 376:14
interacted (2) 332:19;363:14	issues (3) 309:18;358:25;359:4	kicked (1) 281:10	lawful (1) 383:10	limit (1) 324:20
interaction (12) 281:5;296:5,9,13; 309:11;311:14;333:22; 370:8,10,12;372:10; 373:2	issuing (2) 367:8;382:17	kicking (1) 368:14	laws (2) 322:7,10	line (2) 306:3;330:25
interest (1) 385:21	items (1) 384:1	kids (1) 342:16	lawsuit (1) 379:16	list (1) 365:23
interim (1) 280:24	J	kind (15) 276:25;281:17;287:3; 295:6;306:6,16;314:5; 319:16;325:9;361:6; 363:2,8;368:15;375:6,16	lawyer (1) 380:18	listened (1) 347:5
internal (1) 305:14		King (9) 280:24,25;281:16; 283:14;284:21;285:15; 286:21;296:11;321:21	laying (1)	littering (3) 299:21,21,25
internship (1) 381:22	jacket (1) 368:15	Kitchens (5) 356:13,16,17,21; 358:19		little (11) 277:2,6;280:1;306:1, 23;309:5;320:6;369:24, 25;376:12;378:5
interpreted (3) 318:22;319:1,2	jail (9) 281:21;308:19,23; 309:2;323:20;324:12; 364:18;368:6;373:10			lives (1) 355:20
interview (1) 293:12	job (15)			living (3) 294:21,22;320:21
interviewed (1) 367:3				lobby (5) 279:16;280:11;291:1, 7,9
interviews (3) 305:17;306:5;323:10				located (1) 330:16
intimidation (1) 368:1				
into (24)				

Edwin S. Sorrell v. SCDPS

lock (2) 281:13;351:7	lockdown (4) 282:25;284:4,14; 296:14	locked (3) 287:23;290:2;351:19	locking (2) 321:4;351:8	lodged (2) 280:22;288:20	long (4) 306:1;320:13;334:24; 374:15	longer (1) 305:24	long-winded (1) 349:13	look (28) 276:13,15,23;277:2, 19;292:14;319:8; 322:18;323:21;324:9; 327:11;337:25;361:3,12, 24;362:2,8,11,16;365:6; 367:16;372:14;373:12, 19;378:14;380:24,25; 385:3	looked (12) 276:8,10,10;277:4; 279:22;312:14;327:14; 334:20,21;351:20; 373:17;378:18	looking (12) 278:6;279:23;302:19; 304:5;306:22;308:10, 12;315:4,8;361:6;376:6; 378:24	lose (3) 379:10,13,20	loses (1) 375:21	lot (14) 276:23;279:2,3,3; 285:4;305:16,23; 311:14;317:9;319:15; 354:4;355:10;378:23; 381:19	Lottery (7) 279:8;302:4;303:23; 311:8;314:18;370:5; 376:11	loud (8) 298:13;299:10; 302:22;303:13;330:12; 339:13,13,22	loudly (1) 301:7	lowest (1) 370:6		329:22;337:22;347:7, 24;352:18,22;353:18,18, 21;354:19,21,24;356:5, 9,24;357:1,10,13,19,24; 358:10,12,15;359:1; 360:2	machine (1) 351:22	mad (2) 289:7;332:25	Main (2) 320:4;321:25	mainly (1) 280:10	major (1) 322:19	makes (2) 313:20;318:9	making (10) 307:2;316:12;341:11; 345:13,13,19;362:21,23; 372:21,22	male (6) 307:14;332:10;333:6, 13;340:23;341:1	males (4) 306:23;307:24;331:1; 340:20	Malissa (1) 272:16	Malone (6) 377:6,23;379:2,5,9,19	man (10) 319:24;323:16;377:5, 18,23;379:24;380:10; 381:6,9,14	management (11) 286:15;309:18;356:4, 8,11;358:21,25;359:4,6, 16,23	manages (1) 370:11	manner (17) 286:1;293:3;298:18; 302:23;334:4;359:20; 363:13;364:6,7,13; 368:1,8,17;369:13; 372:18,19;385:15	many (1) 294:8	March (3) 276:2;302:6;372:13	Mark (2) 329:9,10	marks (1) 292:15	matter (4) 273:22;283:16; 327:16;362:9	Maxwell (2) 355:15,16	may (19) 272:25;275:7;277:11; 297:2;299:9;301:12; 311:18;317:21;322:9; 329:1;340:3;350:11; 367:8;370:8;383:2; 385:7,14;386:1,19	maybe (12) 277:7;278:1;289:7; 298:14;299:21;311:17, 20;334:24;376:8,16; 378:14;380:1	mean (43) 276:12,15;277:18,18; 278:17,23;280:8,8; 282:18;285:12,17; 289:2;291:16;292:7; 295:20;296:8;300:4,9, 10;307:21;317:3,13; 318:13;331:18,18; 332:22;337:6,10; 338:22;339:14;341:9; 350:4;359:18;361:2; 362:4;363:17;367:19; 372:22;373:9;376:20; 378:13;381:13,14	meant (1) 278:12	medals (1) 375:24	meet (2) 284:16;369:11	meeting (5) 284:19,20;285:11,13; 287:8	meets (4) 277:20;361:9;381:4, 10	member (2) 272:24;273:18	members (4) 272:9;300:19;328:22; 343:24	memorandum (1) 356:1	Mental (1) 272:11	mention (2) 381:6,7	mentioned (5) 278:9;297:22;311:22; 319:5;331:10	mere (1) 384:14	Merely (2) 362:23;367:9	merited (1) 367:14	met (6) 278:7,7;280:5;284:21; 333:24,25	microphone (3) 275:6;288:6;346:15	middle (1) 375:15	midnight (2) 319:9;347:20	might (9) 293:18;299:20; 315:20;339:24;341:19; 346:5;369:24;376:20; 381:17	Mike (13) 290:16,20;350:17,18; 351:23;352:11;357:14, 16,18;365:22,22,23,24	militaristic (1) 322:1	Miller (1) 272:20	mind (1) 370:21	minds (1) 384:18	mindset (1) 370:20	minimum (2) 277:20;311:20	minute (1) 356:15	minutes (1) 346:9	mistreated (2) 316:6,8	mistruths (1) 356:12	misunderstood (1) 344:23	Mitchell (1) 354:7	mixed (1) 325:9	Monday (2) 361:6;373:9	month (3) 381:3,6,9	months (1) 370:17	monument (1) 319:24	more (18) 330:23;333:5;338:23; 340:21,21;341:1; 351:17;362:12;369:25; 371:24,25;372:9,11; 375:25;378:23;383:5; 384:3;386:2	morning (8) 291:20;298:21;299:7; 318:2,23;353:1;357:8; 361:6	Most (5) 310:14;311:19;332:7; 379:23;381:14	mostly (1) 275:20	mother (1) 327:17	motion (4) 338:17,21;388:1,8	motions (2) 387:7,19	move (2) 387:8,21	moved (5) 310:23;311:6,7;373:3; 378:17	much (11) 279:23,25;285:14; 295:1;336:9;370:10; 374:17;375:8,8;378:15, 19	Murphy (1) 272:10	must (1) 385:3	myself (1) 334:14																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																					
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															name (7) 272:7;275:11;301:17; 312:10;329:8;346:17,19															narrative (1) 277:16															nature (11) 277:25;281:5,7;282:2; 285:10,12;286:11; 303:14;305:17;306:22; 370:1															near (1) 384:4															necessarily (1) 299:9															necessary (4) 286:18;315:3;349:1; 370:13															necessitated (1) 310:1															need (17) 274:16,19;275:4; 282:20;292:5,8;309:24; 314:22,24;316:17; 342:10;353:12;359:24; 360:18;365:19;382:15; 383:24															needed (4) 277:1;287:7;334:16; 355:13															needing (1) 308:20															needs (2) 292:2;372:11															neighborhood (1) 318:2															next (2) 284:15;355:1															nice (2) 377:18;379:24															night (17)																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																	
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290:20;293:9;311:16; 344:6,7,25;345:4,17; 354:10,13;357:19; 370:8;375:13,15; 376:12;377:3,20 nine (1) 307:12 nobody (4) 354:5;372:5;378:25; 379:6 nolle (4) 295:11;326:14;328:1; 334:16 None (6) 298:2;337:3;368:16; 377:2,3;379:2 nonsense (1) 322:4 nor (1) 384:15 normal (7) 276:12;296:25,25; 310:11;342:19,19; 374:19 normally (2) 295:7;314:12 notate (1) 283:13 Noted (2) 301:1;350:10 notice (3) 355:25;358:18,19 notified (5) 284:5,9;313:18;362:3, 4 notify (5) 284:10;297:3;310:16; 315:24;354:12 number (11) 347:3;351:24;352:7, 15;353:11,25;355:3; 377:7;386:4,5,7 numbered (2) 275:9;301:13 nutshell (2) 315:1;349:19	observing (3) 298:9;308:2;370:18 obtain (1) 304:9 obtained (1) 291:4 obviously (11) 289:9;315:9;325:6; 331:17;337:9;338:23; 341:10,12;342:10; 352:4;365:13 occasion (2) 284:16;287:12 occasions (2) 335:25;359:11 occurred (12) 279:18;280:16; 285:13;293:10;296:10; 335:17;345:7,8;347:22, 25;348:16;355:13 occurrence (1) 350:19 occurring (2) 362:19;379:1 occurs (1) 355:9 o'clock (2) 311:18;357:7 odd (1) 306:19 off (4) 276:19;309:2;349:7; 374:17 offense (4) 283:18;299:23; 300:11;349:13 offer (1) 355:1 office (8) 272:15;304:18; 305:15;312:9,11; 334:25;352:24 officer (36) 272:24;273:4;276:16; 285:1;292:2;307:15; 309:1;311:2;312:12; 315:24;318:9,19;321:17, 19,23;326:10;330:4,9; 333:8;337:21;341:3; 342:19,19;362:18,22,24; 366:15,15;368:8; 371:15;373:11,25;374:2, 4;375:14;382:1 officers (24) 285:18,24;289:24; 294:8;297:4;308:21; 309:24;311:11;319:14; 320:20,25;325:19; 332:9;333:20,25;334:1; 364:7,15;366:5;367:19; 369:20,21;378:1;379:3 offices (2) 275:22;339:8	officials (1) 379:3 often (2) 380:2,2 oftentimes (1) 285:2 Ohio (1) 288:25 old (1) 375:9 O'Leary (45) 272:17;281:22;282:4, 13;283:23;285:5,7; 287:15;288:8;289:19; 294:5,7;295:22;296:2; 297:9,15;298:5;300:15, 23;312:6,17,20;313:1; 316:24;317:14,15; 326:11,13;327:4,24; 328:19;329:1;334:10; 338:4;341:20;343:8,22; 345:24;346:11;348:10; 355:4;360:9;380:13; 382:11;387:1 once (17) 282:25;304:15;309:1; 310:9;333:18;338:19; 339:17,19;341:9; 344:15;351:4,10,11,18; 352:25;353:12;367:1 one (71) 279:25;280:19; 285:18;287:2;290:9; 294:10,11,20,25;295:5, 7;298:1,11;307:22,24; 311:3;312:15;314:25; 319:6,18;320:3;321:9, 17;326:7,8,9,17;327:25; 328:4;330:13,17;332:6, 14;333:1,1,11,12; 335:16;337:22;338:23; 339:23;340:12,15;341:4, 24;344:1;345:10,11; 348:10;354:10;361:19; 363:18,19,19;364:8; 365:15,24;366:22; 367:17;370:6;371:10; 373:7,9;377:7;381:3,5,9; 383:5;384:16;386:2,5 ones (2) 274:16;386:13 one's (1) 383:19 only (19) 273:8,21;274:2; 279:13;287:11;290:9; 321:9;339:23;340:12; 355:11,12;373:22; 374:1;377:4,19,22,24; 379:1;384:12 opinion (9) 303:4,7;304:21;308:3; 330:2;335:13;342:25; 343:16,17 opinions (1) 322:2 opportunity (2) 272:22;365:16 opposed (4) 386:2,5;387:14;388:7 OPR (5) 305:15;323:10; 331:25;344:14;345:18 option (3) 273:6;346:4;360:13 order (5) 281:15;283:10; 308:11;337:24;384:19 ordinance (3) 317:10,19;318:24 original (1) 318:18 otherwise (2) 274:19;293:2 out (56) 273:8;276:16;279:13; 281:9,10,10;285:20,22; 293:16,19;294:12,17; 304:6;307:12;308:11; 310:19;311:5;312:2,12, 15;313:4;318:6,7;320:4; 323:12;325:13;326:20; 339:15;344:16;348:13; 350:6,22,23;352:7; 353:9;354:10;357:17; 364:25;365:18;368:22; 369:12,12,22,23;370:20; 371:16;374:19;375:14; 376:13,23,24;377:14; 378:18,21;387:9,15 outcome (5) 313:18,23;320:7,8; 385:22 outer (1) 325:2 outside (13) 279:8;287:4;322:19, 21,22;330:16;331:7; 332:22;339:24;351:9; 370:24;371:9;379:1 over (18) 275:21,22;284:22; 285:14,18,19;311:3; 320:5;342:18;347:10, 11;353:9,12;356:13,17; 378:8;379:17;380:5 overall (1) 284:25 over-involved (1) 312:18 overly (6) 359:11,20,23;369:18, 24;370:12 overreact (1) 365:10 overreaction (1)	373:11 overrule (1) 383:2 Overruled (1) 283:25 overtake (1) 385:7 Owings (1) 322:25 own (2) 339:16;342:9 P page (7) 275:9;277:10,11; 301:13;355:24;362:1,2 pages (1) 277:9 paid (1) 285:15 panel (5) 300:19;328:22; 343:24;360:4;387:20 paper (1) 381:17 paragraph (3) 359:7,8,9 Pardon (1) 325:16 part (14) 280:9,10;284:4; 292:19;293:5;302:23; 311:19;322:3;325:4; 355:7,8;363:11,13;368:3 particular (6) 315:7;336:2;354:1; 355:15;384:2,5 parties (5) 273:4;386:16,18; 387:4;388:10 party (2) 273:1,14 pass (1) 283:13 passed (2) 274:1;295:1 past (2) 337:14;341:8 pat (2) 324:1;325:21 pat-down (3) 325:1,20;368:24 patrol (1) 314:14 patted (1) 324:6 pattern (2) 310:1;365:8 penalty (1) 383:25 pending (1) 273:23

Edwin S. Sorrell v. SCDPS

people (33) 289:7;291:14;293:24; 295:12;303:2;309:22; 319:7;332:23;334:7; 340:18;347:15;352:13; 353:11;354:3,11; 364:25;366:4,5;367:3; 368:9;369:22,25;373:2; 375:17;376:4,6,8,18,18; 377:1,22,24;379:15	370:17 placed (2) 302:20;358:5 places (2) 312:2;353:11 plausible (1) 373:20 play (1) 291:25 please (7) 275:3,10;301:16,23; 329:7;349:14;388:4 pleased (1) 364:5 pleasure (1) 383:21 PM (1) 347:20 point (18) 273:8;274:16;276:8; 287:19;290:6,10; 294:20;295:19;309:1,3; 315:12;319:18;334:15; 335:11,16;346:2;350:3; 370:3 pointing (1) 279:4 police (6) 333:8;334:1;337:20; 355:9;362:22,23 policies (1) 385:4 policy (7) 283:4,17;313:9; 315:18;336:20;361:18; 365:6 popular (1) 319:13 pornography (2) 319:9;376:6 portion (2) 386:9,10 position (9) 301:24;308:13; 329:14,15;353:4; 362:15;363:16,22; 373:25	370:17 predisposed (1) 323:17 prefer (2) 360:15;382:3 prejudiced (1) 385:20 prejudices (1) 383:4 premise (2) 300:12;318:14 premises (1) 321:9 prepare (2) 355:6;360:19 prepared (2) 276:6;354:25 present (2) 272:10;273:4 presented (8) 356:16;361:4,13; 362:17;366:21;367:1; 373:18;385:4 presiding (2) 272:24;273:4 presumed (1) 384:11 pretty (2) 332:24;370:10 prevent (1) 351:9 previously (1) 341:16 primarily (1) 366:4 principles (1) 383:22 printouts (1) 290:17 prior (17) 277:4;280:15;282:14; 302:16;310:8;311:23; 313:7;315:11;328:13; 329:17;337:10;341:11; 344:18;345:19;346:8; 365:14;374:8 prisoner (1) 325:20 probability (1) 385:8 probable (31) 278:15;280:6;283:19; 292:2,5,8;299:2,17,18; 300:13;303:5;304:21; 305:1,4;317:3;318:15; 17;330:2;331:8,21; 335:1,4,9,15;338:9; 362:15;373:21;380:19; 382:7,15,16 Probably (8) 277:6,20;294:16; 333:12;334:23,23; 337:3;382:14	probative (1) 383:13 problem (7) 300:23;317:24; 319:18;371:22;376:13; 381:7;382:18 problems (3) 305:11;341:5;370:2 procedure (5) 296:25;310:11; 313:20;322:17;383:10 procedures (4) 273:22;274:4;322:16; 384:8 proceed (1) 360:7 proceeding (2) 383:1;385:22 proceedings (4) 273:2;300:22;328:25; 384:7 process (11) 276:12,16;305:25; 306:6;334:13;341:11; 362:25;364:16,19;368:7; 12 processed (1) 367:13 processing (1) 291:11 produced (2) 386:4,6 profanity (1) 279:2 Professional (6) 304:18;305:15; 333:17;334:4;377:14; 379:6 program (4) 286:24;356:1,2; 381:18 proof (1) 385:2 proper (18) 277:17;308:13; 309:20;316:15,16;318:5; 6;329:25;331:20,21; 333:15;354:17;361:15; 363:22;369:14;373:4,5, 11 properly (3) 325:21;369:13;372:24 property (1) 293:25 pros (2) 326:14;328:1 grossed (2) 295:11;334:17 protect (1) 334:5 Protective (4) 275:19;286:17; 301:25;314:12	protesters (2) 317:10,18 protocol (4) 352:16;354:17;355:7, 8 prove (2) 384:24;385:16 provide (5) 289:23;311:12; 322:11;382:23;387:3 provided (3) 314:9;337:23;386:22 provides (2) 361:18;383:1 provisions (2) 283:4;383:7 prudent (1) 342:19 Public (34) 272:4;275:18;280:7; 283:19;292:16,17,24; 297:10,14;302:1;303:5, 10;304:2,22;311:13,15; 322:11;329:19;334:4,6, 6;342:23;352:21; 355:18;357:22;359:21; 362:18;364:2;366:8; 367:5,21;370:12;374:3; 376:1 pulling (1) 368:14 put (14) 282:25;284:3,14; 308:22;319:3;324:3,5, 14,15,16;330:24,24; 348:2;367:13 putting (1) 351:8
per (2) 294:10,11 perceives (2) 371:23;372:9 performance (2) 355:21;381:8 performed (1) 368:24 permit (1) 384:22 permitted (1) 273:13 person (20) 282:11;293:12;297:2, 21;303:18;310:18; 316:11;337:19;342:5; 354:8;362:20,20;365:12, 15;366:8,19,22;377:4, 19;379:23 personal (2) 282:5;349:10 personally (1) 300:5 personnel (2) 365:18;372:4 persons (2) 298:9;347:15 person's (1) 372:5 pertinent (2) 273:9,10 phone (3) 351:4;352:24;356:18 phonetic (2) 287:3;320:10 phrased (1) 323:14 physical (1) 349:22 physically (2) 318:10;356:20 pick (2) 288:6;299:22 picked (2) 275:5;301:8 picking (3) 331:5,6;364:24 pieces (1) 364:24 place (4) 292:17;336:19;339:4;	positions (1) 370:6 possibility (2) 341:19;384:20 possible (1) 288:14 possibly (1) 298:13 post (4) 311:10;312:11; 314:17;342:11 potential (1) 297:2 power (2) 305:7;336:14 preceding (1)			qualified (1) 380:14 quarterbacking (1) 361:6 quiet (2) 339:18;378:7
				R Rachel (1) 272:18 radio (1) 352:22 Randy (6) 280:24;283:14; 284:20;296:11;321:21, 22 rape (1) 289:20 rather (3) 308:9;381:23;384:16 rational (1)

383:19 reach (1) 384:18 reached (2) 273:21;384:19 react (1) 341:4 reacting (1) 366:2 read (13) 278:10;292:14,19,19, 20,20,21,24;293:1; 297:20;298:19;307:4; 376:16 reading (4) 277:21;308:2;345:6,7 ready (3) 281:20;346:2;360:18 real (2) 319:13;327:9 realized (1) 315:8 realizing (1) 315:5 really (18) 280:13;289:4;295:6; 307:16;317:24;322:7; 323:21,22;338:19; 340:12;341:7;374:21; 381:5,13,19,20,22; 382:10 rear (1) 324:7 reason (8) 281:12;302:14;304:1; 314:4;321:8;331:12; 361:20;368:10 reasonable (3) 384:18;385:8,15 reasoning (1) 383:20 reasons (2) 309:14,17 rebut (1) 348:12 rebuttal (1) 346:7 recall (6) 277:3;298:2;306:25; 311:25;346:7;347:21 receive (1) 382:20 received (6) 297:24;356:15;367:2; 375:22,24;381:4 recent (1) 359:9 recently (1) 337:24 recess (6) 301:4;329:6;346:12; 360:19,20;387:5 recognize (1)	351:15 recommend (1) 315:3 reconsideration (1) 273:25 reconstruct (1) 282:21 record (15) 272:5,7;301:1,6,17; 337:14;341:13;346:1, 18;360:6;381:2;383:14; 384:17;385:3,6 recording (1) 301:9 RECROSS-EXAMINATION (3) 298:4;327:23;343:7 red (4) 278:4;302:15;305:16, 19 REDIRECT (4) 295:24;297:16;327:7; 341:22 reference (4) 309:6;327:10;330:5,7 referenced (1) 370:16 referred (6) 275:8;301:12;302:24; 303:22;356:2;359:5 referring (4) 280:18;296:3,12; 380:5 refused (1) 281:14 refusing (1) 355:18 regarding (1) 284:17 regardless (1) 285:17 regards (3) 345:6,17;372:24 Regulation (1) 272:12 reinstatement (1) 381:24 reject (1) 386:10 related (3) 273:17;363:10;385:9 relation (2) 306:12;341:25 relative (1) 386:8 relayed (1) 364:14 released (2) 365:15;373:7 reliable (1) 383:13 relying (1) 375:21 remain (1)	387:3 remaining (1) 274:21 remains (1) 274:10 remember (13) 280:10;281:6;317:23, 25;318:1;319:19,20; 327:3;337:4;346:13; 370:15;377:6,10 remind (2) 275:4;301:6 remove (1) 286:3 removed (10) 282:11,15;296:4,7,9, 17;334:17;365:25; 370:4,5 render (1) 384:5 rendered (1) 384:2 rendering (1) 382:24 Repeat (2) 305:2;349:3 repercussions (1) 342:5 repetitive (1) 273:12 rephrase (2) 282:6;317:16 report (36) 274:6;276:6,9,11,13, 16,19,21;277:4,8,9,12, 19;278:3;291:14,19; 295:2;302:16,18,20; 303:1;305:14,18; 306:21;317:1;319:3; 338:8,11,14;354:20,23; 355:7,10;357:21;363:6; 366:7 reported (4) 319:7;354:3;376:5,6 reports (4) 276:20,23;295:8; 365:3 represented (2) 272:16,18 representing (1) 329:3 reprimand (1) 336:24 request (4) 273:24;310:22;357:8; 369:15 requested (5) 279:15;285:25;286:3; 287:3;386:13 require (3) 283:5;309:14;317:6 required (2) 308:22;353:10	requirement (3) 278:7;283:7,9 requires (1) 370:13 residential (3) 291:22;299:6;318:23 resolve (1) 309:23 Resources (4) 272:20;309:23; 356:14;359:25 respect (1) 353:5 respond (2) 357:14;368:23 responded (1) 365:22 responding (1) 318:19 Responsibility (7) 304:18;305:15;309:1, 3;316:9,10,11 result (1) 337:1 retrain (1) 366:15 retrieve (3) 279:7,16,18 return (1) 283:1 review (16) 274:10;276:6;279:21; 302:11;303:21;304:11; 331:24;332:4;335:12; 337:13;342:22;344:17, 17,18;361:1;384:10 reviewed (13) 276:22;295:1,4; 304:15;305:10;306:8; 338:16;341:15;344:5, 11;345:19;367:4;373:17 reviewing (4) 305:14;306:21; 330:10;366:25 rid (1) 328:11 right (32) 274:11;278:8;289:25; 302:19;316:16;317:4; 319:22,22;320:11; 322:5;323:6,8;328:14; 338:6;342:3;350:14,24; 353:14;374:22,24,25; 375:1,7,10,10,13,19; 376:3,5,10;380:11;382:6 right-hand (2) 275:9;301:14 rights (2) 316:11;383:5 risk (1) 354:2 Rita (1) 272:12	River (3) 294:1;312:12;347:11 Road (3) 294:1;312:12;347:11 Rob (5) 328:16,17;335:12; 338:16,17 role (1) 383:1 room (8) 283:1,8;350:11; 357:23;358:4;366:9; 379:23;387:4 rooms (2) 283:6;321:5 routine (1) 374:19 ruckus (2) 322:22;365:1 rude (1) 377:11 rule (1) 283:13 rules (7) 281:18;283:5;290:1,2; 321:4;330:21;383:23 run (3) 279:13;380:7,22 running (13) 298:21;299:5;318:3, 22;339:25;340:2,3,5,7,7, 9;378:4,5 rush (1) 371:12 S safe (2) 352:13;355:21 Safety (11) 272:4;275:19;302:2; 320:20;322:11;329:19; 352:21;354:7;368:16; 374:3;376:1 salvage (1) 366:13 same (8) 288:24;292:11; 323:16;325:12;341:4; 343:16;361:7;364:9 sanction (1) 384:4 sanctions (1) 384:3 sat (2) 334:21;377:8 save (1) 355:20 saved (1) 311:4 saw (22) 280:8,9,9;281:12; 290:25;322:7;323:3;

Edwin S. Sorrell v. SCDPS

330:18;340:3,5;344:6; 25;345:5;364:21,22; 368:14;376:12,13;377:3, 4;378:5;382:5 saying (13) 293:24;299:12;300:6, 6,7;317:23,25;318:1; 324:7;325:11;339:12; 345:4;388:5 scenario (1) 281:18 scene (2) 307:22,23 scintilla (1) 384:15 scope (1) 297:16 scream (4) 330:17;339:17,23; 340:1 screen (1) 302:10 sealed (1) 339:11 search (13) 307:10,12,25;308:13; 324:1;325:18,23;358:11, 16;363:22;364:16; 368:12,24 searched (6) 307:10;308:20,24; 323:17,21;324:13 searches (1) 326:6 Searching (4) 325:15,17;351:11; 357:9 second (11) 272:1;309:22;352:2; 374:16;376:25;377:21; 382:4;387:10,11;388:2,3 Secretary (3) 274:18;387:8;388:3 section (3) 336:3;382:25;387:24 secure (4) 347:14;352:13; 355:19,21 secured (1) 351:20 security (8) 289:6,23;311:12; 320:20,23;347:16; 363:22;365:18 seeing (2) 280:11;345:5 seem (2) 288:16;378:19 seemed (6) 280:12;305:23,25; 308:6;333:5;378:23 seems (2) 291:17;380:6	sees (2) 299:24;318:19 select (1) 327:11 send (1) 355:11 sending (1) 356:2 sends (1) 293:23 sent (10) 350:22,23;353:14,20; 356:7;357:6;366:14; 367:12;373:18;388:10 sergeant (2) 276:18,18 sergeants (1) 276:20 servants (1) 334:5 serve (2) 334:6;374:18 served (2) 328:2;375:25 service (1) 376:1 Services (4) 275:19;286:17;302:1; 314:12 serving (1) 374:18 session (7) 274:10;287:10; 386:17,18;387:9,15,16 sessions (1) 287:1 set (2) 286:8;384:12 setting (1) 370:11 several (8) 276:20;349:19;354:2, 3;356:12;359:10;362:1, 4 severe (2) 363:8;384:3 Sharon (1) 354:7 Shawn (18) 272:3;346:19,23; 374:23;375:17,20; 376:15;377:4,9,10,13, 24;378:21;379:2,5,16, 21;380:24 shift (10) 294:10,11;311:16,17; 319:9;347:17,20,20; 370:8,9 shifts (1) 311:11 shooting (1) 288:25 short (3)	346:5,9;360:19 shot (1) 289:1 shoulder (2) 308:15;363:24 show (3) 279:17;291:7;353:22 showed (3) 279:16;344:7;361:10 shows (3) 291:14;317:3;372:6 shrieking (1) 378:9 shutting (1) 351:7 side (4) 272:22;285:22; 384:16;386:5 sides (1) 285:21 sight (2) 351:14;378:18 sign (1) 327:2 signify (1) 388:4 signs (1) 276:19 simple (1) 362:9 Simply (4) 348:2;351:7;352:8; 355:10 sit (4) 281:1;285:19;287:7; 356:20 site (1) 353:7 sitting (1) 317:11 situation (19) 282:10;285:23; 286:20;298:15;312:19; 315:5,7;332:25;335:18; 337:17;362:8,12; 365:13;367:15;369:3; 370:25;371:21,25;372:9 situations (6) 312:15;322:2;342:2; 373:3;375:23;376:21 size (1) 340:18 skills (1) 373:1 skins (1) 376:9 skipped (1) 292:20 Smallest (1) 363:19 smart (1) 351:14 smooth (1)	285:14 social (1) 381:15 sole (1) 385:11 somebody (18) 279:1;281:19;283:11, 14;285:17;287:3,7; 298:12,13;299:24; 300:10;318:3;324:3; 351:15;368:22;369:4; 375:20;380:5 somebody's (1) 327:16 somehow (1) 362:22 someone (9) 279:1;281:10;308:22; 313:20;318:10;325:15, 17;368:23;373:18 sometime (2) 276:9;347:22 sometimes (3) 376:9,16;380:2 somewhere (3) 283:11;332:8;372:1 soon (3) 330:17;334:18,19 sooner (1) 354:17 Sorrell (77) 272:3;275:25;276:7; 280:16,23;281:12; 282:16;283:1;284:5,9; 285:1;286:4,6;287:1; 296:5,13,17;306:14; 307:1,8;308:5;309:10, 15;310:22,23,25;311:23; 312:16;313:7,11,18; 314:8;315:3;329:21; 330:14;332:19;334:22; 336:13;337:5;346:7,13, 20,23;347:2;348:5; 349:11,17;357:5;360:5, 6;361:21;362:3,7; 363:19,23;364:5;365:10, 25;366:14;367:23; 368:19;369:9;370:11; 371:18,23;372:7,24; 374:8,23;375:17,20; 377:24;379:2,5,16,21; 380:24 Sorrell's (7) 305:12;315:8;332:5; 336:25;345:7;366:6; 374:10 sorry (5) 289:16;292:13,15; 309:8;312:8 sort (14) 286:24,24;303:16; 305:22;307:17;313:9; 314:3;363:9;369:6;	373:1,21;375:6,8;378:17 sounds (2) 379:1,2 South (6) 272:3,13;275:18; 322:10;329:16;382:24 Spaht (5) 276:2;302:6;304:12; 315:25;332:1 span (1) 280:1 speak (4) 275:5;301:7;348:11; 367:19 speaking (1) 346:14 specific (3) 297:20;308:23;354:12 specifically (13) 348:5,9,11,15;349:18; 350:5,14,17;351:23; 356:13;364:11,22; 367:20 speculation (1) 281:23 speeding (1) 300:10 spent (2) 373:10;375:2 spoke (3) 333:24;364:6;372:20 staff (7) 283:14;284:17; 311:12,20;338:17; 369:11;372:2 stake (2) 379:14,17 standard (6) 278:21;280:5;303:10; 361:1;384:9,10 standards (1) 383:23 standing (3) 308:7;340:24;352:3 stands (1) 312:12 start (3) 274:19,19;275:10 started (1) 333:23 starters (1) 302:17 State (20) 272:9,10,13;273:18; 292:12,13;301:16; 319:18,25;322:10; 329:8;333:20,25; 346:17;353:8,10;354:2; 361:9;384:7,8 stated (1) 361:21 statement (8) 273:5;307:1;330:13;

332:5,8;335:7;345:8; 371:10 statements (8) 308:2;330:8;332:1; 334:21;343:1;345:6; 346:3;360:13 states (2) 356:10;359:9 stating (3) 275:10;349:20;361:2 stationed (2) 353:8,10 statute (8) 297:10;298:7,10,18; 299:3;302:24;317:5; 318:25 statutory (3) 361:9;383:7,8 stay (1) 294:16 stayed (1) 356:17 Step (1) 317:23 steps (1) 313:21 still (4) 273:23;308:7;341:1; 372:5 stood (1) 304:6 stopped (1) 274:12 store (1) 322:24 stories (1) 376:16 story (2) 285:22;320:6 strays (1) 349:7 Street (3) 320:4;322:25;375:15 streets (1) 317:11 strong (1) 322:1 stronger (1) 385:23 student (25) 280:22;281:6,13; 282:1,15,16,25;287:25; 289:1;296:3,4,5,7,9,10, 12,13,16,19,22;309:10; 310:9;349:21;354:8; 357:21 students (13) 283:5;285:4;289:8; 349:20;351:8,12;352:4; 358:6,9,13,15;369:5,19 student's (1) 282:2 stuff (1)	319:16 subjects (5) 332:11;333:6;340:20, 23;341:1 submit (2) 276:21;370:21 subsequent (4) 276:5;279:6;284:2; 286:6 substantial (7) 383:4,13;384:9,13,14, 23;387:23 suffice (1) 346:10 sufficient (14) 278:5,14;283:18; 304:2,21;305:1,4;310:1; 342:21;362:24,25; 364:1;367:4;373:14 suggest (1) 315:24 summary (1) 273:5 summation (1) 362:5 summons (1) 372:22 Sunday (2) 310:8;354:10 supervise (1) 295:9 supervised (1) 294:15 supervisor (11) 276:18;284:8;287:6, 18;316:6,15;350:21; 352:20;353:6,7;357:7 supervisors (5) 284:4;310:5;348:23; 352:20;369:11 supervisor's (1) 316:9 support (7) 339:13;361:5,11; 364:2;365:7;371:1; 373:14 supported (10) 335:6,9;338:13; 343:20;366:10,20;374:5, 5;384:22;387:23 supportive (1) 377:15 supposed (6) 290:5;308:8;326:5; 332:16;352:17;354:5 suppress (1) 328:9 sure (14) 276:8;285:21;288:19; 295:4;301:7;309:22; 311:4;317:21;319:15; 321:1,2;352:23;373:19; 380:1	suspects (2) 305:20;306:6 Swanson (14) 276:2;302:5;304:13; 306:11,25;307:9;308:13, 20;315:25;332:2; 364:11;368:11;373:8; 378:4 sweater (1) 325:4 sworn (6) 274:17,23;275:14; 301:20;329:11;346:24 synopsis (1) 315:1 system (5) 276:17;332:15; 334:17;380:8,10 T table (1) 275:7 talk (6) 280:25;281:2;285:14; 309:19;321:19;331:15 talked (7) 296:11;303:12; 321:21;332:9;334:22; 358:19;377:7 talking (4) 284:24;308:16; 321:22;369:20 tape (1) 367:3 taught (5) 307:11;325:19,21; 326:1;380:16 teach (1) 373:1 Teal (1) 272:12 telephone (1) 352:23 telephonically (1) 351:3 telling (3) 323:22,23;382:10 tells (1) 375:12 ten (1) 307:12 tendency (2) 365:10;385:15 Teresa (3) 356:13,15,17 termin (1) 361:19 terminate (4) 315:14;341:12;344:9; 374:11 terminated (6) 288:1,12;293:25;	310:9;361:22;362:9 terminating (1) 293:24 termination (17) 272:2;315:3,15,19,21; 329:21,24;330:1;336:12, 21,24,25;345:1;361:20, 21,25;372:15 terminology (3) 302:20,21;333:4 terms (1) 274:9 test (2) 325:23;386:7 testified (35) 275:14;280:6;286:7; 301:20;312:24;314:8; 329:11;330:14;346:24; 347:2;348:13,14,15; 350:4;354:4;358:23; 359:2;364:11,22;365:9; 366:24;367:17;368:12; 369:17;370:7;371:5; 376:15;377:2,6,18; 379:16;380:13,14,19; 385:13 testify (3) 339:22;365:24;382:8 testifying (1) 379:17 testimony (51) 273:8,12;282:15; 308:19;339:16;344:2; 347:6;348:6,8,22,24; 349:1;350:6;356:3; 357:6,20;358:8,20,22; 359:3;360:24;361:3,16; 362:6,16;363:15,21; 365:12;366:7,10,25; 370:16;371:6,14; 372:16;373:8,24; 377:17;379:10,13;385:4, 10,17,19,20,23,24,25; 386:1,10,11 thankfully (1) 335:24 theatrical (1) 364:4 theory (1) 345:11 thirdly (1) 352:5 though (5) 335:6;338:9;339:23; 340:6,24 thought (13) 277:22,24;332:21; 333:6,9;336:18;342:17, 17;344:24;352:16; 376:5;378:5;380:11 threat (12) 307:17;310:12,15; 351:5;352:6;363:1,8;	366:18;368:21,21; 369:4;372:3 threaten (1) 373:4 threatening (6) 297:23;337:20; 362:21;363:14,17;368:1 threats (4) 338:1;349:21,25; 351:13 three (28) 274:21,22,24;277:5; 279:14;280:4;290:21; 295:11;299:6;302:5; 303:2;308:3;332:1,20, 23;334:24;351:3,10; 352:11;363:5,20; 366:23;367:11,12;368:5, 5;372:20;380:15 throughout (1) 333:19 throwing (14) 277:23;278:11,13,17; 298:22;299:4,4;303:2; 318:4,24;331:4;332:23; 342:16;378:12 thrown (3) 293:16,19;364:23 throws (1) 299:24 ticket (23) 292:3,4,6,10;299:14, 15,18,20,25;300:11; 318:14;328:11;335:10; 338:20;341:18,25;342:8, 22;343:4,10;382:12,16, 18 ticketable (1) 300:11 tickets (6) 291:12;295:11; 326:15;328:1;334:12,16 times (11) 283:6;290:21;307:12; 313:10;330:23;351:3, 10;352:11;355:10; 362:1;380:15 today (6) 290:25;341:17;354:4; 356:3;358:20;366:7 told (7) 285:1;295:17,21; 334:25;351:23;372:5; 377:19 tolerable (1) 367:22 tone (3) 332:21;364:5;373:2 took (5) 305:23;323:20;324:9; 336:18;339:4 top (1) 342:18

Edwin S. Sorrell v. SCDPS

topic (1) 349:7	288:6;355:19,21; 375:13;376:25	275:5;277:1;278:1; 279:1;286:9;288:6; 289:1;298:12;299:22; 301:8;302:10,15; 304:17;305:16;307:15; 311:23;312:22;313:21; 319:8;320:4;328:5; 329:21;331:5,6;333:10; 339:1;340:18,18; 351:20;355:11;359:8; 361:19,25;363:23; 364:24;370:22;372:6; 373:20;381:13	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
torched (1) 320:5	turn (2) 330:23;340:25	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376:17 used (1) 336:8 using (5) 279:2;319:8;325:22; 337:19;368:7 usually (2) 276:18;278:25 utilize (1) 351:22 utilizing (1) 351:4	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
totality (3) 315:5;358:1;361:12	turning (2) 340:19,25	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376:17 used (1) 336:8 using (5) 279:2;319:8;325:22; 337:19;368:7 usually (2) 276:18;278:25 utilize (1) 351:22 utilizing (1) 351:4	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
totally (2) 278:4;364:17	two (25) 294:10;298:21;299:6; 306:22;313:10;318:2; 23;328:5;331:1;332:9, 10,10,10,13;333:6; 334:23;340:20;345:9; 351:12;358:15;360:23; 377:22,23,24;384:20	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376:17 used (1) 336:8 using (5) 279:2;319:8;325:22; 337:19;368:7 usually (2) 276:18;278:25 utilize (1) 351:22 utilizing (1) 351:4	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
tough (1) 315:13	type (10) 279:12;281:18; 286:15;287:9;298:15; 322:4;325:18;345:14, 14;358:25	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376:17 used (1) 336:8 using (5) 279:2;319:8;325:22; 337:19;368:7 usually (2) 276:18;278:25 utilize (1) 351:22 utilizing (1) 351:4	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
towards (1) 386:2	types (1) 345:14	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376:17 used (1) 336:8 using (5) 279:2;319:8;325:22; 337:19;368:7 usually (2) 276:18;278:25 utilize (1) 351:22 utilizing (1) 351:4	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
trained (8) 278:19;303:9,9; 307:15;366:16;375:1; 380:12;382:1	typically (2) 279:11;283:12	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376:17 used (1) 336:8 using (5) 279:2;319:8;325:22; 337:19;368:7 usually (2) 276:18;278:25 utilize (1) 351:22 utilizing (1) 351:4	372:21 veteran (2) 382:2,2 video (25) 290:25;291:3,8; 303:25;304:5,9;306:9; 16,17;308:2,10,12; 323:3,4;340:4,5;345:5; 364:21,23;370:18; 371:13;378:2,3,8,24 videos (2) 291:6;339:20 videotape (5) 279:7,21;303:22; 330:10;331:5 videotaped (1) 279:8 videotapes (2) 279:11;314:15 view (4) 276:10;309:21; 383:12;386:2 viewed (2) 278:25;384:15 violation (9) 283:13,17;297:13; 299:3;318:24;322:7; 336:22;383:6;387:24 violations (3) 281:19;313:9;337:1 violence (6) 349:22,25;350:1; 351:6,13;352:4 voice (3) 323:5;387:11,21 voiced (1) 319:23 vote (1) 388:7 votes (2) 386:17;387:16	375:11;381:24,24 warned (2) 320:12;324:12 warrant (3) 299:12,13;343:11 warranted (1) 333:21 warrants (1) 298:25 Warren (1) 272:14 waste (1) 331:6 watched (1) 320:3 watching (2) 320:2,14 water (15) 277:23;278:11,13,17; 280:9;298:22;299:4; 303:2;318:4;331:4; 332:23;342:16;376:15, 16,19 way (25) 276:17;277:18; 305:20,21;323:12,17; 325:10,13;332:15,19; 333:4;336:25;338:23; 343:11;344:14;354:16; 364:9;366:1;367:23; 368:1;371:6;372:8; 374:20;377:14;379:15 weaker (1) 385:23 weapon (2) 324:20;325:7 weapons (1) 289:12 week (1) 352:25 weekend (2) 297:7;373:10 weeks (1) 323:1 weighing (1) 385:25 well-being (1) 359:10 weren't (9) 293:9;332:25;333:1; 340:6;364:21;368:4; 376:5;377:2;378:1 whatnot (1) 291:12 what's (11) 318:7;324:1,4,15; 331:12;363:11;367:22, 22,22;368:3;375:16 whatsoever (3) 337:3;363:4;371:20 Whenever (1) 328:4 whichever (1)
training (10) 278:23;292:1;297:12, 25;337:23;369:21,22; 375:4,22;382:5	ultimate (1) 335:8 unarmed (1) 369:5 uncomfortable (1) 287:5 under (10) 276:25;292:13;295:8; 317:10,19;336:2,16; 376:9;378:18;384:10 underlying (2) 300:12;318:14 unevenness (1) 384:4 unfamiliar (1) 364:19 University (1) 272:13 unlawful (1) 374:4 Unless (8) 276:19;277:10;282:5; 322:18;324:14,16; 383:3;385:8 unnecessary (2) 367:10;368:18 unprofessional (1) 286:1 unruly (1) 291:15 unsupported (3) 371:2;384:12;385:1 unusual (1) 339:10 unwarranted (3) 368:18;383:17;384:6 up (39)	update (3) 278:24;297:11,24 upheld (2) 297:13;336:7 uphold (1) 336:6 upholding (1) 388:8 upon (9) 292:1;330:1,8,10; 342:22;349:18;383:10, 20;385:9 upper (2) 275:9;311:3 upset (2) 281:1;310:25 urine (1) 376		

348:10	words (10)			
whispering (3)	279:2;303:16,18;			
378:6,9,13	337:20,20;338:1;			
whole (12)	344:13;362:21,21;363:9	Z		
279:24;305:25;306:3,	work (12)	Zach (1)		
4;345:17;352:6;368:12,	295:8;311:5,11;	274:22		
17;369:13;373:10;	332:16;347:18;366:13;	Zackary (2)		
383:14;384:17	372:25;374:20;379:11,	301:18,19		
Who's (6)	11;381:23,24	zero (1)		
275:2;279:1;298:11,	worked (2)	388:8		
12,13;328:15	321:13;377:9	zone (1)		
whose (1)	worker (1)	369:7		
385:10	381:16			
who've (1)	working (5)			
347:4	294:8;321:16;381:18,			
width (2)	20,21			
308:15;363:24	works (1)			
wiggle (1)	276:17			
350:11	world (1)			
win (1)	306:17			
379:18	worst (1)			
windows (1)	333:12			
339:11	write (10)			
wing (2)	292:3,4,5,10;299:15,			
351:25;352:14	20;326:21;335:10;			
Wise (17)	342:22;381:13			
274:22;301:10,15,18,	writes (1)			
18,19;302:3;304:20;	299:25			
311:22;314:25;327:9;	writing (4)			
328:23;361:16;365:9;	274:6;291:11;341:25;			
368:25;370:7;372:25	344:4			
wish (1)	writings (1)			
273:8	345:14			
within (9)	written (7)			
274:7;286:22;313:15;	335:7,8;341:18;343:3;			
319:7;323:1;335:18;	385:4;386:22;388:9			
384:1;386:23;388:10	wrong (5)			
without (2)	336:1;375:7,10;381:5,			
383:18,21	11			
witness (32)	wrote (1)			
272:24;273:1;282:18,	326:25			
20;288:7;289:16;				
300:20,21;301:2;312:8,	X			
18;328:24;329:4;344:3,				
12;345:2,23;346:2,7,16,	Xena (1)			
19;348:12;349:12;	272:10			
354:1;360:2;365:23;				
380:14,16;385:9,14,19,	Y			
21				
witness' (5)	year (1)			
385:17,19,22;386:10,	278:24			
11	years (9)			
witnesses (13)	321:10;333:8;335:3;			
273:17;274:13,21,24;	340:18;375:2,21,25;			
332:1;347:3;360:8;	380:17,18			
364:4;378:1;385:12;	yelling (1)			
386:4,5,8	318:3			
witness's (1)	young (6)			
385:17	332:23;377:5,18,23;			
woman (1)	379:15,24			
326:5	youth (1)			
wondering (1)	381:19			
378:11				

STATE EMPLOYEE GRIEVANCE COMMITTEE

LIST OF NAMES OF WITNESSES

Regulation 19-718.07 (C) (1) of the State Employee Grievance and Appeals Regulations provides that the covered employee and the agency, or their designated representatives, shall exchange witness lists which must be received by the other party no later than five (5) calendar days prior to the hearing. To facilitate this exchange, you may use this form provided by the Office of Human Resources to list the names of your witnesses who will appear on your behalf at the State Employee Grievance Committee hearing.

In addition, Regulation 19-718.07 (E) (7) provides that, at the beginning of the hearing, each party shall provide to the Secretary of the designated committee panel a list of representatives and witnesses. Representatives who will testify must be listed as both a representative and a witness. You may also use this form to submit your list of witnesses to the Secretary of the designated Committee panel.

Witnesses for Appellant, if any: _____

Witnesses for Employing Agency, if any: Zach Wise, Allen Curtis, John
Hancock, Lee Carter, Samantha SubinSON, Matthew Keith
Officer K. A. Rogerson, Corporal M. E. Harris, Terry
Kitchens, Mark A. Reel, Charles W. Spnall, Jr.

STATE EMPLOYEE GRIEVANCE COMMITTEE

LIST OF NAMES OF WITNESSES

Regulation 19-718.07 (C) (1) of the State Employee Grievance and Appeals Regulations provides that the covered employee and the agency, or their designated representatives, shall exchange witness lists which must be received by the other party no later than five (5) calendar days prior to the hearing. To facilitate this exchange, you may use this form provided by the Office of Human Resources to list the names of your witnesses who will appear on your behalf at the State Employee Grievance Committee hearing.

In addition, Regulation 19-718.07 (E) (7) provides that, at the beginning of the hearing, each party shall provide to the Secretary of the designated committee panel a list of representatives and witnesses. Representatives who will testify must be listed as both a representative and a witness. You may also use this form to submit your list of witnesses to the Secretary of the designated Committee panel.

Witnesses for Appellant, if any: E. Shawn Sorrell (covered employee):
John O'Leary, Brenard Malone, Corp. Larry Walker, Chief
Zackary Wise, Inv. Lee Carter, Charles Williams Spat,
Charles W. Spat Sr., Samantha Swanson, Matthew
C. Keith, Sherru Mitchell, Nike Lanier, Teresa
Kitchens, Joe Lample

Witnesses for Employing Agency, if any: _____

STATE EMPLOYEE GRIEVANCE COMMITTEE

LIST OF NAMES OF REPRESENTATIVES

Regulation 19-718.07 (E) (7) of the State Employee Grievance and Appeals Regulations provides that, at the beginning of the hearing, each party shall provide to the Secretary of the designated committee panel a list of representatives and witnesses. Representatives who will testify must be listed as both a representative and a witness. No party may designate more than three (3) representatives, which include legal counsel and the covered employee, to be present during Committee hearings.

Please list below the name(s) of representatives who will appear on your behalf at the State Employee Grievance Committee Hearing. Then present this form to the Secretary of the designated Committee panel on the day of the hearing.

Representative(s) for Appellant, if any: _____

E. Shawn Sorrell - covered employee

M. Malissa Burnette, Esq.

John O'Leary, Esq.

Representative(s) for Employing Agency, if any: _____

STATE EMPLOYEE GRIEVANCE COMMITTEE

LIST OF NAMES OF REPRESENTATIVES

Regulation 19-718.07 (E) (7) of the State Employee Grievance and Appeals Regulations provides that, at the beginning of the hearing, each party shall provide to the Secretary of the designated committee panel a list of representatives and witnesses. Representatives who will testify must be listed as both a representative and a witness. No party may designate more than three (3) representatives, which include legal counsel and the covered employee, to be present during Committee hearings.

Please list below the name(s) of representatives who will appear on your behalf at the State Employee Grievance Committee Hearing. Then present this form to the Secretary of the designated Committee panel on the day of the hearing.

Representative(s) for Appellant, if any: _____

Representative(s) for Employing Agency, if any: Mark A. Beel

Zach Wise

Rachel Erwin

EXHIBIT SHEET

Date of Hearing: June 27, 2011 Chairperson: Herb Cooper
 Appellant: E. Shawn Sorrell Secretary: Gerald Murphy
 Agency: S.C. Department of Public Safety Committee Attorney: Warren Ganjehsani
 Disciplinary Action: Termination

EXHIBITS AND EXHIBIT NUMBERS				DESCRIPTION/IDENTIFYING INFORMATION	
COMMITTEE EXHIBIT 1				Pages	to
AGENCY EXHIBITS		APPELLANT EXHIBITS			
Introduced	For Identification Only	Introduced	For Identification Only		
		Burnette	1	13 pages Sommers 2011 CP 4061562 w/court sheets	
		Burnette	2	Traffic Ticket D360609 1 page	
Erwin	1			Section 16-17-530 1 page	
Erwin	2			Samantha Swanson's Affidavit 3 pgs	
Erwin	3			Mathew Keith Affidavit (3 pages)	
Erwin	4			Activity Report case PR-1610-10-0024 (1 page)	
Erwin	5			Officer Rogerson's affidavit (2 pgs)	
		Burnette	3	Email dated 2/18/2008 (1 page)	
		Burnette	4	Incident Rpt case 1993-027638 (3 pgs)	

00575

Baggott, Terry



From: Grievance [grievance@ohr.sc.gov]
Sent: Monday, September 20, 2010 11:07 AM
To: Miller, Joseph
Subject: FW: State Appeal Form

From: grievance@ohr.sc.gov[SMTP:GRIEVANCE@OHR.SC.GOV]
Sent: Monday, September 20, 2010 11:07:23 AM
To: Grievance
Subject: State Appeal Form
Auto forwarded by a Rule

STATE EMPLOYEE GRIEVANCE PROCEDURE STATE APPEAL FORM

TO APPEAL THE DECISION OF THE AGENCY CONCERNING A GRIEVANCE UNDER THE STATE EMPLOYEE GRIEVANCE PROCEDURE ACT TO THE STATE HUMAN RESOURCES DIRECTOR, THE EMPLOYEE AND/OR REPRESENTATIVE INITIATING THE APPEAL MUST COMPLETE THIS FORM AND RETURN IT TO THE STATE OFFICE OF HUMAN RESOURCES.

EMPLOYEE'S NAME: E. Shawn Sorrell

JOB CLASSIFICATION: Lance Corporal

AGENCY: SC Department of Public Safety

HOME ADDRESS: 236 Tamara Way, Columbia, SC 29229

TELEPHONE: Home: (803) - 699-7708 Cell: (803) - 727-7112

1. Has the employee completed twelve (12) months of satisfactory service with the state? Yes
2. What disciplinary action taken against the employee is being appealed? Termination
3. Has the employee received a final decision from the agency? No
4. What date did the employee receive the final decision? N/A
5. If the employee has not received a final decision from the agency, what date did the employee initiate the grievance within the agency's internal grievance procedure? 7/26/10

APPEAL

Please specify why the employee contends that the agency's decision concerning the grievance is unfair and state relevant facts and issues to support that position (continue on additional pages if necessary):

Please refer to the original Grievance filed with the Department for a summary of the relevant facts and issues. The Department's decision violates substantial rights of the employee because the decision 1) is affected by error of law; and 2) is arbitrary or capricious, or characterized by abuse of discretion, or a clearly unwarranted exercise of discretion. (Additional documents are being submitted via email.)

Please specify the relief that the employee is seeking by this appeal:

00576

Employee seeks reinstatement with back pay and restoration of benefits; elimination of all references to the termination from his file; and reimbursement of all costs and attorney's fees.

Date: Sen 20, 2010

Office of Human Resources
1201 Main Street, Suite 800
Columbia, South Carolina 29201

Based on Form GC101-Revised 10/01/96

CALLISON  TIGHE

M. Malissa Burnette, Esq.
Certified Specialist in Employment & Labor Law
Certified Federal Court Mediator

803-404-6900
mmburnette@callisontighe.com

September 20, 2010

VIA EMAIL TRANSMISSION
grievance@ohr.sc.gov

SC Budget & Control Board
Office of Human Resources
8301 Parklane Road
Columbia, South Carolina 29223

RE: Appeal of E. Shawn Sorrell
Our File No.: 14003.001

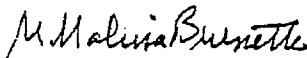
Dear Sir or Madame:

I, along with attorney John O'Leary, represent Mr. Shawn Sorrell in his appeal of the decision to terminate him from his employment with the Department of Public Safety. I have submitted the Grievance Appeal Form on his behalf today, and hereby forward for your additional consideration his original agency Grievance and letter of termination.

I look forward to hearing from you about the date for the next step in this process.

With best regards,

Sincerely,


M. Malissa Burnette

MMB

Enclosures: Agency Grievance / Letter of Termination

cc: Mr. E. Shawn Sorrell (w/encls.)
John O'Leary, Esq. (w/encls.)

Grievance Review Conference Request

(Please type or print all information)

Employee requesting a review conference must submit the completed form to the Office of Human Resources within fourteen (14) calendar days of the effective date of the grievable action.

Employee Name: E. S. Sorrell	Social Security Number: 255-19-8209
Job Classification or Title: Lance Corporal	Division/Office: State House
Mailing Address: 236 Tamara Way Columbia, SC 29229	Telephone Number: 734-2422

Grievance

Statement of Facts Involved: (Be as specific as possible as to names, dates, and locations. Additional pages or supporting documentation may be attached. Please include a copy of written disciplinary action.)

I was notified on July 12, 2010, by Director Mark A. Keel that I was being terminated from my position effective that date. The reason given for my termination was that I was alleged to have violated Disciplinary Action Policy #400.08 for "Improper Conduct." (See attached letter.)

I have been accused of having no probable cause to arrest three individuals for disorderly conduct on March 28, 2010. These individuals were seen by me on videocamera while I was on duty at the Lottery Commission. They were creating a loud disturbance in the middle of the night in an area that includes a hotel and private residences. I saw these adults throwing projectiles and I heard one of them scream. Upon investigation, they were found to be throwing water balloons. Two of the individuals were cooperative but one was not.

(Continued on next page)

Relief Requested:

I request that I immediately be reinstated with back pay and restoration of benefits, that all references to this disciplinary action be removed from my file, and that the Department reimburse all costs and attorney's fees.

Employee Signature:



Date:

26 July 2010

The initials and date below signify the date received at OHR and by whom

Typed or printed name of OHR official:	Initials of OHR official:	Date received (print or stamp):

E. S. Sorrell
Lance Corporal
255-19-8209

(Continuance of Grievance Review Conference Request)

I respectfully disagree with Director Keel's assessment that my arrest was without probable cause. I believe this matter was reviewed only because the father of one of the individuals is a current or former FBI agent, and it is my understanding that he complained about his son's arrest. Had there been any impropriety on my part, I think my chain of command would have questioned the validity of the arrest sometime shortly after March 28. My arrest of the three individuals meets the standards and definition of "probable cause" based upon my law enforcement training.

Furthermore, I deny the allegations that I conducted myself in any manner other than as a professional law enforcement officer. I was not overly aggressive, threatening, intimidating or bullying, nor did I abuse my authority. I did not kick the female's legs apart. I feel that I have been unfairly singled out for termination.



South Carolina Department of Public Safety

July 9, 2010

HAND-DELIVERED

Officer E. S. Sorrell
236 Tamara Way
Columbia, S.C. 29229

Dear Officer Sorrell:

This letter is to officially inform you that you are hereby terminated effective close of business, effective July 12, 2010. This action is imposed upon you for violation of South Carolina Department of Public Safety policies and procedures in accordance with Policy #400.08, *Disciplinary Action Policy*, for **Improper Conduct**.

An investigation conducted by the Office of Professional Responsibility (OPR) revealed that you acted improperly. Specifically, on March 28, 2010, at approximately 3:00 a.m., you arrested three individuals for disorderly conduct where there was no probable cause. The arrest was based on the fact that two of the individuals had tossed water balloons at a friend for a practical joke. The incident occurred near the Lottery Commission entrance which is located across the street from an apartment building where one of the individuals resides. All three individuals complained that you were overly aggressive and threatening in manner, and that you kicked the female's legs apart after accusing her of not being in a proper search position. You arrested and took all three individuals to jail based on an unlawful charge of disorderly conduct. However, you also indicated to another officer that they were arrested because the female was disobedient and did not spread her feet apart when you initiated the search.

You intimidated, threatened, and bullied these individuals for engaging in what was basically a harmless practical joke among friends. Your actions are viewed as an abuse of authority which constitutes improper conduct. You have had a history of incidents in which you conducted yourself in a rude and aggressive manner. Yet, despite having completed mandated counseling through the department's Employee Assistance Program, you have once again abused your position as a law enforcement officer, thus authorizing termination in accordance with the department's *Disciplinary Action Policy*.

Please contact Ms. Patty Duggan in the Department's Human Resources Office at (803) 896-8018 regarding your separation and State benefits. Any questions regarding this matter should be directed to Chief Wise.

Sorrell
July 9, 2010
p. 2

If you wish to appeal this action, you should do so in accordance with the enclosed grievance procedure policy.

Sincerely,



Mark A. Keel
Director

c: Chief Zackary Wise
Captain John Hancock
Captain Allen Curtis

My signature acknowledges that I received this document and the contents were discussed with me by my supervisor.

Employee Signature



Date

7-12-10

THIS DOCUMENT WILL BECOME PART OF YOUR PERSONNEL RECORD

00582

MARK SANFORD, CHAIRMAN
GOVERNOR

CONVERSE A. CHELLIS, III, CPA
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

Office of Human Resources

Samuel L. Wilkins
DIRECTOR

803-896-5300
FAX 803-896-5050

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE
COMMITTEE

DANIEL T. COOPER
CHAIRMAN, HOUSE WAYS AND MEANS
COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

September 20, 2010

Ms. Terry Kitchens, Administrator
Office of Human Resources
Department of Public Safety
Post Office Box 1993
Blythewood, South Carolina 29016

E. Shawn Sorrell
Appellant's Name

Law Enforcement Officer I
Job Classification

Dear Ms. Kitchens:

The appellant has appealed to the State Human Resources Director concerning a grievance arising from employment with your agency. Grounds for the appeal are contained in the enclosed copy of the State Employee Grievance Procedure State Appeal Form.

Please send us the documents concerning this appeal, including a brief summary of your position, a brief list of the appellant's employment record, copies of performance appraisals if applicable, and a copy of your findings and determination at each step of your grievance procedure. Any supporting documents that might serve to clarify the specific issues in the appeal should be included. You should also specifically state which policy or policies were used as a basis for the action, and include a copy of those policies. These might be either internal policies and/or State policies. If a policy was not violated, state on what criteria the action was based.

The requested information and materials must be returned to the Office of Human Resources/Grievance and Mediation Services within fifteen (15) calendar days. Also, any future correspondence sent to the Office of Human Resources, excluding the appellant's record, should be copied to the other party involved.

Sincerely,

Joseph C. Miller
Alternative Dispute Resolution Program

Enclosure
cc: Mr. Mark Keel (without enclosure)

MARK SANFORD, CHAIRMAN
GOVERNOR

CONVERSE A. CIELLIS, III, CPA
STATE TREASURER

RICHARD ECKSTROM, CPA
COMPTROLLER GENERAL



SC BUDGET AND CONTROL BOARD

Office of Human Resources
Samuel L. Wilkins
DIRECTOR

803-896-5300
FAX 803-896-5050

HUGH K. LEATHERMAN, SR.
CHAIRMAN, SENATE FINANCE
COMMITTEE

DANIEL T. COOPER
CHAIRMAN, HOUSE WAYS AND MEANS
COMMITTEE

FRANK W. FUSCO
EXECUTIVE DIRECTOR

September 20, 2010

Ms. M. Malissa Burnette
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390

Re: E. Shawn Sorrell v. South Carolina Department of Public Safety (DPS)

Dear Ms. Burnette:

The Office of Human Resources has received Mr. Sorrell's Employee Grievance Procedure State Appeal Form and has requested the employing agency to send the documents relating to the appeal. Once these documents have been received and reviewed, you will be contacted. Also, all future correspondence sent to the Office of Human Resources should be copied to the employing agency.

Every effort is being made to process Mr. Sorrell's appeal as quickly as possible.

Sincerely,

Joseph C. Miller
Alternative Dispute Resolution Program

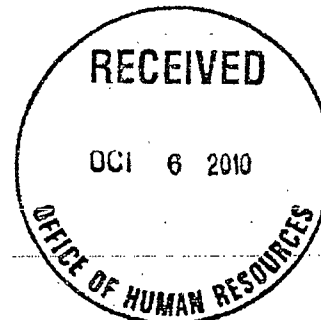
00584



South Carolina Department of Public Safety
Office of Human Resources

September 30, 2010

CERTIFIED MAIL



Joseph C. Miller
Alternative Dispute Resolution Program
State Budget & Control Board
Office of Human Resources
8301 Parklane Road, Suite A220
Columbia, SC 29223

Re: E. Shawn Sorrell v. S.C. Department of Public Safety

Dear Mr. Miller:

This letter is in response to your request for information pertaining to the appeal of former officer Shawn Sorrell on the issue of his termination. I have enclosed all relevant documents, including the termination notice, grievance proceedings, and investigative file.

Shawn Sorrell was hired by the Department of Public Safety (DPS) as a Bureau of Protective Services Officer on June 2, 2000. Officer Sorrell's disciplinary history included a counseling session in November 2003 for improper conduct, Level II reprimand in July 2004 for improper conduct and insubordination, and a Level II reprimand in August 2004 for willful violation of rules, regulations or policy. His most recent performance review for July 17, 2010, was rated as "meets performance requirements."

On July 12, 2010, Officer Sorrell was terminated for improper conduct based on the findings of an internal investigation conducted by the department's Office of Professional Responsibility (OPR). On April 19, 2010, the OPR received a complaint alleging misconduct by Officer Sorrell thus warranting an administrative investigation. The investigation disclosed that on March 28, 2010, at approximately 3:00 a.m., Officer Sorrell arrested three individuals for disorderly conduct where there was no probable cause to arrest. The arrest was based on the fact that two individuals had tossed water balloons at a friend for a practical joke. The incident occurred near the Lottery Commission which is located across the street from an apartment building where one of the individuals resides. Officer Sorrell was assigned to the Lottery Commission post when he observed the incident on a video camera. Officer Sorrell approached the individuals in an overly aggressive and hostile manner. Even after determining that the incident involved water balloons, he searched the individuals and was unnecessarily forceful with the female. He then arrested and took all three individuals to jail based on an unlawful charge of disorderly conduct. Later, Officer Sorrell indicated to another officer that all three were arrested because the female was disobedient when she did not assume the proper search position.

10311 Wilson Boulevard, Blythewood, South Carolina 29016
Post Office Box 1993, Blythewood, South Carolina 29016

00585

Officer Sorrell bullied these individuals for engaging in what was considered a harmless practical joke among friends and then arrested and took all three to jail. Officer Sorrell abused his position of authority which constitutes improper conduct. This incident, by itself, justifies termination. Yet, it should be noted that Officer Sorrell has previously displayed rude and aggressive behavior which resulted in a referral to the department's Employee Assistance Program. The department attempted to take correction action with Officer Sorrell, but it was to no avail. Thus, it was determined to be in the best interest of the department to terminate his employment. The department maintains that it acted appropriately and in accordance with policy.

On July 26, 2010, Officer Sorrell filed an internal grievance which is a two-step process. Director Keel issued the Final Agency Decision upholding the termination via certified mail on September 21, 2010. Officer Sorrell received notification of the Final Agency Decision on September 24, 2010. All supporting documentation is enclosed. Please contact me if you require any additional information.

Sincerely,



Teresa C. Kitchens
Human Resources Administrator

cc: Mark A. Keel, Director
Robert E. Bogan, General Counsel

Termination Notice



South Carolina Department of Public Safety

7/12/10
file 132

July 9, 2010

HAND-DELIVERED

Officer E. S. Sorrell
236 Tamara Way
Columbia, S.C. 29229

Dear Officer Sorrell:

This letter is to officially inform you that you are hereby terminated effective close of business, effective July 12, 2010. This action is imposed upon you for violation of South Carolina Department of Public Safety policies and procedures in accordance with Policy #400.08, *Disciplinary Action Policy*, for **Improper Conduct**.

An investigation conducted by the Office of Professional Responsibility (OPR) revealed that you acted improperly. Specifically, on March 28, 2010, at approximately 3:00 a.m., you arrested three individuals for disorderly conduct where there was no probable cause. The arrest was based on the fact that two of the individuals had tossed water balloons at a friend for a practical joke. The incident occurred near the Lottery Commission entrance which is located across the street from an apartment building where one of the individuals resides. All three individuals complained that you were overly aggressive and threatening in manner, and that you kicked the female's legs apart after accusing her of not being in a proper search position. You arrested and took all three individuals to jail based on an unlawful charge of disorderly conduct. However, you also indicated to another officer that they were arrested because the female was disobedient and did not spread her feet apart when you initiated the search.

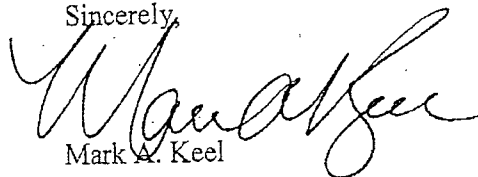
You intimidated, threatened, and bullied these individuals for engaging in what was basically a harmless practical joke among friends. Your actions are viewed as an abuse of authority which constitutes improper conduct. You have had a history of incidents in which you conducted yourself in a rude and aggressive manner. Yet, despite having completed mandated counseling through the department's Employee Assistance Program, you have once again abused your position as a law enforcement officer, thus authorizing termination in accordance with the department's *Disciplinary Action Policy*.

Please contact Ms. Patty Duggan in the Department's Human Resources Office at (803) 896-8018 regarding your separation and State benefits. Any questions regarding this matter should be directed to Chief Wise.

Sorrell
July 9, 2010
p. 2

If you wish to appeal this action, you should do so in accordance with the enclosed grievance procedure policy.

Sincerely,

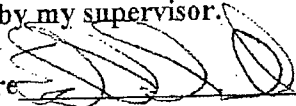


Mark A. Keel
Director

c: Chief Zackary Wise
Captain John Hancock
Captain Allen Curtis

My signature acknowledges that I received this document and the contents were discussed with me by my supervisor.

Employee Signature



Date

7-12-10

THIS DOCUMENT WILL BECOME PART OF YOUR PERSONNEL RECORD

00589

OPR Investigative File
(includes DVD)

COPY OF ONE (1) DVD

E. SHAWN SORRELL V.
SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY



(DVD is in official file, available for review)

00591

CONFIDENTIAL

**INVESTIGATIVE
REPORT**

OPR FILE #PR-1610-10-0024-02



**OFFICE
OF
PROFESSIONAL
RESPONSIBILITY**

CONFIDENTIAL



**OFFICE
OF
PROFESSIONAL RESPONSIBILITY**

OPR FILE #PR-1610-10-0024

Investigator C. Lee Carter III

CASE NUMBER: PR-1610-10-0024

EVIDENCE LIST

ITEM

LOCATION

Affidavit/Spaht
Affidavit/Keith
Affidavit/Swanson

OPR File #PR-1610-10-0024

Affidavit/Rogerson
Affidavit/Harris
Affidavit/Malone

Affidavit/Sorrell
Warning to Employee Required to Provide Information
Warning to Employee Regarding Confidentiality

DVD/Security Video
DVD/In-Car Video

OPR Evidence Room

TABLE OF CONTENTS
OPR File #PR-1610-10-0024

Exhibit 1...	Initial Complaint & Booking Information
Exhibit 2...	Activity Report Regarding Spaht, Keith & Swanson
Exhibit 3...	Affidavit/Spaht
Exhibit 4...	Affidavit/Keith
Exhibit 5...	Affidavit/Swanson & Activity Report Regarding Photographs
Exhibit 6...	Activity Reports Regarding Security Camera Videos
Exhibit 7...	Activity Report Regarding Radio Transmissions
Exhibit 8...	Activity Report Regarding Officer Rogerson
Exhibit 9...	Activity Report Regarding Corporal Harris
Exhibit 10...	Activity Report Regarding In-Car Video Review
Exhibit 11...	Affidavit/Malone & Activity Report Regarding Prior Employment
Exhibit 12...	Activity Report Regarding Richland County Jail
Exhibit 13...	Activity Report Regarding Heidi Boutell
Exhibit 14...	Affidavit/Sorrell & Activity Report Regarding OPR Interview
Exhibit 15...	Documentation of Previous Complaints

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

Report Of:	Investigator C. Lee Carter III	
Date of Report:	May 17, 2010	
Case Number:	PR-1610-10-0024	Status: Active

Subject:	Off. E. S. Sorrell	W/M 7-4-60
Category:	Internal Investigation	
Location:	Bureau of Protective Services	
Date:	March 28, 2010	

SYNOPSIS OF INVESTIGATION:

This report is the result of an Office of Professional Responsibility (OPR) investigation into the April 29, 2010, complaint Charles Spaht, Matthew Keith and Samantha Swanson filed on Off. E. S. Sorrell of the Bureau of Protective Services (BPS). The complaint was filed through Attorney Robert Masella's office and was the result of an encounter at the Lottery Commission building on Main Street in Columbia. This investigation disclosed that March 28, 2010, at approximately 3:00 a.m., Keith and Swanson intended to play a practical joke on Spaht by tossing water balloons at him when he arrived in Columbia from Atlanta, GA. This was to occur when Spaht arrived at Keith's apartment that is located across the street from the Lottery Commission building. Officer Sorrell was working his post at the Lottery Commission and witnessed the three (3) complainants throwing the water balloons. Officer Sorrell responded and subsequently arrested all three (3) for Disorderly Conduct. In their complaint, Spaht, Keith and Swanson said they were not doing anything worthy of being arrested and objected to the manner Officer Sorrell treated them. Spaht and Keith particularly objected to the manner Officer Sorrell allegedly treated Swanson. All three (3) complainants said Officer Sorrell kicked Swanson's feet in an effort to spread them further apart. The complainants also alleged that Officer Sorrell told them they were all being arrested for Swanson's failure to comply with his verbal commands. (Exhibits 1-5)

SPAHT'S E-MAIL

In an e-mail provided to Masella, Spaht explained that upon parking on Main Street, he learned of Keith and Swanson's plan to throw water balloons at him. Rather than toss them at Spaht, they decided to throw them on the sidewalk in front of the Lottery Commission building. As supported by Swanson, Spaht said they were not littering because Swanson picked up the balloon pieces.

When Officer Sorrell arrived he told them to stop what they were doing and line up with their hands against a nearby wall. Officer Sorrell went to Swanson first and reminded her

to spread her legs. Swanson was already standing with her legs spread apart when Officer Sorrell "hooked" his foot around Swanson's ankle and forcibly kicked it backwards. Spaht believes Officer Sorrell did this because he did not think Swanson's feet were far enough apart. Spaht also believes Officer Sorrell was offended when Swanson told him he was hurting her. According to Spaht, Officer Sorrell responded to Swanson's comment by threatening to escalate the [Disorderly Conduct] charge to a felony. Officer Sorrell then kicked Swanson's left ankle backwards and Spaht thought this was rough and unnecessary because she did not resist.

According to Spaht, when Officer Sorrell told Swanson to sit down she asked if she could stand because she recently injured her tailbone and sitting on a hard surface is painful. Spaht did not recall what Officer Sorrell said but recalled him implying he could not believe Swanson "was still getting smart" with him. In Spaht's opinion, Officer Sorrell enjoyed telling them they were all "officially" under arrest. After they were taken into the lobby of the Lottery Commission building, Spaht asked Officer Sorrell if he would give them a warning instead of arresting them. Officer Sorrell replied this was not an option because Swanson "got smart" with him." (Exhibit 1)

SPAHT, KEITH & SWANSON INTERVIEW

On April 27, 2010, Investigator C. Lee Carter III met with Keith and Swanson at Masella's office. Spaht participated in the meeting via speakerphone. Spaht, Keith and Swanson agreed to provide sworn affidavits through their attorney on a later date. Investigator Carter obtained these affidavits from Masella on May 7, 2010.

Keith and Swanson said they filled several balloons with water and intended to play a joke on Spaht when he arrived from Atlanta. They hid the balloons in a bag and placed it near the Lottery Commission building's front entrance. Keith and Swanson ended up tossing the balloons on the sidewalk near Spaht and not at a motor vehicle or building. All three (3) denied consuming alcoholic beverages or being boisterous.

When Officer Sorrell arrived he told them to stand against the wall and spread their legs. As supported by Spaht and Keith, Swanson thought she was cooperating and was surprised when Officer Sorrell called her a "smart butt" and said she needed to comply. Officer Sorrell then kicked Swanson in the left and right foot and/or ankle area while moving her feet further apart. Officer Sorrell did not repeat his instructions or fully explain to Swanson what he wanted her to do. Swanson said he just came up from behind and kicked her feet apart. According to Swanson, Officer Sorrell's kicking her feet caused black and blue marks and the force was to the point it would have caused her to fall if she was not balancing her weight with her hands on the wall. Masella interjected that they had photographs of these injuries. However, on May 11, 2010, Investigator Carter was advised that these photographs had been deleted from Swanson's cell phone. Swanson said Officer Sorrell told her not to backtalk or he would move the Disorderly Conduct charge up to a felony. Swanson described Officer Sorrell as a "large man" and she told him he was hurting her. Officer Sorrell responded by telling Swanson to shut her mouth and called her disobedient. According to Spaht, common sense should have made it known they were not doing anything wrong and should be released. Keith did not think

DELETED

Carter, Lee C. III

From: Thomas, Benjamin
Sent: Monday, April 19, 2010 6:07 PM
To: Carter, Lee C. III
Subject: FW: Internal Affairs Case Re- Edwin S. Sorrell (BPS)

Benjamin F. Thomas III
Chief Investigator
Office of Professional Responsibility
SCDPS
Office: 803-896-8209
Fax: 803-896-4668
BenjaminThomas@scdps.net
Susanne G. Smith Admin. Assistant
Office: 803-896-8249
SusanneSmith@scdps.net

From: Charles Spaht [<mailto:cwspaht@gmail.com>]
Sent: Monday, April 19, 2010 4:01 PM
To: Thomas, Benjamin
Subject: Internal Affairs Case Re- Edwin S. Sorrell (BPS)

Dear Mr. Thomas,

As you have seen from the emails I have sent to LT. Sam Bekrheimer of the Richland County Sheriff's Office, all of which have been forwarded to Mr. Mark Keel, Director of the South Carolina Department of Public Safety, we all have a serious problem which needs to be addressed at the earliest possible time. If Officer Sorrell is having difficulties performing the duties he is assigned to, then the Department will need to intervene before he makes another egregious set of errors such as those leading to this investigation.

Thank you for notifying me of your intent to investigate this matter immediately. It will be for the good of the citizens that this case is brought to a logical conclusion as soon as possible.

Charles W. Spaht, Sr.
FBI (Retired, 2006)
cwspaht@gmail.com

4/21/2010

00599

Carter, Lee C. III

From: Thomas, Benjamin
Sent: Monday, April 19, 2010 5:51 PM
To: 'rmasella@masellalaw.com'
Cc: Carter, Lee C. III
Subject: RE: Charles William Spaht Jr. et al

Will do I am copying this message to Inv. Carter

Benjamin F. Thomas III
Chief Investigator
Office of Professional Responsibility
SCDPS
Office: 803-896-8209
Fax: 803-896-4668
BenjaminThomas@scdps.net
Susanne G. Smith Admin. Assistant
Office: 803-896-8249
SusanneSmith@scdps.net

From: Robert M.P. Masella [<mailto:rmasella@masellalaw.com>]
Sent: Monday, April 19, 2010 2:50 PM
To: Thomas, Benjamin; charlie.spaht@gmail.com
Cc: sberkheimer@rcsd.net; Wise, Zackary (Chief - BPS)
Subject: Re: Charles William Spaht Jr. et al

please coordinate statements through my office. Many thanks. Bob Masella

Robert M.P. Masella, Esq.
917 Calhoun Street
Columbia, South Carolina 29201
(803) 748-9990
(803) 748-9948 facsimile
RMasella@MasellaLaw.com (Email)
www.MasellaLaw.com (url)

From: "Thomas, Benjamin" <BenjaminThomas@SCDPS.net>
Date: Mon, 19 Apr 2010 13:56:01 -0400
To: <charlie.spaht@gmail.com>
Cc: <sberkheimer@rcsd.net>; Wise, Zackary \ (Chief - BPS) <zwise@schp.org>;
<rmasella@masellalaw.com>
Subject: Charles William Spaht Jr. et al

Mr. Spaht. The information you sent to Mr. Sam Berkheimer at the Richland County Sheriff's Office concerning your son and his arrest has been forwarded through Director Mark Keel's Office to my desk for action.

The arresting officer in this case works for the Bureau of Protective Services which is under the umbrella of the South Carolina Department of Public Safety. My office conducts all Internal Affairs investigations for DPS. Our normal protocol is for us to send you a formal complaint form but in this case I am waving this requirement and using your email to begin the investigation. You will receive a formal letter through the U.S. Mail informing you of

4/21/2010

00600

the investigation. I have instructed the Chief of BPS to have the cases against all three persons to be postponed until our internal investigation is completed.

This case will be assigned to Investigator Lee Carter from my office. I am sure at some point during the investigation your son and the other two individuals will be contacted for interviews and or statements.

Benjamin F. Thomas III
Chief Investigator
Office of Professional Responsibility
SCDPS
Office: 803-896-8209
Fax: 803-896-4668
BenjaminThomas@scdps.net
Susanne G. Smith Admin. Assistant
Office: 803-896-8249
SusanneSmith@scdps.net

4/21/2010

00601

AGENCY I.D.
SC040BP00

INCIDENT REPORT

CASE NUMBER
1993-054120

NOIC
X X

EVENT	INCIDENT TYPE		COMPLETED	FORCED ENTRY	PREMISE TYPE		UNITS ENTERED	TYPE VICTIM		
	Disorderly Conduct (90C)		☒ YES ☐ NO	☐ YES ☐ NO	Government/Public Building			☐ Individual ☐ Business ☐ Financial Inst. ☐ Government ☐ Religious ☐ Other ☐ Unknown ☐ Police Off.		
			☐ YES ☐ NO	☐ YES ☐ NO						
EVENT	INCIDENT LOCATION (SUBDIVISION, APARTMENT AND NUMBER, STREET NAME AND NUMBER)					ZIP CODE		INCIDENT TYPE		
	1333 MAIN STREET COLUMBIA SC					29201				
	INCIDENT DATE		24 HR. CLOCK	TO DATE	24 HR. CLOCK	DISPATCH DATE/TIME 24 HR. CLOCK		LOCATION NO.		
3/28/2010		02:35	3/28/2010	05:00	3/28/2010 2:35:00 AM		2:35:00 AM			
COMPLAINANT'S NAME (LAST, FIRST, MIDDLE)			RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH.	
ADDRESS			CITY		STATE	ZIP CODE	LOCATION NO.			
VICTIM NO. 1	MOTIVATION NAME (LAST, FIRST, MIDDLE)		RELATIONSHIP TO SUBJECT		RESIDENT	RACE	SEX	AGE	ETH.	
	Society/Public									
VICTIM NO. 1	HEIGHT	WEIGHT	HAIR	EYES	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
	ADDRESS		CITY		STATE	ZIP CODE	LOCATION NO.			
SUBJECT NO. 1	MISUSE INJURY (MOT.)		EXPLAIN:		COMPLAINT OF NON-VISIBLE INJURIES					
	☐ YES ☐ NO				☐ YES ☐ NO					
	MOTIVATION USING ALCOHOL		DRUGS		TYPE					
☐ YES ☐ NO		☐ YES ☐ NO								
SUBJECT NO. 1	TWO MAN VEH.		ONE MAN VEH.		DETECTIVE/PLASMA		OTHER		ALONBY	
	☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO		☐ YES ☐ NO	
SUBJECT NO. 1	NAME (LAST, FIRST, MIDDLE)		RACE	SEX	AGE	ETH.	DATE OF BIRTH	HEIGHT	WEIGHT	HAIR
	SPANT, CHARLES WILLIAM JR		W	M	29	N	5/21/1980	590	180	BRO
SUBJECT NO. 1	FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.		ADDRESS		CITY	STATE	ZIP CODE	LOCATION NO.		
			699 PONCE DE LEON		ATLANTA	GA	30308			
SUBJECT NO. 1	SUSPECT NOT USING ALCOHOL		ARRESTED NEAR OFFENSE SCENE		DATE/TIME OF OFFENSE		DATE/TIME OF ARREST			
	☐ YES ☐ NO		☐ YES ☐ NO							
NARRATIVE	AT THE ABOVE TIME, DATE AND LOCATION, R/O OBSERVED SEVERAL OBJECTS BEING THROWN AT AND									
	AROUND THE FRONT OF THE LOTTERY STUDIO GLASS WINDOWS. THESE OBJECTS APPEARED TO EXPLODE									
	SENDING A LIQUID PROJECTILE AROUND THE AREA. UPON RESPONDING TO THE AREA R/O OBSERVED									
NARRATIVE	THREE INDIVIDUALS ACTING IN A LOUD AND BOISTROUS MANNER. ONE INDIVIDUAL, SPANT, HAD A									
	BALLOON FILLED WITH AN UNKNOWN SUBSTANCE IN HIS RIGHT HAND. AFTER SPANT WAS ORDERED TO									
	DROP THE OBJECT IT WAS DETERMINED TO BE FILLED WITH WATER. DURING A SHORT INVESTIGATIVE									
NARRATIVE	DETENTION IT WAS FOUND THAT ALL INDIVIDUALS HAD PARTICIPATED IN THE ACTIONS OBSERVED ON									
	CAMERA. BOTH SPANT AND KEITH WERE COOPERATIVE WHILE SWANSON WAS UNCOOPERATIVE AND									
	REFUSED SEVERAL TIMES TO COMPLY WITH R/O'S DIRECTIVES. ALL WERE ARRESTED, SEARCHED AND									
NARRATIVE	PLACED IN HANDCUFFS. SUSPECTS WERE THEN TRANSPORTED TO AGDC WHERE THEY WERE BOOKED FOR									
PROPERTY EST.	TYPE (GROUP)		TOTAL VALUE		JURISDICTION OF THEFT		JURISDICTION OF RECOVERY			
	STOLEN									
	DAMAGED									
PROPERTY EST.	BURNED									
	RECOVERED									
	SEIZED									
ADMINISTRATIVE	SUBJECT IDENTIFIED		SUBJECT LOCATED		DATE		UNIT NUMBER			
	☒ YES ☐ NO		☐ YES ☐ NO		3/28/2010		BANGCOCK, JOHN D			
ADMINISTRATIVE	REASON FOR EX-CRIMINAL CLEARANCE		DATE		UNIT NUMBER		APPROVING OFFICER			
	1. OFFENDER DEATH		2. NO PROSECUTION		3. EXTRADITION DENIED		4. VICTIM DECLINES COOPERATION			
ADMINISTRATIVE	REPORTING OFFICER(S)		DATE		UNIT NUMBER		APPROVING OFFICER			
	SPARRELL, EDWIN B		3/28/2010		BANGCOCK, JOHN D					
ADMINISTRATIVE	FOLLOW-UP INVESTIGATION		DATE		UNIT NUMBER		APPROVING OFFICER			
	☐ YES ☐ NO									

00602

AGENCY I.D.
 SC040BP00

SUPPLEMENTAL INCIDENT REPORT

 CASE NUMBER
 1993-054120

 NCIC
 INQ. ☒ EXT. ☒

PAGE 2 OF 2 PAGES

☐ ORIGINAL REPORT ☐ MODIFIES ORIGINAL		☐ SUPPLEMENTAL REPORT ☐ CASE STATUS CHANGE		☐ ADDITIONAL VICTIMS ☐ ADDITIONAL OFFENDERS		☐ ADDITIONAL STOLEN PROPERTY ☐ ADDITIONAL RECOVERED PROPERTY	
VICT/SUBJ OVERFLOW ☐ COMPLAINT ☐ VICTIM #1 ☐ SUBJECT #2 ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS		NAME (LAST, FIRST, MIDDLE) KEITH, MATTHEW C VICTIM RELATIONSHIP TO SUBJECT J (S) O U RESIDENT RACE W SEX M AGE 20 D.O.B. ETH. N					
HEIGHT 6'40 WEIGHT 189 HAIR BRN EYES GRN		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
ADDRESS 1338 MAIN STREET CITY COLUMBIA STATE/ZIP CODE SC 29201 LOCATION NO. DAY PHONE EVENING PHONE		VICTIM NO. 1 VISIBLE INJURY ☐ YES ☐ NO COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO VICTIM USING ALCOHOL, DRUGS, OR BOTH ☐ YES ☐ NO ☐ UNK. TYPE		TWO-MAN VEH. ☐ YES ☐ NO ONE-MAN VEH. ☐ YES ☐ NO DETECTIVE/SPRINT ☐ YES ☐ NO ALONE ☐ YES ☐ NO ASSISTED			
VICT/SUBJ OVERFLOW ☐ COMPLAINT ☐ VICTIM #1 ☐ SUBJECT #2 ☐ RUNAWAY ☐ WANTED ☐ WARRANT ☐ ARREST ☐ JAIL ☐ SUMMONS		NAME (LAST, FIRST, MIDDLE) SWANSON, SAMANTHA A VICTIM RELATIONSHIP TO SUBJECT J (S) O U RESIDENT RACE W SEX F AGE 22 D.O.B. ETH. N					
HEIGHT 5'10 WEIGHT 115 HAIR BRN EYES GRN		FACIAL HAIR, SCARS, TATTOOS, GLASSES, CLOTHING, PHYSICAL PECULIARITIES, ETC.					
ADDRESS 127 SPRINGHAVEN DRIVE CITY COLUMBIA STATE/ZIP CODE SC 29210 LOCATION NO. DAY PHONE EVENING PHONE		VICTIM NO. 1 VISIBLE INJURY ☐ YES ☐ NO COMPLAINT OF NON-VISIBLE INJURIES ☐ YES ☐ NO VICTIM USING ALCOHOL, DRUGS, OR BOTH ☐ YES ☐ NO ☐ UNK. TYPE		TWO-MAN VEH. ☐ YES ☐ NO ONE-MAN VEH. ☐ YES ☐ NO DETECTIVE/SPRINT ☐ YES ☐ NO ALONE ☐ YES ☐ NO ASSISTED			
DISORDERLY CONDUCT. THE FOLLOWING CITATION NUMBERS WERE ISSUED, D360509-D360508-D360607							
NARRATIVE							
JURISDICTION OF THEFT JURISDICTION OF RECOVERY							
STATUS ☐ STOLEN ☐ RECOVERED ☐ FOUND ☐ TOWED ☐ SUSPECT ☐ VICTIM		TYPE ☐ VEHICLE ☐ GUN ☐ BOAT ☐ LICENSE PLATE ☐ SECURITIES/BONDS/STOCKS ☐ ARTICLE		VIN/AND/OR LICENSE NO. SERIAL AND/OR OWNER APPLIED NO. YEAR OF REGISTRATION YEAR OF EXPIRATION MODEL STYLE V/C NO. DENOMINATION MISCELLANEOUS		BOAT HULL NO. AND/OR REG. NO. STATE MAKE YEAR COLOR BRAND/NAME ISSUER SECURITIES DATE CAUBER	
TYPE (GROUP) STOLEN DAMAGED BURNED RECOVERED SEIZED FORGED		TOTAL VALUE					
SUBJECT IDENTIFIED ☐ YES ☐ NO		SUBJECT LOCATED ☐ YES ☐ NO		ACTIVE ☐ ADM. CLOSED ☐ UNFOUNDED		ARRESTED UNDER 18 ☐ YES ☐ NO EX-CLEAR 18 AND OVER ☐ YES ☐ NO	
REASON FOR EXCEPTIONAL CLEARANCE 1. OFFENDER DEATH 2. NO PROSECUTION 3. EXTRADITION DENIED 4. VICTIM DECLINES COOPERATION 5. JUVENILE NO CUSTODY							
REPORTING OFFICER(S) SORRELL, EDWIN S		DATE 3/28/2010		UNIT NUMBER		APPROVING OFFICER HANCOCK, JOHN D.	
FOLLOW-UP INVESTIGATION ☐ YES ☐ NO		OFFICER					

00603

Agency I.D. SC040BP00	Date/Time Of Arrest 3/28/2010-2:35:00 AM

ARREST REPORT

Case Number 1993-054120

DEFENDANT NAME (LAST, FIRST, MIDDLE) SPAHT, CHARLES, WILLIAM						RACE W	SEX M	DOB 5/21/1980	DOCKET NUMBER
AGE 29	ETH N	HEIGHT 590	WEIGHT 180	HAIR BRN	EYES GRN	SOCIAL SECURITY NUMBER		NCIC	ID NUMBER
ADDRESS (NUMBER AND STREET) 699 PONCE DE LEON				CITY ATLANTA	STATE GA	ZIP CODE 30308	RESIDENT * J'S (O) U	PHONE NUMBER	
ALIAS				PLACE OF BIRTH	DRIVER'S LICENSE NUMBER 051255908			STATE GA	
BOOKING OFFICER EDWIN SORRELL				NUMBER	ARRESTING OFFICER EDWIN SORRELL		AGENCY SC040BP00	NUMBER	
ARRESTEE ARMED YES X NO WEAPON TYPE: REMAULT FALL AUTO ON VIEW ARREST SUMMONED X CUSTODY									
JUVENILE DISPOSITION 1 HANDLED RELEASED 2 REFERRED TO OTHER AUTHORITY J- This Jurisdiction, S- State, O- Out of State, U- Unknown									
ADDITIONAL CASE NUMBERS				MORE IN REMARKS					
IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C									
CHARGE I.D.		A		B		C			

I hereby state that the property listed above constitutes all claims to property on my person at the time of my arrest.

X

X

DEFENDANTS SIGNATURE AT TIME OF ARREST

OFFICER

I hereby state, on the date of my release, that the property listed above listed property was returned to me, in satisfaction of all claims to property on my person at the time of my arrest.

X

DEFENDANTS SIGNATURE AT TIME OF RELEASE

Agency I.D. SC040BP00	Date/Time Of Arrest 3/28/2010-2:35:00 AM

ARREST REPORT

Case Number 1993-054120

DEFENDANT NAME (LAST, FIRST, MIDDLE) KEITH, MATTHEW, C						RACE W	SEX M	DOB 9/23/1989	DOCKET NUMBER
AGE 20	ETH N	HEIGHT 640	WEIGHT 189	HAIR BRN	EYES GRN	SOCIAL SECURITY NUMBER		NCIC	ID NUMBER
ADDRESS (NUMBER AND STREET) 1838 MAIN STREET				CITY COLUMBIA	STATE SC	ZIP CODE 29201	RESIDENT * J(S) O U	PHONE NUMBER	
ALIAS				PLACE OF BIRTH	DRIVER'S LICENSE NUMBER			STATE	
BOOKING OFFICER EDWIN SORRELL				NUMBER	ARRESTING OFFICER EDWIN SORRELL		AGENCY SC040BP00	NUMBER	
ARRESTEE ARMED YES X NO WEAPON TYPE: REMAULT FALL AUTO ON VIEW ARREST SUMMONED X CUSTODY									
JUVENILE DISPOSITION 1 HANDLED RELEASED 2 REFERRED TO OTHER AUTHORITY J- This Jurisdiction, S- State, O- Out of State, U- Unknown									
ADDITIONAL CASE NUMBERS				MORE IN REMARKS					
IF HOLDING FOR ANOTHER AGENCY, CIRCLE CHARGE - A, B, C									
CHARGE I.D.		A		B		C			

I hereby state that the property listed above constitutes all claims to property on my person at the time of my arrest.

X

X

DEFENDANTS SIGNATURE AT TIME OF ARREST

OFFICER

I hereby state, on the date of my release, that the property listed above listed property was returned to me, in satisfaction of all claims to property on my person at the time of my arrest.

X

DEFENDANTS SIGNATURE AT TIME OF RELEASE

00604

Agency I.D. SG040BP00	Date/Time Of Arrest 3/28/2010 3:25:00 AM

ARREST REPORT

Case Number 1993-054120

DEFENDANT NAME (LAST, FIRST, MIDDLE) SWANSON, SAMANTHA, A						RACE W	SEX F	DOB 10/24/1987		DOCKET NUMBER
AGE 22	ETH N	HEIGHT 510	WEIGHT 115	HAIR BRN	EYES GRN	SOCIAL SECURITY NUMBER		NDIC	I.D. NUMBER	
ADDRESS (NUMBER AND STREET) 127 SPRINGHAVEN DRIVE				CITY COLUMBIA		STATE SC	ZIP CODE 29210	RESIDENT *J(S) OU	PHONE NUMBER	
ALIAS				PLACE OF BIRTH		DRIVER'S LICENSE NUMBER 100076786			STATE SC	
BOOKING OFFICER EDWIN SORRELL				NUMBER	ARRESTING OFFICER EDWIN SORRELL		AGENCY SC040BP00		NUMBER	
ARRESTEE ARMED YES X NO WEAPON TYPE				EMULATED FULL ARREST		ON VIEW ARREST		SUMMONED		X CUSTODY
JUVENILE DISPOSITION 1: HANDLED/RELEASED 2: REFERRED TO OTHER AUTHORITY				J- This Jurisdiction (S)- State O- Out of State U- Unknown						
ADDITIONAL CASE NUMBERS				IF HOLDING FOR ANOTHER AGENCY: CIRCLE CHARGE - A, B, C				MORE IN REMARKS		
CHARGE I.D.		A		B		C				

I hereby state that the property listed above constitutes all claims to property on my person at the time of my arrest.

X DEFENDANT'S SIGNATURE AT TIME OF ARREST OFFICER:
I hereby state, on the date of my release, that the property listed above listed property was returned to me, in satisfaction of all claims to property on my person at the time of my arrest.

X DEFENDANT'S SIGNATURE AT TIME OF RELEASE

Carter, Lee C. III

From: Thomas, Benjamin
Sent: Monday, April 19, 2010 1:56 PM
To: 'charlie.spacht@gmail.com'
Cc: 'sberkheimer@rcsd.net'; Wise, Zackary (Chief - BPS); 'rmasella@masellalaw.com'
Subject: Charles William Spaht Jr. et al

Mr. Spaht. The information you sent to Mr. Sam Berkheimer at the Richland County Sheriff's Office concerning your son and his arrest has been forwarded through Director Mark Keel's Office to my desk for action.

The arresting officer in this case works for the Bureau of Protective Services which is under the umbrella of the South Carolina Department of Public Safety. My office conducts all Internal Affairs investigations for DPS. Our normal protocol is for us to send you a formal complaint form but in this case I am waving this requirement and using your email to begin the investigation. You will receive a formal letter through the U.S. Mail informing you of the investigation. I have instructed the Chief of BPS to have the cases against all three persons to be postponed until our internal investigation is completed.

This case will be assigned to Investigator Lee Carter from my office. I am sure at some point during the investigation your son and the other two individuals will be contacted for interviews and or statements.

Benjamin F. Thomas III
Chief Investigator
Office of Professional Responsibility
SCDPS
Office: 803-896-8209
Fax: 803-896-4668
Benjamin.Thomas@scdps.net
Susanne G. Smith Admin. Assistant
Office: 803-896-8249
SusanneSmith@scdps.net

4/19/2010

00606

Carter, Lee C. III

From: Thomas, Benjamin
Sent: Monday, April 19, 2010 2:11 PM
To: Carter, Lee C. III
Subject: FW: Charles Spaht - contact info and incident description

Benjamin F. Thomas III
Chief Investigator
Office of Professional Responsibility
SCDPS
Office: 803-896-8209
Fax: 803-896-4668
BenjaminThomas@scdps.net
Susanne G. Smith Admin. Assistant
Office: 803-896-8249
SusanneSmith@scdps.net

From: Keel, Mark A.
Sent: Monday, April 19, 2010 12:17 PM
To: Thomas, Benjamin
Subject: FW: Charles Spaht - contact info and incident description

From: Berkheimer, Sam [<mailto:SBERKHEIMER@RCSD.NET>]
Sent: Monday, April 19, 2010 11:19 AM
To: Keel, Mark A.
Subject: FW: Charles Spaht - contact info and incident description

Mark, this is the complaint we talked about.

From: Charles Spaht [<mailto:cwspaht@gmail.com>]
Sent: Thursday, April 15, 2010 5:11 PM
To: Berkheimer, Sam
Subject: Re: Charles Spaht - contact info and incident description

Sam,

As you can imagine, I can't thank you enough!
My son just emailed his Warrant Code, 59176 and his offender ID # D360608.
I doubt the Code will help, but his ID number may shed some light.
I think I mentioned that I am embedded with the Macedonian Organized Crime Department. I am 7
hours ahead of you. It's getting late for me, but I check my email 7-8 times a day.
Anything you can discover from the numbers above will be most appreciated!

Thanks again, Brother,

4/19/2010

00607

Charlie

On Thu, Apr 15, 2010 at 11:00 PM, Berkheimer, Sam <SBERKHEIMER@rcsd.net> wrote:
If you can get the incident address off of the warrant or other paper work, I can locate the agency for you and Officer Sorrell.

From: Charles Spaht [<mailto:cwspaht@gmail.com>]
Sent: Thursday, April 15, 2010 4:42 PM
To: Berkheimer, Sam

Subject: Fwd: Charles Spaht - contact info and incident description

Sam,

I know you have a lot to do and don't need any other distractions, especially if they don't involve you or your Department. But, my son sent this description of the incident I tried to describe and I think it is worth reading; if for no other reason, it serves as a bad example for training purposes.

If you have time, please read this.

At this time, I am still at a loss as to who (which agency) arrested my son. But I assure you, I will get to the bottom of this!

Thanks,

Charlie

----- Forwarded message -----

From: Charlie B. Spaht <charlie.spaht@gmail.com>
Date: Thu, Apr 15, 2010 at 7:40 PM
Subject: Fwd: Charles Spaht - contact info and incident description
To: cwspaht@gmail.com

Here is the full story that I sent the lawyer

- CB

----- Forwarded message -----

From: Charlie B. Spaht <charlie.spaht@gmail.com>
Date: Thu, Apr 1, 2010 at 3:10 PM

4/19/2010

00608

Subject: Charles Spaht - contact info and incident description
To: rmasella@masellalaw.com

Hi Mr. Masella,

Thanks in advance for helping us out. Per our phone conversation last night, here is my contact info and my recollection of the events of this past weekend.

Charles William Spaht, Jr (Charlie)
699 Ponce de Leon Ave NE #327
Atlanta, GA 30308

cell: 770.355.6786

email: charlie.spaht@gmail.com

On Saturday March 27 I decided to make a last minute drive to Columbia, SC to visit my friend Samantha. I left my apartment in Atlanta around 10 pm and arrived in Columbia sometime around 2:15 am (sunday morning). We met in a parking lot off the interstate exit so I could follow her to her friend Matt's apartment downtown.

We parked our cars on the street near Matt's apartment building. Just after we got out of the cars, Sam told me that she and Matt had originally planned to pull a prank on me by throwing water balloons onto my car as I pulled up, but since we ended up meeting at the interstate exit instead, they had a bag of water balloons that hadn't been used. They didn't actually want to soak me, so Sam and Matt threw a few onto the sidewalk next to me. When the first one popped on the sidewalk, I distinctly remember Sam saying, "We need to be sure to pick up the broken balloon pieces off of the ground so we aren't littering."

I don't remember the exact number of balloons, but I would guess it was 5 or 6. Sam and Matt threw (I'm guessing) 2 each. Matt asked if I wanted the last one since I hadn't thrown any. Just as he handed it to me, the police officer appeared down the block, coming toward us with his flashlight out. I didn't throw the balloon, I just held it as he approached. Officer Sorrell told us to immediately stop what we were doing and to line up with our hands against a nearby brick wall.

He went to Sam first, and said something like, "What did I just tell you?! I said to spread your legs!" She was already in the correct position facing the wall, and her legs were already spread, but Sorrell didn't think they were far enough apart, and he hooked his leg in front of her right ankle and kicked it backwards. Sam said, "You're hurting me," which Sorrell seemed to take offense to. He said something like "Don't resist and give me an attitude, cause I'll raise the charge to a felony!" He then kicked her left ankle backwards. It looked to me like he was manhandling her pretty roughly and unnecessarily, as she hadn't resisted at all, nor did she have an "attitude" at all in my opinion. If anything, she was frightened.

Sorrell then patted Matt and me down, but said that he had to wait for a female officer to pat down Sam. He then interviewed us one at a time. Matt went first, and was told to sit down away from us. When Sorrell called me over, he asked me what was going on and I told him exactly what happened: that I'd literally just arrived in town to visit my friends, they were pranking me with a few water balloons, and then he had shown up. I said we weren't "up to no good" meaning that we hadn't been drinking, and as far as I knew, we weren't doing anything illegal. He responded in a condescending tone "Yes, you are up to no good. We don't play around in this town at 2:30 in the morning," etc. He then asked me if I

4/19/2010

00609

could offer any insight to Sam's "attitude problem". I replied that I didn't think she had meant to be disrespectful in any way, but that she was likely just terrified at the situation. He didn't seem to believe me, and said, "So you have no comment on that? You don't know why she was gettin' smart with me?" I remained polite and said "no sir." and he sent me to sit next to Matt.

After he interviewed Sam, he told her to sit next to us, but she asked (politely) if she could remain standing because she had recently injured her tailbone and it is painful to sit on a hard surface. I know this to be true, as she told me about her fall a couple weeks ago. Officer Sorrell reacted poorly to this, I don't recall what he said, but the implication was that he couldn't believe she was still "getting smart" with him and that we were pushing our luck.

Next, he put us back against the wall and one by one placed us under arrest. He said the same thing to each of us individually in a very pleased tone, like he was taking pleasure in it: "You Sir, (or ma'am), are OFFICIALLY under arrest for public disorderly conduct and *you* are going to *JAIL*." He handcuffed us at this point.

We were then led into the lobby of the building we had been in front of. Sorrell said he preferred to do the arrest paperwork here so he didn't have to be around all the "jail people." While we had been outside, a couple of other officers had arrived, as well as someone not in uniform who may have been a security guard for the building, but I'm not sure. When Sorrell asked me to come forward to give him my information, I asked him respectfully if there was "any way he would consider letting us go with a warning." He said "At this point, absolutely not. That option ended when your girl got smart with me." I didn't push the issue.

After a while, he was ready to take us to jail. Sam rode with another officer, and Matt and I rode with Sorrell in his car. During the trip, we talked about what to expect and he suggested that it was pretty likely we'd all be let go on Personal Recognizance Bonds in the morning. I mentioned again to Sorrell that I had not even thrown a water balloon at all. (I had already told him this when he interviewed me before he arrested me). Sorrell also brought up the fact that everything was caught on security video.

I'll try to keep the rest brief, I think the arrest itself is probably what you need details on, but correct me if I'm wrong.

At jail, we were booked and Matt and I were thrown in the drunk tank, Sam was put in a separate cell. At around 9, we went to court, and Sam and Matt received PR Bonds, but I did not. I have a completely clean record before this, so the only reason I can think of is that I'm from out of town. Around 12 pm Sunday I was dressed out in a prison uniform and taken to the cell block and put in the population of prisoners.

Sam and Matt were released at 4:30 pm or so, and we had all been told that they could return to bail me out by 6 pm. They arrived with the money at 5:40 and were told that they were too late and they could come back in the morning. Sam tried to have her phone number and a message that they'd be back in the morning sent back to me, but I never received either.

I spent the rest of the evening and night in jail with no idea what was going on with Sam and Matt and no way of getting in touch with either of them.

Sam posted my bond at about 7 am monday morning and I was released around 11 am. I was supposed to have been at work at 9 am, but I didn't get back to Atlanta until about 3:30 pm. My work supervisor

4/19/2010

00610

was understanding and asked me to stay home and rest for the remainder of the day, but the fact is I missed a day of work and that is never a good thing.

Sorry this is so long, but I wanted to make sure I hit all the important points. Please let me know if there are any areas that need to be clarified.

Thanks again,

Charlie Spaht

4/19/2010

00611

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER: PR-1610-10-0024
SUBJECT: Samantha Swanson
Matthew Keith
Charlie Spaht
DATE: April 27, 2010
LOCATION: Masella Law Firm, Columbia, SC
INVESTIGATOR: C. Lee Carter III
DATE TRANSCRIBED: April 28, 2010

On April 27, 2010, Investigator C. Lee Carter III met with Matthew Keith and Samantha Swanson at Attorney Robert Masella's office in Columbia. Masella was also in attendance. Charlie Spaht lives in Atlanta, Georgia and Masella used his telephone's speakerphone feature to allow him to listen and participate in the meeting.

Spaht, Keith and Swanson will submit sworn affidavits through Masella's office at a later date. This activity report will serve as documentation of what the three (3) complainants told Investigator Carter on April 27. All three (3) stated they had not consumed alcoholic beverages that night.

Keith lives in the Barrington apartments at 1378 Main Street in Columbia. As mentioned earlier, Spaht lives in Atlanta and does not know his way around Columbia. Therefore, Keith and Swanson met him at the Embassy Suites on Greystone Boulevard so Spaht could follow them to Keith's apartment on Main Street. The apartment is across the street from the Lottery Commission building. Keith and Swanson said they earlier filled several balloons with water and intended to play a joke on Spaht when he arrived. They hid the balloons in a bag and placed it near the building's front entrance. Keith and Swanson did not want to wet Spaht so they just tossed them toward him. All three (3) said they only threw the balloons at the sidewalk. They denied throwing them at the each other, nearby motor vehicles or a building. The three (3) also denied being boisterous and explained that they intentionally kept their voices low. Swanson was adamant that she picked up all of the broken balloon pieces.

When Off. E. S. Sorrell arrived he told all three (3) to stand against the wall and spread their legs. As supported by Spaht and Keith, Swanson stated she thought she was cooperating and was surprised when Officer Sorrell called her a "smart butt" and told her she needed to comply. Swanson said Officer Sorrell then kicked her in the left and right foot and/or ankle area while moving her feet further apart. Swanson said Officer Sorrell did not repeat his instructions or fully explain exactly what he wanted her to do. She said he just came up from behind and kicked her feet apart. This was confusing to Swanson

Page 2 of 3

due to the fact she thought she was cooperating. Swanson said Officer Sorrell's kicking her feet was to the point it would have caused her to fall over if her weight was not balanced with her hands against the wall. Swanson commented that this resulted in black and blue marks on her legs and Masella said they had photographs of these injuries. During this time Swanson said Officer Sorrell told her to not backtalk or he would move the charge up to a felony. Officer Sorrell told all three (3) that they were intending to maliciously damage property.

After being asked, Swanson told Investigator Carter she is 5 feet 10 inches tall and weighs 111 pounds. She described Officer Sorrell as a "large man" and she told him he was hurting her. Officer Sorrell replied by saying something to extent that Swanson needed to shut her mouth and she was being disobedient. It was at this time when Officer Sorrell threatened to escalate the charge to a felony.

Swanson was the first person Officer Sorrell approached and none of the three (3) knew why. Spaht speculated Officer Sorrell wanted to scare them and he tried to accomplish this by going straight for Swanson, the most vulnerable one. Investigator Carter asked Spaht if he was scared and he said no. According to Spaht, common sense should have made it known they were not doing anything wrong and should be released. Keith was worried about Swanson and did not think they would be taken to jail for throwing water balloons. Swanson was asked the same question and she admitted being scared "from the get go." Swanson knew she had to do what a police officer says and thought she did. What frightened Swanson was Officer Sorrell kicking her feet and grabbing her hooded sweatshirt and holding it to the point it pulled on her neck.

Prior to being handcuffed, Officer Sorrell told Swanson to sit down on the sidewalk while he talked to the others. Swanson said she tried to explain that she injured her tailbone and it was painful to sit on a hard surface. When Swanson asked Officer Sorrell if it was alright for her to stand, Spaht said Sorrell gave her a look like she was pushing her luck.

Officer Sorrell conducted field interviews with all three (3) and Spaht said Sorrell was primarily concerned with what he believed to be Swanson's [attitude] problem and "giving him lip." All three (3) thought Officer Sorrell was sarcastic and made a show out of announcing they were "officially" being arrested for Disorderly Conduct.

After they were handcuffed, Swanson began to cry and she could not wipe the tears from her face. She then walked over to Keith and leaned her head on his shoulder in an effort to dry her face. Swanson recalled Officer Sorrell reprimanding Off. K. A. Rogerson for not separating them. Officer Rogerson did not do anything in response to Officer Sorrell's comment. Spaht, Keith and Swanson did not have any complaints with Officer Rogerson or Cpl. M. E. "Tripp" Harris III. All three (3) said Officers Sorrell and Rogerson, Corporal Harris and a black male security guard were the only ones present during the encounter.

Keith and Spaht thought Officer Sorrell had it in for Swanson and he even asked them what was wrong with her. Corporal Harris transported Swanson to jail and Officer

00613

Page 3 of 3

Sorrell took Spaht and Keith. Spaht and Keith said they asked Officer Sorrell questions about what to expect at the jail and bond court. When Spaht and Keith asked Officer Sorrell for a definition of disorderly conduct he told them it was anything an officer deems as out of the ordinary. Spaht is around 30 years of age and Officer Sorrell told him he was too old to be throwing water balloons with the younger Keith and Swanson.

Swanson, Keith and Spaht collectively stated they heard Officer Sorrell say he was shot in the stomach twice in Vietnam and if someone told him to sit he would have done it. This was an apparent reference to Swanson's comment about her tailbone injury and not wanting to sit on the sidewalk. Keith said he heard Officer Sorrell say he fired a weapon and thought he said it was in combat. Officer Sorrell also said he did not know what Swanson's problem was and she could not follow orders. In another reference to Swanson's tailbone injury, the three (3) also heard Officer Sorrell tell several jail employees that Swanson had a problem with her "butt." Swanson told Investigator Carter she was not offended by Officer Sorrell's initial verbal command for all three (3) to spread their legs and stand against the wall. However, she was offended by Officer Sorrell kicking her and referring to her as a smart butt in front of her friends. Swanson was also offended by what she believed to be Officer Sorrell's attempts to embarrass her in front of several males on the jail staff when he said she had a problem with her butt. Swanson did not understand why someone Officer Sorrell's size saw a need to kick her and she wondered if he was trying to scare her. Keith and Swanson heard Officer Sorrell tell the jail staff he is paid "for every head he brings in" to the jail.

Officer Sorrell asked Keith and Spaht what their fathers were going to say about them being arrested. Keith's father is a retired Colonel in the US Air Force and this was not mentioned to Officer Sorrell. Swanson's father is deceased. Spaht's father is a retired FBI Agent and Spaht said he was careful how he divulged this. According to Spaht, he did not want to mention this and give Officer Sorrell the impression he was threatening him. Spaht said it was not until after he was arrested when he told Officer Sorrell his father retired from the FBI and he would "get a kick" out of the charge [because it was so ridiculous.]

Masella had a copy of the security camera video and Investigator Carter watched it with Swanson and Keith. Swanson pointed herself out as well as Officer Sorrell coming behind her. Swanson could be seen leaning against the wall with her hands in the air. Officer Sorrell was also seen moving her feet with his foot. Swanson's hands were in the air and her feet appeared to be already spread shoulder width apart when Officer Sorrell approached her from the rear.

00614

DELETED

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Robert Masella
DATE:	May 11, 2010
LOCATION:	Via Telephone
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	May 11, 2010

On May 11, 2010, Investigator C. Lee Carter III sent Attorney Robert Masella an e-mail in an effort to inquire about the photographs of the black and blue marks on Samantha Swanson's feet and legs. This was mentioned to Investigator Carter during the interview of Masella's clients. Also on May 11, Masella responded to the e-mail by calling Investigator Carter's office telephone. In a voicemail message, Masella said he contacted Swanson and she told him the photographs had been deleted from her cell phone.

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Security Camera Video Review
DATE:	March 28, 2010
LOCATION:	OPR HQ
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 23 & 27, 2010

On April 22, 2010, Investigator C. Lee Carter III reviewed a CD copy of the video recording of March 28, 2010, incident involving Off. E. S. Sorrell (BPS), Charles Spaht, Matthew Keith and Samantha Swanson. The CD is currently housed in the OPR's evidence room. The video was made from a security camera outside the Lottery Commission and it captured parts of the activity that took place near the front of the building.

The video does not have any audio or a time counter. The incident took place at night and the recording is not in a continuous sequence. The video is a typical security camera video in that there are brief pauses between each frame. The combination of darkness and the camera's angle made it difficult to grasp an understanding of what transpired.

The video showed someone placing some type of package near the door of the Lottery Commission building. Approximately four (4) minutes later, the three (3) subjects are seen popping water balloons and water was seen on the sidewalk. The three (3) subjects were seen horsing around until Officer Sorrell arrived. Officer Sorrell and the three (3) subjects later moved out of the camera's range and the recording ended a few moments later.

During an April 27, 2010, interview with Swanson and Keith, Swanson pointed out some of the activity to Investigator Carter that was previously unnoticed. After Swanson explained what transpired, Investigator Carter could see her standing against a wall with her hands apparently in the air. Although Swanson's feet were about shoulder width apart, Officer Sorrell could be seen using his foot to forcibly move them further apart.

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Security Cameras
DATE:	April 27, 2010
LOCATION:	OPR HQ
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 27, 2010

On April 26, 2010, Investigator C. Lee Carter III met with Capt. A. J. Curtis regarding Off. E. S. Sorrell. Investigator Carter asked for assistance in obtaining a copy of the interior security camera video from the Lottery Commission building. Captain Curtis said Jimmy Harrington is the building's property manager and he had already been approached about providing the SCDPS with a copy.

Investigator Carter then traveled to the Lottery Commission building and met with Harrington and he agreed to make a copy of the video. Investigator Carter later found out that the cameras outside of the complex were not positioned to capture the activity near the Lottery Commission building. One camera was pointed toward where the activity occurred but the view was obstructed by several large columns.

Captain Curtis said the Grainger-Owings store is on the same side of the street as the Lottery Commission building and he knew they had been burglarized recently. On April 26, Investigator Carter went to the store and met with Vaughn Owings, one of the owners. According to Owings, on two (2) occasions in the past few months someone threw a brick through a front window, entered the store and then stole various items. Owings said he contacted several nearby businesses and was surprised to learn there were no security cameras positioned toward the front of his store.

Investigator Carter went across the street and met with Jennifer Scoggins of Holder Properties. Scoggins' building has several security cameras and Investigator Carter inquired if any were pointed toward the Lottery Commission building on March 28. Scoggins said the cameras in her building automatically recycle after 15 days and were no longer available.

Carter, Lee C. III

From: Jimmy Harrington [jharrington@cbresc.com]
Sent: Saturday, May 08, 2010 6:09 PM
To: Carter, Lee C. III
Cc: maintenance
Subject: RE: March 28, 2010, Security Video

Lee, our building engineer Jim Cross tried to burn the CD Friday, unfortunately the video was recorded over.

Jimmy P. Harrington - Director
Asset Services
CB Richard Ellis | Columbia
1333 Main Street, Suite 700 | Columbia, SC 29201
T 803 744 6853 | F 803 451 7473
Jimmy.Harrington@cbresc.com | www.cbre.com

Before printing this email, please consider the environment. Think Green!

From: Carter, Lee C. III [mailto:leecarter@scdps.net]
Sent: Thursday, May 06, 2010 1:10 PM
To: Jimmy Harrington
Subject: March 28, 2010, Security Video

Mr. Harrington, I met with you a couple of weeks ago in regards to obtaining a copy of the security video from the lobby. I have not heard anything back and I wanted to let you know I still need it in order to complete my final report.

Please call me @ 360-0573 and let me know what I can do to help get this done.

Thanks for your assistance

CLC

Investigator C. L. Carter III
SC Department of Public Safety
Office of Professional Responsibility
803-896-8247

5/11/2010

00619

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Audio Recording Review
DATE:	March 28, 2010
LOCATION:	OPR HQ
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 23, 2010

On April 23, 2010, Investigator C. Lee Carter III reviewed the audio recording of the March 28, 2010, radio transmissions regarding the incident involving Off. E. S. Sorrell (BPS), Charles Spaht, Matthew Keith and Samantha Swanson. The recordings were copied to a CD and it is currently housed in the OPR's evidence room.

The recording documented Officer Sorrell (3027) asking the dispatcher for assistance because someone was throwing "bottles" at the Lottery Commission building. Off. K. A. Rogerson (3072) later advised the dispatcher that he was at the scene. Officer Sorrell later stated he had arrested three (3) subjects and was en route to the jail with the two (2) males. Cpl. M. E. Harris (3 Adam 4) told the dispatcher he was transporting the female to the jail. The recording ended after Corporal Harris and Officer Sorrell said they were departing from the jail.

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SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER: PR-1610-10-0024
SUBJECT: Cpl. M. E. Harris (803-260-9742)
DATE: April 23, 2010
LOCATION: State House
INVESTIGATOR: C. Lee Carter III
DATE TRANSCRIBED: April 26, 2010

The following is a transcription of Corporal Harris' affidavit:

I was the shift supervisor on March 28, 2010. I heard L/Cpl. Sorrell over the radio asking for assistance. Sorrell said some people were throwing bottles against the Lottery Commission building. Off. Rogerson was also at the state house and he and I responded to help Sorrell. Rogerson got to his patrol vehicle before I did and he arrived first. While en route, Rogerson said he and Sorrell had the situation under control so I returned to normal patrol. A few minutes later I heard Sorrell state on the radio that he had arrested three subjects. I knew he would need more handcuffs so I headed that direction.

When I arrived, two of the three subjects were handcuffed but I do not remember which ones. After I gave Sorrell the handcuffs I stepped to the side to let him finish his duties. I did not know what was going on or what had been said. Sorrell was writing the tickets at that time. The female asked Sorrell if she could ask a question and he said yes. The female said she did not know she was being disorderly by not cooperating. This is the way I took it. Sorrell responded by stating that he speaks very clear English and when he gave her an order she needed to comply. I did not know what order Sorrell gave. I did not find out exactly what happened until after the tickets were written and we were placing the subjects in the patrol vehicle. After the subjects were placed in the patrol vehicle I was alone with Sorrell and he told me what happened. Sorrell said the subjects were not throwing bottles as he initially thought. Sorrell then said they were throwing water balloons. Sorrell said one subject admitted drinking. I did not notice any signs of alcohol or drug use. I was not looking for this and did not have them perform any sobriety tests.

Sorrell told me the reason they were being arrested was because the female would not follow his directions and was being disobedient to him. Sorrell did not give any further details about what disobedient meant. It was around this time when I told Sorrell I would transport the female to jail. I made this decision to separate her from the males and because I have a camera in my patrol vehicle.

Page 2

I did not hear Sorrell tell the female to sit down. I also do not recall there being an issue with the female putting her head on one of the male's shoulder. Everyone was in the lobby when I got there and this could have happened before I arrived. During the trip to jail the female was apologetic in that she did not mean to be disorderly. She said she did not know throwing water balloons was disorderly. She said something to the extent that she was uncomfortable with Sorrell telling her to spread her legs when he was preparing to pat her down. She was cooperative and cordial to me during the trip. I left the jail while Sorrell completed the booking process.

After I gained a full understanding of what happened I thought Sorrell arresting all three subjects was a little excessive. Sorrell told me he was arresting all three because the female was being uncooperative I thought this was excessive for the two males to be arrested because the female was uncooperative. There was a black male security guard working at the Lottery Commission that night. I do not know his name. I do not recall this person referring to Sorrell as "sarge." However, I have heard others at a different state building refer to him as sarge. I believe this is a reference to Sorrell's rank when he was in the Army.

00623

Carter, Lee C. III

From: Harris, Tripp
Sent: Wednesday, May 05, 2010 9:04 PM
To: Carter, Lee C. III
Subject: RE: E. S. Sorrell

1. yes, he made mention that he would like to have a job with us. 2. The security guard keep his distance from officer sorrell and the subjects under arrest. 3. That night was the first time that I had ever seen the security guard.

From: Carter, Lee C. III
Sent: Tue 5/4/2010 10:42 AM
To: Harris, Tripp
Subject: E. S. Sorrell

While at the Lottery Commission with Sorrell, did the security guard ask about openings at BPS or express an interest in coming to work here?

Could you tell if the security guard knew Sorrell or was comfortable around him?

Had you met him previously?

Thanks

CLC

5/6/2010

00624

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER: PR-1610-10-0024
SUBJECT: In-Car Video Review
DATE: March 28, 2010
LOCATION: OPR-HQ
INVESTIGATOR: C. Lee Carter III
DATE TRANSCRIBED: April 26, 2010

On April 26, 2010, Investigator C. Lee Carter III reviewed a copy of the video produced from the camera mounted in Cpl. M. E. Harris' Bureau of Protective Services (BPS) vehicle. The video documented the period when Corporal Harris transported Samantha Swanson to the Richland County jail. Corporal Harris was not involved in the arrest and he only assisted Off. E. S. Sorrell by transporting Swanson. The BPS retained possession of the original videotape. The section pertaining to Swanson was copied to a DVD and it is currently housed in the OPR's evidence room.

The review determined that on March 28, 2010, at 2:19 a.m., Corporal Harris arrived at the Lottery Commission after the three (3) subjects had been arrested. Corporal Harris parked his patrol vehicle in front of the Lottery Commission and the camera was pointed away from the building. The three (3) subjects were never captured on video. At 2:23 a.m., Swanson was placed in the patrol vehicle. At 2:25 a.m., Corporal Harris began the trip to jail. In addition to being polite and cordial, Swanson was soft spoken and this prevented a lot of what she said from being heard. Swanson asked a lot of questions regarding jail safety, where she would be kept and how invasive the search would be.

Although the context of how this was brought up could not be understood, Swanson told Corporal Harris she injured her tailbone. Swanson also said it scares her when someone yells and she guessed she did not spread her legs apart far enough [when Officer Sorrell told her to do this.] At 2:39 a.m., Corporal Harris arrived at the jail and the camera was deactivated at 2:43 a.m.

AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF RICHLANDOPR CASE # PR-1610-10-0064

PERSONALLY appeared before me BRENDAN MALONE, who states:
 My name is BRENDAN MALONE, My address is APT 2121 BENTLEY CT
 Date of Birth 7-22-86, Social Security Number , Phone Number 361-0632
 I completed the 14th grade in school, and I (can) (cannot) read and write. This statement
 is given on APRIL 30, 2010 at COLUMBIA, SC in
 the presence of CL CARTER

who has officially identified himself as an Inspector with the Department of Public Safety, Office of Professional Responsibility.

On 3-28-10 I was working for security for ISMG when I
heard Sonnell call for assistance. I followed him out to provide
assistance if needed. Sonnell ordered the 3 to put their hands
above their ^{heads} ~~heads~~, and spread their legs and get against the wall.
Sonnell patrolled them down for weapons. The males cooperated
but the female had an excuse for everything. Sonnell was not
rude or nasty. He was doing his job. The female saw the
two males spread their legs and she asked what did he exactly
want her to do. Sonnell also asked her to sit down and she said
she couldn't because of a tail bone injury. Sonnell checked her
hose on her sweat shirt. The female said Sonnell was hurting
her because he was pulling on it. To me, it did not look
like he pulled on it. It was very tight on her and Sonnell
would have had to pull on it a little to check it.
When Sonnell walked up behind the female he did take her foot
and use it to nudge her foot to the side. He did not kick

B
43010

Brendan Malone
 (SIGNATURE)

CONTINUATION STATEMENT OF BRENDAN MALONEDate 4-30, 2010 OPR CASE # TM-1610-10-0024

her. This contact was not very hard and there is no way she could have been injured.

Somell asked them why they were throwing water balloons and they could not give a good answer. Somell basically told them that all were going to be arrested because of the way the female was acting. The male from Atlanta was Benny Kurl of Smart and told him ~~to~~ that his father works for the FBI. This person was also trying to buddy up to Somell and talk her out of arresting them. They asked for a verbal warning and Somell said ~~they~~ ^{he} tried but they would not cooperate with him.

I stayed there until the Subjects were placed in the police cars. I then returned to work.

I did not know Somell was in the military. I had never really worked ~~with~~ with him before that night. I called him Sarge because of the stripes on his uniform.

I did not see Somell do anything improper. ⁱⁿ

To me, the female was scared as well as being defiant. It looked like she sort of panicked. She was worried about how the police was going to search her. We were not sure if she had something to hide.

When she was standing against the wall, when Somell approached, her feet were about shoulder width apart.

4-30-10

Brendan Malone
(SIGNATURE)

PAGE 2

00627

DPS/OPR Form 7b
Rev 5/95

CONTINUATION STATEMENT OF BRENNAN Malone

Date 4-30, 10/2010 OPR CASE # PR-1610-10-0024

BM

I have read each page of this statement consisting of 3 page(s). Each page bears my signature, and corrections, if any, bear my initials. I certify that this statement is true and correct to the best of my knowledge and belief. I also declare that I was not told or prompted what to say in this statement and that I give the above statement of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, and without leniency or offer of leniency, by any person or persons whomever.

This statement was completed at 1:25 PM., on April 30, 2010.

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS 30th DAY OF April, 2010

Brennan Malone
Signature of Person Giving Voluntary Statement

C. D. Carter
NOTARY PUBLIC FOR SOUTH CAROLINA

WITNESS: _____

My Commission Expires: 4-15-2014

WITNESS: _____

00628

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER: PR-1610-10-0024
SUBJECT: Brenard Malone
DATE: April 30, 2010
LOCATION: OPR HQ
INVESTIGATOR: C. Lee Carter III
DATE TRANSCRIBED: May 12, 2010

On April 27, 2010, Investigator C. Lee Carter III spoke via telephone with Tony Lucas of ISMG security in an attempt to locate Brenard Malone. Investigator Carter learned that Malone was the security guard who witnessed Off. E. S. Sorrell's arrest of Charlie Spaht, Matthew Keith and Samantha Swanson. Lucas said he fired Malone because he failed to show up for work.

During a conversation with Capt. A. J. Curtis, he told Investigator Carter that Officer Sorrell told him Malone was lost his job as an officer with the SC Department of Corrections (SCDC) for smuggling unknown contraband into a prison. During his May 4, 2010, interview, Officer Sorrell said Malone told him he was fired for giving an inmate a cell phone.

Cpl. M. E. "Tripp" Harris was present when Malone and Officer Sorrell were with the complainants in the lobby of the Lottery Commission building. In a May 5, 2010, e-mail, Corporal Harris said Malone expressed an interest in getting a job with the BPS.

On May 11, 2010, Investigator Carter spoke via telephone with Inspector General Dan Murphy (SCDC). Inspector General Murphy was contacted in an effort to determine the validity of Officer Sorrell's comments about Malone losing his job at the SCDC for giving a cell phone to an inmate. According to Inspector General Murphy, Malone worked for the SCDC from March 31, 2008 to November 17, 2009 and his employment was terminated as a result of several policy violations. Investigator Carter was advised that Malone violated policy by accidentally bringing his personal cell phone into a facility. Malone told a supervisor about it and it was later determined that Malone's cell phone was used to contact several former inmates. The internal investigation also determined Malone gave extra food to inmates and improperly received food from others. Inspector General Murphy requested the details of this conversation not be released outside of the SCDPS.

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Off. E. S. Sorrell
DATE:	April 27-29, 2010
LOCATION:	Via Telephone
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 30, 2010

During the April 27, 2010, interview with Charlie Spaht, Matthew Keith and Samantha Swanson, they said a police officer in a gray uniform brought a violator to the jail on an alcohol related charge. The three (3) complainants were unsure if it was a South Carolina Highway Patrol (SCHP) uniform. Keith thought the officer was from the USC PD and recalled the arrest taking place near the university. The complainants' attorney, Robert Masella, provided a copy of the March 28, 2010, breath test report from the Richland County jail. Investigator Carter then contacted the troopers on the list to determine if they witnessed Off. E. S. Sorrell conduct himself improperly.

On April 28, Cpl. R. S. Blair (SCHP-Richland) said he was at the jail and recalled a BPS Officer being there. Corporal Blair said the officer was leaving the jail when he arrived. The three (3) complainants had already been booked when Corporal Blair arrived. Corporal Blair did not witness Officer Sorrell conduct himself improperly.

On April 28, Trp. J. R. Harris (SCHP-Richland) stated he did not recall seeing a BPS Officer at the jail.

On April 28 & 29, Investigator Carter spoke with Capt. James Miles of the USC PD in an effort to determine if any of his officers were at the jail at the same time as when Officer Sorrell. Captain Miles reviewed his department's records and found out that two (2) were there around the same time. Captain Miles said he contacted both officers and neither one witnesses any improper conduct. According to Captain Miles, one officer recalled seeing Officer Sorrell but knows of him from previous encounters and tries to avoid him.

On April 29, 2010, Troopers J. C. Francis and J. A. Howell (SCHP-Orangeburg) collectively stated they did not see a BPS Officer at the jail.

DELETED

AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF Richland

OPR CASE# PR-1610-10-0024

PERSONALLY appeared before me, C. L. Carter: My name is, E. S. Sorrell. My address is PO Box 1993 Blythewood, SC 29016. Date of Birth 7-4-60. Phone Number 896-2422. I completed the 12th grade in school, and I can read and write. This statement is given on May 4, 2010, at the OPR HQ C. L. Carter & William House who have identified themselves as investigators with the South Carolina Department of Public Safety's Office of Professional Responsibility.

On 31 March at approx. 0235hrs I was alerted to activity on the street by the video camera at the Lottery. I thought someone was throwing bottles at the building. Upon calling for a patrol in the area I went downstairs. Upon exiting the building, I heard shrieking and a scream. I also heard a man yelling "get her" and a female yelling "don't hurt me." As I approached, I observed a woman standing with her hands up and a man holding an orange water balloon. I stated in an authoritative voice "Stop." All activity stopped and the individual dropped the balloon after being ordered to. I was unsure what was happening, I thought it might be an assault. All persons were ordered to turn around and place their hands on the wall. Both males complied while the female became argumentative and refused to comply stating things to the effect of "I don't have to do what you say." She continued to refuse even after I identified myself as a Police Officer. She had been looking at the Security Guard and I think she was confused. After 2-3 times of being told to put her hands on the wall she turned and leaned against the wall. Even before I touched her shoulder she claimed I was hurting her. She said it twice before I even approached her. She was not in a proper search position so I instructed her how to comply. I even pointed at the two males and said "just like them." She moved her left foot slightly and I moved mine with hers. She moved it again and I moved mine with hers. Nothing I did would have caused injury to this person. Realizing that she was not going to fully comply I chose to disengage and continue with the investigation. At no time did I kick her feet or pull on her hoodie. All individuals were asked if they had weapons. I then asked for permission to check. Both males consented, I can't recall if the female did. Both males had no weapons and due to the outfit the female was wearing all I could check was the hood of her clothing. I did this by crushing the material with my hands. She had no weapons. I later learned that she had a cell phone and keys concealed in a small pouch in the front portion of her clothing.

After arrival of the backup Officer each individual was questioned separately. All their stories were consistent and it was at this time I realized they were all friends and were simply horsing around. I asked them all to sit on the ground so I could talk to the backup. Again, the female refused. No reason was given, she just refused to comply. Both males then advised me that she had tailbone surgery. Once they advised me of this I allowed her to remain standing. I was not upset but was merely confused at her constant refusal to cooperate. Not once did she advise me of any pain or discomfort. All individuals had been loud and boisterous and had been disruptive to the community. This is a commercial/residential neighborhood and surrounded by a 60 room motel and a 70 unit apartment building. While I was doing paperwork, the female began to talk and rub her face on one of the males. Due to the fact she had not been searched I did not want her talking or exchanging anything with the other person I asked Officer Rogerson "Can you fix this?" He walked over and separated them. While being transported to jail both males commented on how upset their fathers would be. I knew one was a LTC in the ARMY when I checked his ID. The other commented his father was retired FBI. Both asked for the textbook definition of disorderly conduct. At no time did I tell anyone I was going to "upgrade" the charge to a felony. I explained as best I could.

While waiting at the jail I talked to several different people joking about my Army days, my disability and such. While joking with them I made reference to my chest wounds and the bullet in my chest. I was not talking directly to them or intended to be heard by them. I advised one of the female guards to check Swanson well as she had asked several times about being searched. At no time did I mention her "surgery" or her having problems with her "butt." Even while being booked at the jail Swanson complained of no injury or discomfort.

5-4-10



00632

Page 2 of 2

When I returned from the jail I talked with the security guy for maybe 30 minutes. This was the first and only time I have ever met him.

When briefing Corporal Harris I advised him that the reason they all were going to jail was because Swanson was uncooperative and refused to cooperate. This did not mean I only arrested the males because of her. I was summarizing and attempting to tell the story to the Corporal within hearing distance of the suspects. All three were engaged in Disorderly Conduct therefore all were arrested. The crime is same even though two were cooperative and one was not.

When I delivered the Discovery to the attorney I was off-duty and riding my motorcycle to the location. I asked for the attorney by name because it was my understanding that I had to personally hand this to him per the order. I questioned the receptionist about the attorney not being there because I didn't want to violate the order. As I was leaving I observed a keychain with a bottle opener attached and thought it was ironic that a person who defends DUI would be giving out those as advertisement. I said it spontaneously yet I still said it.

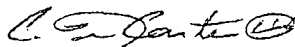
I have read each page of this statement consisting of 2 page(s). Each page bears my signature, and corrections, if any, bear my initials. I certify that this statement is true and correct to the best of my knowledge and belief. I also declare that I was not told or prompted what to say in this statement and that I give the above statement of my own free will without promise or hope of reward, without fear or threat of physical harm, without coercion, favor, and without leniency or offer of leniency, by any person or persons whomever.

This statement was completed at 7:40 P.m., on may 4, 2010.

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS 4th DAY OF may, 2010



Signature of Person Giving Voluntary Statement.



NOTARY PUBLIC FOR SOUTH CAROLINA
My Commission Expires: 6-15-2014

WITNESS: _____

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER: PR-1610-10-0024
SUBJECT: Off. E. S. Sorrell
DATE: May 4, 2010
LOCATION: OPR HQ
INVESTIGATOR: C. Lee Carter III
DATE TRANSCRIBED: May 5, 2010

On May 4, 2010, Investigators C. Lee Carter III and William House interviewed Off. E. S. Sorrell of the Bureau of Protective Services (BPS). The interview began at 2:20 p.m. and ended around 7:45 p.m. Investigator Carter took detailed notes and this activity report details the topics that were discussed. Investigator Carter obtained a laptop computer and honored Officer Sorrell's request for Sorrell to be allowed to type his affidavit. Officer Sorrell was cordial and cooperative during the interview.

Officer Sorrell said he saw the commotion on the security camera and went outside the building to investigate. Officer Sorrell then saw the three (3) complainants throwing objects he initially thought was bottles. There are several columns in front of the building and he hid behind them while advancing toward the complainants. Officer Sorrell said he heard Samantha Swanson screaming for one of the males to not hit or hurt her. Officer Sorrell then saw Charlie Spaht with an orange object in his hand and he appeared to be in a position to throw it at Swanson. Swanson's hands were up and Officer Sorrell stated several times he did not know until later if she was a crime victim or a participant. Spaht and Matthew Keith immediately complied when Officer Sorrell told them to stop. The object Spaht was holding was a water balloon and he placed it on the sidewalk upon being told to do so. It then rolled down the sidewalk and popped a few seconds later.

In regards to alcohol consumption, Officer Sorrell said he detected the faint odor on Keith but there were no signs of intoxication.

Investigator Carter asked Officer Sorrell exactly what lawful commands did Swanson fail to follow. Officer Sorrell explained he had to tell Swanson two (2) or three (3) times to turn around and place her hands on the wall before she finally did. Swanson told Officer Sorrell he could not tell her what to do but she eventually complied. Officer Sorrell continued that when he prepared to approach Swanson she yelled that he was hurting her even before he touched her. Officer Sorrell said he did not have an issue with Swanson's feet. Investigator Carter told Officer Sorrell the video indicated Swanson's feet were already shoulder width apart when he approached. Officer Sorrell disputed this by stating they were only about 12 to 14 inches apart. Officer Sorrell said the distance Spaht and Keith spread their hands and feet was to his satisfaction but Swanson's was not. Officer Sorrell said he wanted all three (3) in a "disadvantaged" position. Spaht and Keith met

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his demands but Swanson refused and she was not in a position like he wanted. In other words, Swanson's feet were not far enough apart for her to be in what he described as a disadvantageous position. Officer Sorrell claimed he even told Swanson to do the same thing as Spaht and Keith. Swanson finally complied and Officer Sorrell said she moved her left foot toward the outside and Sorrell used his left foot to follow hers. Officer Sorrell said this was not a forcible contact and he only followed her foot as she moved it. Investigator Carter told Officer Sorrell that Swanson's attorney has photographs of black and blue marks on her feet and legs and Sorrell said he wanted to see them. Officer Sorrell denied kicking Swanson's feet or doing anything that would have caused an injury. However, Officer Sorrell added that unless he went "crazy" he does not kick people. Officer Sorrell further added that in 30 years of law enforcement he does not remember ever kicking anyone. Officer Sorrell explained that Swanson sort of slid her left foot to the outside and he moved his foot along with hers to prevent her from returning it to the original position. Officer Sorrell denied forcing Swanson's foot outward and the only physical contact was his foot resting against hers.

Officer Sorrell also denied yanking on the hood of Swanson's sweatshirt. He wanted to check it for contraband and grabbed it from the outside and "mashed" the cloth.

Officer Sorrell said he may have referred to Swanson as "disobedient" but did not recall saying she "can't follow orders." Officer Sorrell said Swanson had an "attitude" and bounced around while refusing to follow his verbal commands. After being asked by Investigator Carter, Officer Sorrell acknowledged asking Spaht and Keith if there was something about Swanson he should know that would make her act the way she did. Officer Sorrell commented that Swanson was very thin and Investigator Carter told him she weighs 111 pounds. It was established with Officer Sorrell that Swanson did not conceal her hands and eventually complied with his verbal commands to stand against the wall. Officer Sorrell was then asked if there was a need to initiate a physical encounter with Swanson and he said there was not a physical encounter.

Officer Sorrell said when he finished interviewing the complainants he told Swanson to sit beside Spaht and Keith. Swanson refused and had a "you can't make me" attitude. Officer Sorrell asked Swanson three (3) times and she finally said she could not due to what he thought was her recent tailbone surgery. Officer Sorrell denied getting upset with Swanson for not sitting down but acknowledged her continued failure to cooperate "irritated" him. Officer Sorrell was asked about the claim he was primarily concerned with Swanson's attitude problem and "giving him lip." Officer Sorrell agreed and called it a "good characterization." Officer Sorrell was also asked about the allegation he was sarcastic and made a "show" out of the situation. Officer Sorrell told Investigator Carter he explained the charge to each person and made sure they understood.

Investigator Carter asked Officer Sorrell for his definition of Disorderly Conduct. Officer Sorrell then removed a sheet of paper from his pocket he had printed from a website. Investigator Carter told Officer Sorrell he could have looked up this information himself but the question concerned Sorrell's interpretation. Officer Sorrell then replied that Disorderly Conduct is anything that is boisterous or not orderly. In Investigator

Page 3 of 4

Carter's opinion, Officer Sorrell memorized the information from the website and adopted it as his definition. Investigator Carter also asked Officer Sorrell if there was such a thing as a felony Disorderly Conduct. Officer Sorrell replied yes and said the charge can be elevated to a felony. Investigator House asked for the section of law and Officer Sorrell said he found it on a website where this applies to "some states." Investigator Carter then told Officer Sorrell he was not interested in other states and only wanted to know about South Carolina. Officer Sorrell later acknowledged there is no such thing as a felony Disorderly Conduct in South Carolina.

Officer Sorrell adamantly denied threatening the complainants with a felony. Officer Sorrell said Spaht and Keith asked about the charge and he told them Disorderly Conduct is disruptive behavior or conduct that is not orderly.

The Lottery Commission building is located on Main Street and Officer Sorrell described this as a residential and commercial area. Officer Sorrell explained there are 60 motel rooms and a 10 story apartment complex nearby and the complainants' boisterous behavior was "disturbing the tranquility." Officer Sorrell denied telling Spaht and Keith that Swanson's behavior got them in trouble. However, he did advise Investigator Carter that he may have exercised officer discretion if everyone had been cooperative. Investigator House asked Officer Sorrell if it was fair for the two (2) men to be arrested even though they cooperated. Officer Sorrell responded by stating he was trained that if "one goes, they all go." Officer Sorrell continued that they all were loud and boisterous and committed the same act. Officer Sorrell mentioned Spaht being 30 and too old to be throwing water balloons. Officer Sorrell commented he might have taken a different approach if the complainants were college age. Officer Sorrell was asked about him telling Corporal Harris all three (3) were arrested because Swanson was "disobedient" and would not cooperate. Officer Sorrell said this statement was true and explained that he gave Corporal Harris an abbreviated version of what happened. It was at this point in the interview when Officer Sorrell said he told Corporal Harris that Swanson would not "spread her legs." Earlier in the interview Officer Sorrell said he has been in law enforcement for 30 years and has learned how to interact with males and females. Officer Sorrell said he did not believe he told Swanson to spread her "legs." Officer Sorrell maintained he told Swanson to move or to spread her "feet."

In regards to Brenard Malone, Officer Sorrell said he only met him once and Malone told him he was fired from the Department of Corrections for giving an inmate a cell phone. Concerning Malone calling him sarge, Officer Sorrell said he retired from the Army as a first sergeant and "90%" of those he encounters in state office buildings refer to him as sarge. He said this is their way of showing respect for his service.

Officer Sorrell was also asked about the comments he was accused of making at the jail. Officer Sorrell said he knows some of the jail staff and was joking with them on the night the complainants were arrested. Officer Sorrell said he has been "gun shot" in the chest twice and still has one bullet in his chest. Officer Sorrell said the military determined he was 80% disabled but he was not specific if this was due to being shot. This does not pertain to the SCDPS and Investigator Carter did not push the issue when Officer Sorrell

00636

Page 4 of 4

said he did not want to talk about it. Officer Sorrell said he was too young to fight in Vietnam and denied telling anyone at the jail that he did. Officer Sorrell said he was talking to the jail staff and did not intend for the complainants to hear what he said. In regards to his claim he is paid for every head he brings in the jail, Officer Sorrell stated he does not believe he said this. Officer Sorrell denied trying to embarrass Swanson by telling the jail staff she had a problem with her "butt." Officer Sorrell also did not recall saying he had ever discharged a firearm in a military or police related incident.

On several occasions Officer Sorrell mentioned being upset with Corporal Harris for allegedly encouraging a complaint. It is Investigator Carter's opinion that Officer Sorrell Sorrell has convinced himself this is true. Investigator Carter informed Officer Sorrell that Spaht's father, a retired FBI Agent, filed the complaint. Investigator Carter tried to keep Officer Sorrell on track and only let him talk about the allegations in the complaint. Officer Sorrell rambled from time to time and during one of these episodes he said he was "surrounded by corruption" at the BPS.

Officer Sorrell acknowledged stopping by Robert Masella's law office to answer the Discovery Motion. Officer Sorrell thought he had to hand the materials directly to Masella and this is why he made the comment about Masella being on vacation when he got there. Officer Sorrell admitted telling Masella's paralegal he thought it was ironic for an attorney who defends those accused of DUI to advertise on a bottle opener.

Investigator Carter asked Officer Sorrell to explain his comments to Chief Zackary Wise regarding Capt. A. J. Curtis obtaining a copy of the security camera video. According to Officer Sorrell, a security guard told him Captain Curtis came by to pick up a copy of the video. Officer Sorrell said the guard "thought" Captain Curtis had a "hard on" for him (Sorrell) and was out to get him. The guard did not say Captain Curtis did anything improper or made any negative comments about Officer Sorrell. Officer Sorrell was upset with Captain Curtis coming to the Lottery Commission building to obtain a copy of the video when Sorrell already had one. Officer Sorrell could not answer Investigator Carter when he asked how Captain Curtis was supposed to know this. Investigator Carter told Officer Sorrell that Captain Curtis was following a directive from Director Mark A. Keel. Officer Sorrell said Chief Wise told him "80%" of his staff would not have even walked outside of the building to investigate the incident with the three (3) complainants.

After discussing his encounter with Masella's paralegal, Officer Sorrell said the complaint is an attempt to discredit him (Sorrell) so the charges would be dropped. Officer Sorrell commented that he does not see that happening.

00637

DECLASSIFIED

DISCIPLINARY ACTION LOG January 2003 - Present

Recommendation Date	Name	Social Security Number	Position Title (or Rank)	Race	Sex	Date of Birth	Organization	Violation Type	Type of Disciplinary Action Imposed	Effective Date	Incident Date	Investigation # (OPR, DA, etc.)	Training Required	Comments
11/14/03	Sorrell, Edwin	255-19-8309	Sr Trooper	W	M		BPS	Improper Conduct	Counseling Session	11/14/03	11/12/03		NO	False remarks were verbally and intentionally made about a message received, in order to "test the system", and see how long before another Trooper went behind his back and repeat what he had said.
09/07/04	Sorrell, Edwin	255-19-8309	Sr Trooper	W	M		BPS	Improper Conduct & Insubordination	Level II	07/20/04	09/29/03	PR-1610-03-0133-01	NO	Improper behavior by berating another officer in front of an outside party. Also, insubordinate by failing to go through the chain of command with concerns about another officer, as previously instructed by supervisor during a counseling session.
07/13/04	Sorrell, Edwin	255-19-8309	Sr Trooper	W	M		BPS	WRM Violation of RRP	Level II	08/02/04	03/01/04	PR-1610-04-0038-01	NO	Signed a Warning to Employee Regarding Confidentiality, but later told another person about being interviewed by OPR, regarding a complaint. This is a violation of Policy Directive #123.

00639

05/01/2008

CONFIDENTIAL

**INVESTIGATIVE
REPORT**

CONFIDENTIAL

SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Off. E. S. Sorrell
DATE:	April 27-29, 2010
LOCATION:	Via Telephone
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 30, 2010

During the April 27, 2010, interview with Charlie Spaht, Matthew Keith and Samantha Swanson, they said a police officer in a gray uniform brought a violator to the jail on an alcohol related charge. The three (3) complainants were unsure if it was a South Carolina Highway Patrol (SCHP) uniform. Keith thought the officer was from the USC PD and recalled the arrest taking place near the university. The complainants' attorney, Robert Masella, provided a copy of the March 28, 2010, breath test report from the Richland County jail. Investigator Carter then contacted the troopers on the list to determine if they witnessed Off. E. S. Sorrell conduct himself improperly.

On April 28, Cpl. R. S. Blair (SCHP-Richland) said he was at the jail and recalled a BPS Officer being there. Corporal Blair said the officer was leaving the jail when he arrived. The three (3) complainants had already been booked when Corporal Blair arrived. Corporal Blair did not witness Officer Sorrell conduct himself improperly.

On April 28, Trp. J. R. Harris (SCHP-Richland) stated he did not recall seeing a BPS Officer at the jail.

On April 28 & 29, Investigator Carter spoke with Capt. James Miles of the USC PD in an effort to determine if any of his officers were at the jail at the same time as when Officer Sorrell. Captain Miles reviewed his department's records and found out that two (2) were there around the same time. Captain Miles said he contacted both officers and neither one witnesses any improper conduct. According to Captain Miles, one officer recalled seeing Officer Sorrell but knows of him from previous encounters and tries to avoid him.

On April 29, 2010, Troopers J. C. Francis and J. A. Howell (SCHP-Orangeburg) collectively stated they did not see a BPS Officer at the jail.

DECLASSIFIED

AFFIDAVIT

STATE OF SOUTH CAROLINA
COUNTY OF Richland

OPR CASE# PR-1610-10-0024

PERSONALLY appeared before me, C. L. Carter. My name is, E. S. Sorrell. My address is PO Box 1993 Blythewood, SC 29016. Date of Birth 7-4-60. Phone Number 896-2422. I completed the 12th grade in school, and I can read and write. This statement is given on May 4, 2010, at the OPR HQ C. L. Carter & William House who have identified themselves as investigators with the South Carolina Department of Public Safety's Office of Professional Responsibility.

On 31 March at approx. 0235hrs I was alerted to activity on the street by the video camera at the Lottery. I thought someone was throwing bottles at the building. Upon calling for a patrol in the area I went downstairs. Upon exiting the building, I heard shrieking and a scream. I also heard a man yelling "get her" and a female yelling "don't hurt me." As I approached, I observed a woman standing with her hands up and a man holding an orange water balloon. I stated in an authoritative voice "Stop." All activity stopped and the individual dropped the balloon after being ordered to. I was unsure what was happening, I thought it might be an assault. All persons were ordered to turn around and place their hands on the wall. Both males complied while the female became argumentative and refused to comply stating things to the effect of "I don't have to do what you say." She continued to refuse even after I identified myself as a Police Officer. She had been looking at the Security Guard and I think she was confused. After 2-3 times of being told to put her hands on the wall she turned and leaned against the wall. Even before I touched her shoulder she claimed I was hurting her. She said it twice before I even approached her. She was not in a proper search position so I instructed her how to comply. I even pointed at the two males and said "just like them." She moved her left foot slightly and I moved mine with hers. She moved it again and I moved mine with hers. Nothing I did would have caused injury to this person. Realizing that she was not going to fully comply I chose to disengage and continue with the investigation. At no time did I kick her feet or pull on her hoodie. All individuals were asked if they had weapons. I then asked for permission to check. Both males consented, I can't recall if the female did. Both males had no weapons and due to the outfit the female was wearing all I could check was the hood of her clothing. I did this by crushing the material with my hands. She had no weapons. I later learned that she had a cell phone and keys concealed in a small pouch in the front portion of her clothing.

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[Signature]
J. Y. 10

[Signature]

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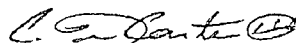
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This statement was completed at 7:40 P.m., on may 4, 2010.

SWORN TO AND SUBSCRIBED TO BEFORE
ME THIS 4th DAY OF may, 2010



Signature of Person Giving Voluntary Statement



NOTARY PUBLIC FOR SOUTH CAROLINA
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OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

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INVESTIGATOR:	C. Lee Carter III
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Investigator Carter asked Officer Sorrell exactly what lawful commands did Swanson fail to follow. Officer Sorrell explained he had to tell Swanson two (2) or three (3) times to turn around and place her hands on the wall before she finally did. Swanson told Officer Sorrell he could not tell her what to do but she eventually complied. Officer Sorrell continued that when he prepared to approach Swanson she yelled that he was hurting her even before he touched her. Officer Sorrell said he did not have an issue with Swanson's feet. Investigator Carter told Officer Sorrell the video indicated Swanson's feet were already shoulder width apart when he approached. Officer Sorrell disputed this by stating they were only about 12 to 14 inches apart. Officer Sorrell said the distance Spaht and Keith spread their hands and feet was to his satisfaction but Swanson's was not. Officer Sorrell said he wanted all three (3) in a "disadvantaged" position. Spaht and Keith met

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Officer Sorrell also denied yanking on the hood of Swanson's sweatshirt. He wanted to check it for contraband and grabbed it from the outside and "mashed" the cloth.

Officer Sorrell said he may have referred to Swanson as "disobedient" but did not recall saying she "can't follow orders." Officer Sorrell said Swanson had an "attitude" and bounced around while refusing to follow his verbal commands. After being asked by Investigator Carter, Officer Sorrell acknowledged asking Spaht and Keith if there was something about Swanson he should know that would make her act the way she did. Officer Sorrell commented that Swanson was very thin and Investigator Carter told him she weighs 111 pounds. It was established with Officer Sorrell that Swanson did not conceal her hands and eventually complied with his verbal commands to stand against the wall. Officer Sorrell was then asked if there was a need to initiate a physical encounter with Swanson and he said there was not a physical encounter.

Officer Sorrell said when he finished interviewing the complainants he told Swanson to sit beside Spaht and Keith. Swanson refused and had a "you can't make me" attitude. Officer Sorrell asked Swanson three (3) times and she finally said she could not due to what he thought was her recent tailbone surgery. Officer Sorrell denied getting upset with Swanson for not sitting down but acknowledged her continued failure to cooperate "irritated" him. Officer Sorrell was asked about the claim he was primarily concerned with Swanson's attitude problem and "giving him lip." Officer Sorrell agreed and called it a "good characterization." Officer Sorrell was also asked about the allegation he was sarcastic and made a "show" out of the situation. Officer Sorrell told Investigator Carter he explained the charge to each person and made sure they understood.

Investigator Carter asked Officer Sorrell for his definition of Disorderly Conduct. Officer Sorrell then removed a sheet of paper from his pocket he had printed from a website. Investigator Carter told Officer Sorrell he could have looked up this information himself but the question concerned Sorrell's interpretation. Officer Sorrell then replied that Disorderly Conduct is anything that is boisterous or not orderly. In Investigator

00647

Page 3 of 4

Carter's opinion, Officer Sorrell memorized the information from the website and adopted it as his definition. Investigator Carter also asked Officer Sorrell if there was such a thing as a felony Disorderly Conduct. Officer Sorrell replied yes and said the charge can be elevated to a felony. Investigator House asked for the section of law and Officer Sorrell said he found it on a website where this applies to "some states." Investigator Carter then told Officer Sorrell he was not interested in other states and only wanted to know about South Carolina. Officer Sorrell later acknowledged there is no such thing as a felony Disorderly Conduct in South Carolina.

Officer Sorrell adamantly denied threatening the complainants with a felony. Officer Sorrell said Spaht and Keith asked about the charge and he told them Disorderly Conduct is disruptive behavior or conduct that is not orderly.

The Lottery Commission building is located on Main Street and Officer Sorrell described this as a residential and commercial area. Officer Sorrell explained there are 60 motel rooms and a 10 story apartment complex nearby and the complainants' boisterous behavior was "disturbing the tranquility." Officer Sorrell denied telling Spaht and Keith that Swanson's behavior got them in trouble. However, he did advise Investigator Carter that he may have exercised officer discretion if everyone had been cooperative. Investigator House asked Officer Sorrell if it was fair for the two (2) men to be arrested even though they cooperated. Officer Sorrell responded by stating he was trained that if "one goes, they all go." Officer Sorrell continued that they all were loud and boisterous and committed the same act. Officer Sorrell mentioned Spaht being 30 and too old to be throwing water balloons. Officer Sorrell commented he might have taken a different approach if the complainants were college age. Officer Sorrell was asked about him telling Corporal Harris all three (3) were arrested because Swanson was "disobedient" and would not cooperate. Officer Sorrell said this statement was true and explained that he gave Corporal Harris an abbreviated version of what happened. It was at this point in the interview when Officer Sorrell said he told Corporal Harris that Swanson would not "spread her legs." Earlier in the interview Officer Sorrell said he has been in law enforcement for 30 years and has learned how to interact with males and females. Officer Sorrell said he did not believe he told Swanson to spread her "legs." Officer Sorrell maintained he told Swanson to move or to spread her "feet."

In regards to Brenard Malone, Officer Sorrell said he only met him once and Malone told him he was fired from the Department of Corrections for giving an inmate a cell phone. Concerning Malone calling him sarge, Officer Sorrell said he retired from the Army as a first sergeant and "90%" of those he encounters in state office buildings refer to him as sarge. He said this is their way of showing respect for his service.

Officer Sorrell was also asked about the comments he was accused of making at the jail. Officer Sorrell said he knows some of the jail staff and was joking with them on the night the complainants were arrested. Officer Sorrell said he has been "gun shot" in the chest twice and still has one bullet in his chest. Officer Sorrell said the military determined he was 80% disabled but he was not specific if this was due to being shot. This does not pertain to the SCDPS and Investigator Carter did not push the issue when Officer Sorrell

Page 4 of 4

said he did not want to talk about it. Officer Sorrell said he was too young to fight in Vietnam and denied telling anyone at the jail that he did. Officer Sorrell said he was talking to the jail staff and did not intend for the complainants to hear what he said. In regards to his claim he is paid for every head he brings in the jail, Officer Sorrell stated he does not believe he said this. Officer Sorrell denied trying to embarrass Swanson by telling the jail staff she had a problem with her "butt." Officer Sorrell also did not recall saying he had ever discharged a firearm in a military or police related incident.

On several occasions Officer Sorrell mentioned being upset with Corporal Harris for allegedly encouraging a complaint. It is Investigator Carter's opinion that Officer Sorrell Sorrell has convinced himself this is true. Investigator Carter informed Officer Sorrell that Spaht's father, a retired FBI Agent, filed the complaint. Investigator Carter tried to keep Officer Sorrell on track and only let him talk about the allegations in the complaint. Officer Sorrell rambled from time to time and during one of these episodes he said he was "surrounded by corruption" at the BPS.

Officer Sorrell acknowledged stopping by Robert Masella's law office to answer the Discovery Motion. Officer Sorrell thought he had to hand the materials directly to Masella and this is why he made the comment about Masella being on vacation when he got there. Officer Sorrell admitted telling Masella's paralegal he thought it was ironic for an attorney who defends those accused of DUI to advertise on a bottle opener.

Investigator Carter asked Officer Sorrell to explain his comments to Chief Zackary Wise regarding Capt. A. J. Curtis obtaining a copy of the security camera video. According to Officer Sorrell, a security guard told him Captain Curtis came by to pick up a copy of the video. Officer Sorrell said the guard "thought" Captain Curtis had a "hard on" for him (Sorrell) and was out to get him. The guard did not say Captain Curtis did anything improper or made any negative comments about Officer Sorrell. Officer Sorrell was upset with Captain Curtis coming to the Lottery Commission building to obtain a copy of the video when Sorrell already had one. Officer Sorrell could not answer Investigator Carter when he asked how Captain Curtis was supposed to know this. Investigator Carter told Officer Sorrell that Captain Curtis was following a directive from Director Mark A. Keel. Officer Sorrell said Chief Wise told him "80%" of his staff would not have even walked outside of the building to investigate the incident with the three (3) complainants.

After discussing his encounter with Masella's paralegal, Officer Sorrell said the complaint is an attempt to discredit him (Sorrell) so the charges would be dropped. Officer Sorrell commented that he does not see that happening.

DELETED

DISCIPLINARY ACTION LOG January 2003 - Present

Recommendation Date	Name	Social Security Number	Position Title (or Rank)	Race	Sex	Date of Birth	Organization	Violation Type	Type of Disciplinary Action Imposed	Effective Date	Incident Date	Investigation # (OPR, OI, etc.)	Training Required	Comments
11/14/03	Sorrell, Edwin	255-19-5309	Sr Trooper	W	M		BPS	Improper Conduct	Counseling Session	11/14/03	11/12/03		NO	False remarks were withly and intentionally made about a message received, in order to 'test the system', and see how long before another Trooper went behind his back and repeat what he had said.
05/07/04	Sorrell, Edwin	255-19-5309	Sr Trooper	W	M		BPS	Improper Conduct & Insubordination	Level II	07/20/04	09/28/03	PR-1610-03-0133-01	NO	Improper behavior by berating another officer in front of an outside party. Also, insubordinate by failing to go through the chain of command with concerns about another officer, as previously instructed by supervisor during a counseling session.
07/15/04	Sorrell, Edwin	255-19-5309	Sr Trooper	W	M		BPS	Withly Violation of PRP	Level II	08/02/04	03/01/04	PR-1610-04-0035-01	NO	Signed a Warning in Employee Regarding Confidentiality, but later told another person about being interviewed by OPR, regarding a complaint. This is a violation of Policy Directive #123.
2														

00651

05/01/2008

DELETED

CONFIDENTIAL

INVESTIGATIVE REPORT

CONFIDENTIAL

Addendum to OPR File

00654

South Carolina Department of Public Safety



TO: MAK DATE: 6/2/10
 FROM: Ben Thomas CASE #: PR- 1610 -10-0024
 THRU: 6-2-10 SUBJECT: Shawn Sorrell - BPS

☒ as we discussed	☐ note and file
☒ as you requested	☐ note and return
☐ for your approval	☐ note and see-call me on this
☐ for your comments	☐ prepare reply
☒ for your information	☐ reply for my signature
☐ for your signature	☒ take appropriate action
☐ investigate and report	☐ return with more details

As you requested I talked with Officer Sorrell by phone to inquire about additional statement he told you he wanted to make in his case. These are his additional statements that wanted to submit after your meeting with him in May.

RECEIVED
 DIRECTOR'S OFFICE
 108467
 JUN X 2 2010

Referred to: MAK
 Date Returned: _____
 Return: _____

00655

OPR CASE# PR-1610-10-0024

This statement is written to clarify certain aspects of the interview conducted on 4/4/2010.

1. At no time did I tell anyone I was going to "upgrade" the charge to a felony.

When I was asked in the interview if I threatened to "upgrade" the charge I replied "No" I was also asked if there was a Felony Disorderly Conduct in this state. I also replied "No" After insistent badgering, I firmly stated the above comment which seemed to satisfy the investigator. I can not say with 100% certainty if I said something like this or not during the entire incident. I had already explained during transport that "This isn't the crime of the Century". I had also advised them that if this was an isolated incident that they would be eligible for the Pre-trial Intervention Program. I also stated to them I would approve and recommend they be allowed to participate.

2. At no time did I mention her "surgery" or her having problems with her "butt".

When I was asked if I had made comments about her "butt". I replied "No" I did not recall having said anything. I even made a comment that "That doesn't even sound like me." After several hours of replaying this whole scenario in my head and re-reading the statement I remembered the following. The normal booking procedure is to have them all sit-down and then they move them one by one to the booking chair by the computer. I had two of them sit-down and I said this one can't sit-down because of recent surgery on her.. I paused because I didn't want to use the word "tail bone" as they described it. I did then say something to the effects of "back" or "butt" pointing in the direction of her lower back. I can't remember if I said this to the jailer or the trooper who had one in line before me. As I recall she said she could sit-down and sat on her own until the female jailer came to move her.

5-11-2010

Several weeks ago, when arriving at work (1730hrs) I was informed by a security guard at the Lottery that I was being investigated. He stated some "Captain" had been snooping around and it seemed like he had a real "attitude". I was also informed by a lottery employee that someone had called him and then called his boss about a copy of a DVD of an arrest I had made on 3-31-2010. Days after that arrest, I obtained a two copies of the DVD in preparation for court and had already shared a copy with the defense attorney as required by law. About an hour later, Capt. Curtis returned to the building and advised me of some complaint. After hearing comments from people at the lottery and realizing all they had to do was contact my supervisor for a copy of the DVD I contacted Chief Wise to voice my complaint. I was upset that others knew of this complaint before I did. It is DPS Policy that you be informed in writing of a citizen complaint.

Upon meeting with Chief Wise, I was assured that they had no intent to slander me or make me look bad. Due to time restraints it was imperative that they had to obtain this information immediately. He additionally advised he was ordered by the Director to get it. Truth is, they didn't know I had already obtained copies of this DVD. They were afraid it would be erased due to the cameras being on a thirty day loop. That is the reason for the rush. I voiced my concern about several issues in the past that led to believe that Capt. Curtis might have motive to slander me. I felt these were confidential conversations because I had asked if we could speak in private and even closed the door behind me.

On 5/3/2010 at 2100hrs I received a message from Capt. Hancock and returned his call. He informed me that I had a meeting at 1430hrs with Mr. Carter in relation to the letter I received. I asked Capt. Hancock "What Letter?". He informed me that OPR had sent a letter to me. I had never received it.

I arrived early as directed to OPR where I was met by Mr. Carter and escorted into an interview room. This room had three chairs, a table and multitude of recorders and other electronics. When the interviewed began it was pleasant and professional. This would not be the case throughout. Mr. Carter advised me that the interview was in relation to a citizen complaint and made reference to the letter I had received. I informed him and had not received any such letter. He stated it didn't matter and that "you know what this is about". I agreed that I knew something was going on. Mr. Carter had a two page list of questions and began the interview. Most of the questions were simple and very easy to follow. During the interview, the other investigator interjected rarely, once I recall during a heated exchange about the law.

Somewhere during the interview it became increasingly hostile. I would answer a question and then Mr. Carter would obviously disagree and restate the question. He did this repeatedly. He was clearly trying to drive my answers to meet his needs. He began to do this in what I believe was an attempt to anger me. Once, Mr. Carter referred to me as a "BSA" and asked me if I knew what that stood for. I responded "Bull Shit Artist?". He agreed. He continued to tell me how he felt and really showed his personal opinion of me. I didn't understand his opinion and when he tried to argue about one point with me joking about my "Army" times. I clarified definitively "I am a disabled veteran and I do have a bullet in my chest!"

Several statements were made that led me to believe he was biased in his investigation.

00657

He stated "I've watched the video and you can clearly see her feet are shoulder width apart! I responded with "Then, you can clearly see that I didn't kick her". He even argued asking "Why did you even touch her, you are 140lbs heavier than her!" I explained that you don't assume just because she's skinny, doesn't mean she's not a threat. I had to treat her the same as the male suspects for fear they would file a complaint about unfair treatment. I went on to say that due to the "Body glove" style clothing she was wearing that I had missed a small phone and keys. They were concealed in a small pouch in the front down low. For obvious reasons I didn't check this area. This could have been a weapon of some type and I was angry at myself for not checking her better. Mr. Carter continued and asked a question about me referring to her "Butt". The verbiage he used indicated that I had referred to her butt in a sexual manner. His inference put me on the defense knowing I had never referred to her in a sexual manner. I even indicated to him that I was embarrassed when the female guard began to search her. It was so invasive that I turned from the search (another guard was covering her) and looked directly into the camera to avoid the perception I was somehow enjoying the search. I remembered later that I may have made a comment in an attempt to notify the guard of her injury so that he would not go through the same argument that I had with her on the street. When questioning me about the security guard seen in the DVD it was clear he was attempting to discredit his testimony. As you can see in the video he arrived a short time after I did and reasonably should have seen most of what happened. I advised him that I only saw this individual one day and never again. Mr. Carter made a point of telling me "You know he got fired!" He said it several times repeating "He got fired!" It seemed by his questioning he was trying to devalue the security guards testimony. Towards the end of the questioning Mr. Carter asked me why I complained to Chief Wise? I was shocked that someone had informed him of my conversations with my "Chief"! I had commented on the Captains demeanor, how he conducted himself while obtaining the copy of the DVD from the lottery and previous issues that I thought would be of concern. To know my concerns were discussed with Mr. Carter leads me to believe that someone had attempted to influence the outcome of the investigation. Mr. Carter made it very clear that he was the lead investigator and he made any and all decisions concerning this case.

After the questioning Mr. Carter then informed me that I was required to make a statement. He handed me several forms and told me to begin. I explained to him that I have horrible handwriting and a total lack of spelling skills. I told him "I don't want to look like a total idiot, I need time to write this correctly!" I informed him that I was going to work and I would have twelve hours in which to prepare a statement. I suggested that I would drop it by in the morning. This was unacceptable to him. I asked him repeatedly and he refused. I informed him that I had to relieve someone and he said something to the effect "Don't worry about it!". He would not allow me to leave and I could not walk out for fear of reprisal. If deemed uncooperative I could be terminated immediately. Mr. Carter obtained a laptop from somewhere and presented it to me. Having no other choice, I began my statement. A few moments later, Mr. Carter entered the room and gave me a copy of the questions he had asked. He said "Use this to go by". He had written my answers on his copy and given me one to go by. I thought this was unusual but said nothing. After several hours, Mr. Carter asked if I needed water. At first I declined and then said I would take one. When he delivered the water to me I jokingly

said "Is this like on TV, ya get my DNA off the bottle?" Mr. Carter replied "If I want your DNA I'll fill out a form and take it!" I was offended by this remark but did not respond. After finishing my statement I called Mr. Carter. I am almost fifty years old and not familiar with a laptop. I have used them very rarely so I needed assistance with spell-check and such. Mr. Carter made the spelling corrections and corrected minor grammatical errors. I expected he would add questions at the end if I had not covered anything appropriately.

Instead, Mr. Carter turned the laptop around and said "You need to put this!" He began somewhere on the list and coached me on what to say. If I said something he didn't like he would suggest other verbiage. He would say something to the effects "You need to say it like this because this is what they are saying." He continued down the list line by line. Several times he gave exact verbiage which I knew was wrong of him to be doing. Both sentences I clarified to the Director were suggested. I could not object or walk out for the same fear as I stated above. If deemed uncooperative I could be terminated. I know it is wrong to coach or coerce someone but there was nothing I could do. It would have been appropriate for him to ask questions but to suggest answers was unfathomable. At the completion of the statement I did not want to sign it but as above did not have a choice. I was relieved that I was not sworn to the statement but still did not want to sign it. If I had refused to sign it I would have been deemed uncooperative and subject to termination. After signing the statement I asked Mr. Carter for the copy of the questions which was still on the table by the laptop. He refused saying "I can't give it to you, I don't want to get into trouble." If there was nothing wrong with using it as a guideline why not give me a copy! This interview continued for over five hours.

The next morning I immediately contacted the Directors office and attempted to report what I perceived as misconduct. Due to his heavy schedule it was not possible until 5/7/2010 at approx. 1630hrs.

In conclusion, the arrest made on 3/31/2010 was lawful, ethical and fair to all. I fail to understand why I have received this type of treatment.

Shawn Sorrell
236 Tamara Way
Columbia, SC 29229

Employee Records

00660

DELETED



South Carolina Department of Public Safety

MEMORANDUM

TO: Lance Corporal E. S. Sorrell
Bureau of Protective Services

FROM: Chief Zackary Wise *ZW*
BPS, Headquarters

DATE: April 11, 2008

SUBJECT: Notice of Law Enforcement Assistance Program

Your recent behavior has caused considerable concern for your well-being. On several occasions, you have displayed overly aggressive and antagonistic behavior when dealing with individuals you encounter during the performance of your duties.

Specifically, while on assignment at the Criminal Justice Academy, you were prepared to take a student into custody when there was no violation of law. You also made a decision to put the Academy on lockdown without authorization from Academy personnel. Your supervisors, co-workers and colleagues have observed that you have a tendency to react excessively in stressful situations. Consequently, your behavior often escalates situations that could have been easily defused or resolved.

For these reasons, I have scheduled an appointment for you with Dr. Tom Hammill, Jr. who is affiliated with the Law Enforcement Assistance Program. It is mandatory that you attend this appointment and any follow-up appointments. Your initial appointment is scheduled for April 16, 2008 at 10:00 a.m. Dr. Hammill's office located at 207 Swartz Road in Lexington. His office telephone number is (803) 957-9958.

I encourage you to take advantage of this opportunity to address any problems that may be impacting your conduct on the job. If you have any questions regarding this matter, you may contact Captain Curtis or me directly.

Cc: Teresa Kitchens, HR

This signature acknowledges that the employee received this document and the matter was discussed with the employee by the supervisor.

Employee Signature

Date

4-11-08

Close out

31-
2.3
PC



**SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
EMPLOYEE PERFORMANCE MANAGEMENT SYSTEM**

*The South Carolina Department of Public Safety will serve and protect the public
in South Carolina through training, education, prevention and enforcement*

Name Sorrell, Edwin S. Social Security No. 255-19-8309
Agency S. C. Department of Public Safety
Department Bureau of Protective Services
Position Classification Lance Corporal
Date Assigned to Current Position June 2, 2005
Performance Review From July 17, 2009 To July 17, 2010 ✓

PLANNING STAGE ACKNOWLEDGEMENT

Rating Officer *Wm. E. Horn* Date 6-25-09
Reviewed by *[Signature]* Date 6-25-09
Employee *[Signature]* Date 6-25-09
(Signature of employee indicates the Planning Stage and Position Description were reviewed with the employee.)

EVALUATION STAGE ACKNOWLEDGEMENT

Rating Officer *[Signature]* Date 5-24-10
Reviewed by *[Signature]* Date 6-1-10
Reviewing Officer Comments _____

Employee *[Signature]* Date 6-4-10
(My signature indicates that I was given the opportunity to discuss the official performance review with my supervisor – not that I necessarily agree.)
Employee Comments _____

RECEIVED

JUL 29 2010
Human Resources Office
D.P.S.

RECEIVED

JUL 14 2010

BPS

EPMS

00663

JOB DUTIES

Performance
Level

1. **Job Duty:** Patrols assigned areas to deter and/or detect violations. Maintains order and enforces state statutes and regulations. Exercises arrest powers and testifies in court when necessary. Provides administrative duties to include dissemination of information, completing necessary reports/documents, and maintains a working knowledge of state statutes, as well as the policies and procedures of the South Carolina Department of Public Safety. Maintains security for all areas as determined to be the responsibility of the Bureau of Protective Services as mandated by South Carolina Code of Laws, Section 23-6-90.

M
30%

Success Criteria: Maintains a good working knowledge of the laws, rules, and regulations involved in basic law enforcement. Maintains a good working knowledge of procedures for the Division of State Information Technology, Department of Revenue and its Annex, Lottery Commission, the Criminal Justice Academy and other designated facilities. Maintains knowledge of court procedures and efficiently completes necessary reports and documents in a timely manner.

2. **Job Duty:** Provides protective services and eliminates danger for persons including but not limited to the Governor, Lieutenant Governor, state officials, as well as state employees.

M
20%

Success Criteria: Provides effective, efficient protective services and eliminates danger for persons including but not limited to the Governor, Lieutenant Governor, state officials, as well as state employees.

3. **Job Duty:** Establishes and maintains a positive and objective working relationship with other law enforcement agencies and officials. Performs other law enforcement duties as required.

M
20%

Success Criteria: Establish and maintain a professional and objective working relationship with other law enforcement agencies and officials.

4. **Job Duty:** Assists supervisors in training new officers in recognition of state officials. Provides assistance to supervisors in training new officers with BPS on patrolling and efficient report writing procedures. Assists supervisors with informing new officers of the policies and procedures of the South Carolina Department of Public Safety.

E
20%

Success Criteria: Assist supervisors in efficiently training new officers in recognition of state officials, patrolling, writing reports efficiently and in a timely manner; and in helping to inform new officers of the policies and procedures of the South Carolina Department of Public Safety.

5. **Job Duty:** Assesses current operating procedures and makes recommendations to supervisors regarding enhancements with current and existing programs and procedures. Performs other duties as required.

E
10%

Success Criteria: Assesses, critiques, and evaluates current procedures and makes recommendations for improvements.

OBJECTIVES
(Optional)

Performance
Level

1. Objective:

Success Criteria:

2. Objective:

Success Criteria:

PERFORMANCE CHARACTERISTICS

Acceptable/
Unacceptable

1. Characteristic: Job Knowledge

Definition: Knows and understands the details of the job and follows through and completes all assignments accurately and in a timely manner.

2. Characteristic: Judgment

Definition: Reasons, compares, understands, and thinks rationally on the job. Makes quality work related decisions on sound conclusions and is able to separate facts from opinions.

3. Characteristic: Quality of Work/Dependability

Definition: Employee can be relied upon to meet work schedules and fulfill job responsibilities and commitments.

SUMMARY AND IMPROVEMENT PLAN

Identify the employee's major accomplishments, area needing improvement, and steps to improve present and future performance.

APPRAISAL RESULTS

_____ Substantially Exceeds _____ Exceeds 2.3 Meets _____ Below

Edwin S. Sorrell
255-19-8309

WEIGHTED SYSTEM WORK FORM

Substantially Exceeds Performance Requirements (SE)	4	3.5 & Above
Exceeds Performance Requirements (E)	3	2.5 to 3.4
Meets Performance Requirements (M)	2	1.5 to 2.4
Below Performance Requirements (B)	1	1.4 & Below

	Weight Factor	Rating	Numerical Score (weight x rating)	Total Score
DUTIES:				
Duty 1	30%	m	30 X 2 =	60
Duty 2	20%	m	20 X 2 =	40
Duty 3	20%	m	20 X 2 =	40
Duty 4	20%	E	20 X 3 =	60
Duty 5	10%	E	10 X 3 =	30
OBJECTIVES:				
Objective 1	%		X =	
Objective 2	%		X =	
Objective 3	%		X =	
TOTAL	100%			<u>230</u>
PERFORMANCE CHARACTERISTICS:				
Job Knowledge				A
Judgment				A
Quality of Work/Dependability				A
OVERALL RATING: 100% / 230 = 2.3				

Add total scores and divide by 100. This will be the overall rating for the employee this period.
(Round up to next rating, i.e. 2.45 equals 2.5)

Grievance Correspondence

00668

BURNETTE & ROTHSTEIN, P.A.

2322 Devine Street
Columbia, South Carolina 29205
803-251-0202
Fax: 803-251-0222

FAX COVER SHEET

FAX NUMBER TRANSMITTED TO: 896-9683

TO: Ms. Teresa Kitchens

OF: Office of Human Resources, SC Department of Public Safety

FROM: M. Malissa Burnette, Esq.

CLIENT/MATTER: Grievance Review Conference Request Form for Officer Shawn Sorrell

DATE: 7-26-10

DOCUMENTS:

NO. OF PAGES*

Letter & Grievance Review Conference Request

4

COMMENTS:

*NOT COUNTING COVER SHEET. IF YOU DO NOT RECEIVE ALL PAGES, PLEASE TELEPHONE US IMMEDIATELY AT 803-251-0202.

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPY OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

00669



BURNETTE & ROTHSTEIN, P.A.

ATTORNEYS AT LAW

Certified Specialists in Employment and Labor Law

M. Malissa Burnette
mmburnette@windspring.com

David E. Rothstein
derothstein@windspring.com

2322 Devine Street
Columbia, South Carolina 29205

Telephone: (803) 251-0202

Facsimile: (803) 251-0222

www.brllaw.com

Also-licensed in North Carolina

July-26,-2010

VIA FACSIMILE (896-9683)
and First Class Mail

Ms. Teresa Kitchens
Office of Human Resources
SC Department of Public Safety
P.O. Box 1993
Blythewood, SC 29016

RECEIVED

JUL 26 2010

Human Resources Office
D.P.S.

RE: Grievance Review Conference Request Form
Officer Shawn Sorrell
Our File No.: 10-117

Dear Ms. Kitchens:

I am attaching the Grievance Review Conference Request Form of my client, Shawn Sorrell, for your review. Please feel free to contact either Officer Sorrell or me to communicate about this matter.

Also, please note that my contact information will change as of August 1. My new law firm affiliation is listed on the second page for your convenience.

We look forward to hearing from you.

With best regards,

Sincerely,

M. Malissa Burnette
M. Malissa Burnette

00670

Letter to Ms. Kitchens
July 26, 2010
Page Two

New Contact Information as of August 1, 2010:

Callison, Tighe & Robinson, LLC
1812 Lincoln Street (29201), P.O. Box 1390, Columbia, SC 29202-1390.

Telephone number (803) 404-6900; Fax number (803) 404-6901
Email address mmburnette@callisontighe.com

MMB

Enclosure: As Stated

cc: Shawn Sorrell (w/encls.)

00671

Grievance Review Conference Request

(Please type or print all information)

Employee requesting a review conference must submit the completed form to the Office of Human Resources within fourteen (14) calendar days of the effective date of the grievable action.

Employee Name: E. S. Sorrell	Social Security Number: 255-19-8209
Job Classification or Title: Lance Corporal	Division/Office: State House
Mailing Address: 236 Tamara Way Columbia, SC 29229	Telephone Number: 734-2422

Grievance

Statement of Facts Involved: (Be as specific as possible as to names, dates, and locations. Additional pages or supporting documentation may be attached. Please include a copy of written disciplinary action.)

I was notified on July 12, 2010, by Director Mark A. Keel that I was being terminated from my position effective that date. The reason given for my termination was that I was alleged to have violated Disciplinary Action Policy #400.08 for "Improper Conduct." (See attached letter.)

I have been accused of having no probable cause to arrest three individuals for disorderly conduct on March 28, 2010. These individuals were seen by me on videocamera while I was on duty at the Lottery Commission. They were creating a loud disturbance in the middle of the night in an area that includes a hotel and private residences. I saw these adults throwing projectiles and I heard one of them scream. Upon investigation, they were found to be throwing water balloons. Two of the individuals were cooperative but one was not.

RECEIVED

(Continued on next page)

JUL 26 2010

Relief Requested:

Human Resources Office
D.P.S.

I request that I immediately be reinstated with back pay and restoration of benefits, that all references to this disciplinary action be removed from my file, and that the Department reimburse all costs and attorney's fees.

Employee Signature:

E. S. Sorrell

Date:

26 Jul 2010

The initials and date below signify the date received at OHR and by whom.

Typed or printed name of OHR official:	Initials of OHR official:	Date received (print or stamp):

E. S. Sorrell
Lance Corporal
255-19-8209

(Continuance of Grievance Review Conference Request)

I respectfully disagree with Director Keel's assessment that my arrest was without probable cause. I believe this matter was reviewed only because the father of one of the individuals is a current or former FBI agent, and it is my understanding that he complained about his son's arrest. Had there been any impropriety on my part, I think my chain of command would have questioned the validity of the arrest sometime shortly after March 28. My arrest of the three individuals meets the standards and definition of "probable cause" based upon my law enforcement training.

Furthermore, I deny the allegations that I conducted myself in any manner other than as a professional law enforcement officer. I was not overly aggressive, threatening, intimidating or bullying, nor did I abuse my authority. I did not kick the female's legs apart. I feel that I have been unfairly singled out for termination.



South Carolina Department of Public Safety

August 20, 2010

M. Malissa Burnette, Attorney at Law
Callison, Tighe & Robinson, LLC
Post Office Box 1390
Columbia, South Carolina 29202

Re: Step One Grievance - Edwin Shawn Sorrell

Dear Ms. Burnette:

After consideration of the issues you and your client presented in the Step One Grievance Hearing on August 18, 2010, I find no reason to reverse the termination imposed upon Edwin Shawn Sorrell for **Improper Conduct**.

If you wish to schedule a Step Two Grievance Hearing, you must submit your request in writing to the Office of Human Resources within three (3) days of receipt of this letter. If you have any questions regarding this matter, please call Ms. Teresa Kitchens in the Office of Human Resources at (803) 896-7943.

Sincerely,

Chief Zackary Wise
Bureau of Protective Services

ZW/ij

cc: Human Resources

CALLISON  TIGHE

M. Malissa Burnette, Esq.
Certified Specialist in Employment & Labor Law
Certified Federal Court Mediator

803-404-6900
mmburnette@callisontighe.com

August 25, 2010

**VIA FACSIMILE (896-9683)
and First Class Mail**

Ms. Teresa Kitchens
Office of Human Resources
SC Department of Public Safety
P.O. Box 1993
Blythewood, South Carolina 29016

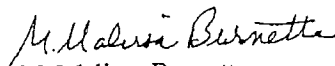
**RE: Edwin Shawn Sorrell / Request for Step Two Grievance Hearing
Our File No.: 10-117**

Dear Ms. Kitchens:

On August 24, 2010 I received a Letter from Chief Zackary Wise stating that he found no reason to reverse the termination imposed upon my client, Edwin Shawn Sorrell, for improper conduct.

On behalf of Mr. Sorrell, I am requesting that a Step Two Grievance Hearing be scheduled. Thank you.

Sincerely,


M. Malissa Burnette

MMB

cc: Mr. Sorrell

RECEIVED

AUG 26 2010

OFFICE OF
HUMAN RESOURCES



South Carolina Department of Public Safety

September 13, 2010

M. Malissa Burnette, Attorney at Law
Callison, Tighe & Robinson, LLC
1812 Lincoln Street, P.O. Box 1390
Columbia, South Carolina 29201-1390

Re: Edwin Shawn Sorrell - Step II Grievance Hearing

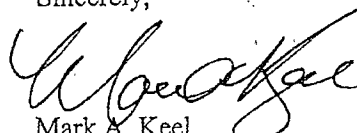
Dear Ms. Burnette:

After consideration of the issues you and your client presented in the Step II Grievance Hearing on September 8, 2010, I find no reason to reverse the termination imposed upon Edwin Shawn Sorrell for Improper Conduct.

This letter serves as the Final Agency Decision for purposes of appeal to the State Human Resources Director.

If you have any questions regarding this matter, please feel free to call me.

Sincerely,


Mark A. Keel
Director

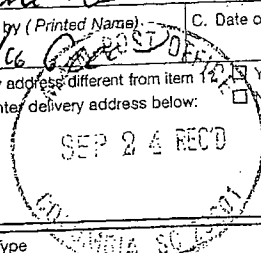
MAK/ij

cc: Teresa Kitchens, Director
Human Resources

10311 Wilson Blvd. Blythewood, SC - US Mail: P.O. Box 1993 Blythewood, SC 29016

00676

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
- Complete items 1, 2, and 3. Also complete item 4, if Restricted Delivery is desired. - Print your name and address on the reverse so that we can return the card to you. - Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature X <i>[Signature]</i> ☐ Agent ☐ Addressee	
1. Article Addressed to: <i>M. Malissa Burnett, Atty</i> <i>Callison, Tigner & Robinson</i> <i>1812 Lincoln St., PO Box 1390</i> <i>Columbia, SC 29201-1390</i>		B. Received by (Printed Name) <i>B. Mc...</i> C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes ☐ No If YES, enter delivery address below:	
		3. Service Type ☐ Certified Mail ☐ Express Mail ☐ Registered ☐ Return Receipt for Merchandise ☐ Insured Mail ☐ C.O.D.	
		4. Restricted Delivery? (Extra Fee) ☐ Yes	



Article Number *1000 1670 0004 6244 0764*
(Transfer from service label)
PS Form 3811, August 2001 Domestic Return Receipt 102595-01-M-2509

Disciplinary Action Policy

POLICY NUMBER	400.08
EFFECTIVE DATE	May 11, 1994
ISSUE DATE	
OLD NUMBER	119
SUBJECT	DISCIPLINARY ACTION
APPLICABLE STATUTES	§8-11-230, §8-11-690, R. 19-717 et al.
APPLICABLE STANDARDS	CALEA 26.1.1, 26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8, 52.2.7
DISTRIBUTION	TO ALL EMPLOYEES

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. PURPOSE

Employees of the Department of Public Safety will conduct themselves in accordance with applicable laws, regulations, department policies and generally acceptable work behaviors. Employees in supervisory positions will set an example by their conduct, attitude and work habits. [26.1.1]

II. POLICY

Disciplinary actions imposed for unacceptable conduct should generally be progressive in nature with consideration given to the severity of the conduct and the employee's past record. The attached Guidelines for Disciplinary Action are recommendations and not mandatory. The department reserves the right to impose any type of disciplinary action for any offense as it deems appropriate, including termination from employment for a first offense. Supervisors should consult with the department's Office of Human Resources prior to imposing any corrective action or attempting to resolve any disciplinary matter. All disciplinary actions are part of the employee's official personnel file and may not be removed. [26.1.5]

III. DEFINITIONS

Appeal A request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.

Calendar Days The sequential days of a year. Calendar days are computed by excluding the first day and including the last; if the last day falls on a Saturday, Sunday, or legal holiday, it is excluded.

Counseling Session A documented meeting between an employee and his immediate supervisor to address the first occurrence of a minor offense.

Covered Employee A full-time or part-time employee occupying a part of or all of a full-time equivalent (FTE) position who has completed the probationary period and has a "meets" or higher overall rating on the employee's performance evaluation and who has grievance rights. If an employee does not receive an evaluation before the performance review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees such as temporary, temporary grant, time limited employees or administrative exemption personnel.

Demotion The assignment of an employee by the appointing authority from one established position to a different established position having a lower state salary range.

Disciplinary Review Committee An informal committee comprised of departmental employees to review recommendations for disciplinary or corrective action.

Final Agency Decision The final administrative decision by the department that then may be appealed to the State Human Resources Director.

Grievable and Non Grievable Actions Terminations, suspensions, involuntary reassignments in excess of 30 miles from an employee's prior work station, and demotions are grievable and appealable under the State Employee Grievance Procedure Act. A reduction in force may be considered grievable by the department or appealable to the State Human Resources Director, for an affected covered employee under the grievance plan only if based on inconsistent or improper application of a reduction in force policy, procedure or plan.

Level I and Level II reprimands and counseling sessions are not grievable or appealable.

Reclassification of a position, reassignments, and transfers within the same state salary range are not grievable or appealable. However, reclassifications may be deemed grievable or appealable if the department or the State Human Resources Director determines that there is a material issue of fact that the action is a punitive reclassification.

Compensation is not grievable or appealable. However, a salary decrease based upon the results of a covered employee's EPMS evaluation may be considered grievable or appealable. [35.1.12]

Promotions are not grievable or appealable except where an allegation is made that the covered employee was excluded from consideration for promotion to a position for which the employee was qualified when the promotional opportunity occurred, and the covered employee applied or would have applied if he had known of the promotional opportunity, and the department, in the case of a grievance, or State Human Resources Director, in the case of an appeal, determines that there is any material issue of fact or conclusion to be drawn from the facts of the allegation. However, when the department promotes an employee one organizational level above the promoted employee's former level, that action is not grievable or appealable for any other qualified covered employee.

Grievance A complaint filed by a covered employee or the employee's representative regarding an adverse employment action as designated in the department's Grievance Procedure Policy. [Policy 400.10]

Involuntary Reassignment The movement of an employee's principal place of employment in excess of 30 miles from the prior work station at the initiative of the agency. The reassignment of an employee by an agency in excess of 30 miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered involuntary reassignment.

Level I Reprimand Generally the first formal level of disciplinary action for a first occurrence of a minor nature. A Level I reprimand cannot be removed from the employee's personnel file.

Level II Reprimand Generally the second level of disciplinary action for a repeated occurrence of a minor infraction or a first occurrence of a more serious offense. A Level II reprimand cannot be removed from the employee's personnel file.

Pay Band or Salary Range The dollar amount between the minimum and maximum rates of pay to which a class or position is assigned.

Promotion An employee's change from a position in one class to a position in another class having a higher state salary range.

Reassignment The movement within an agency of an employee from one position to another position having the same state salary range, or the movement of a position within an agency which does not require reclassification.

Reclassification The assignment of a position in one class to another which is the result of a natural or an organizational change in duties or responsibilities of the position.

Reduction In Force A procedure used by an agency to eliminate one or more filled positions in one or more organizational units within the agency due to

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OFFICE OF HUMAN RESOURCES

William M. Barnett 3 March 2010

budgetary limitations, shortage of work, or organizational changes. [Policy 400.14]

Salary Decrease Based on Performance The reduction of a covered employee's compensation based on the results of an Employee Performance Management System (EPMS) evaluation. [Policy 400.06]

State Employee Grievance Committee A committee composed of state employees who are appointed by the Budget and Control Board and who conduct hearings involving appeals filed by state employees covered by the State Employee Grievance Procedure Act.

State Human Resources Director The head of the Office of Human Resources of the State Budget and Control Board, or his designee.

Suspension An enforced leave of absence, without pay, for disciplinary purposes, or pending an administrative or criminal investigation of charges against an employee.

Temporary Employee A full-time or part-time employee who does not occupy an FTE position, whose employment is not to exceed one year, and who is not a covered employee.

Temporary Grant Employee A full-time or part-time employee who does not occupy an FTE position, and is hired to fill a position specified in and funded by a federal grant, public charity grant, private foundation grant, or research grant and who is not a covered employee.

Termination Action taken by an agency against an employee to separate the employee involuntarily from employment.

Time Limited Employee a full-time or part-time employee who does not occupy an FTE position who is hired to fill a position with time-limited project funding approved or authorized by the appropriate State authority, and who is not a covered employee.

Transfer The movement to a different agency of an employee from one position to another having the same state salary range, or the movement of a position from one agency to another agency which does not require reclassification.

IV. DISCIPLINARY ACTIONS

- A. Disciplinary actions are actions taken for the purpose of correcting or punishing inappropriate work behavior.
- B. Disciplinary actions consist of Level I and Level II reprimands, suspensions, demotions, involuntary reassignments and terminations. Ordinarily, consideration should be given to the severity of the misconduct and the employee's past record in determining the disciplinary action appropriate for an incident of misconduct. [26.1.4 C]

- C. Disciplinary action should be discussed with department's the Office of Human Resources prior to being imposed. A Disciplinary Review Committee may be convened by the department's Office of Human Resources to review recommended disciplinary action.
- D. Failure to obtain pre-review by the department's Office of Human Resources may result in disciplinary action being rescinded.
- E. Counseling sessions are not considered a formal level of disciplinary action. A counseling session may, at the supervisor's discretion, be used for the first occurrence of a minor offense. Minor violations of policies, procedures, rules and regulations may be an opportunity for refresher training session as opposed to a reason for disciplinary action. A counseling session should be documented and kept in the supervisor's file with a copy of the documentation forwarded to the department's Office of Human Resources for entry in the department's Personnel Early Warning System. [Policy 400.24] Documentation of counseling sessions does not become a part of the employee's personnel file. [26.1.4 a - b] [26.1.5]
- F. A Level I reprimand is generally the first formal level of disciplinary action for infractions of a minor nature. A Level II reprimand is generally the second level of disciplinary action for a repeat occurrence of such infractions. However, a Level II reprimand may be imposed for a first occurrence of a more severe offense.
- G. An employee may be procedurally suspended by the department while under investigation and/or further consideration of the appropriate disciplinary action. Procedural suspensions require the approval of the director or the director's designee.
- H. All suspensions, demotions, involuntary reassignments or terminations require approval of the director or the director's designee prior to the discipline being administered. Divisions with employees working on weekends and shifts other than 8:30 a.m. to 5:00 p.m. may procedurally suspend an employee or remove him from service until the director or the director's designee makes a final decision concerning suspension or termination. [26.1.5] [52.2.7]
- I. Disciplinary actions should be administered in accordance with this policy with consideration given to the nature of the misconduct and the employee's past record.
- J. A "progressive" disciplinary system should ordinarily be followed with respect to minor episodes of misconduct. This means a Level I reprimand will generally be followed by a Level II reprimand for the second instance of the same offense. If there is a third episode of the same or similar misconduct, the next step will be a suspension followed, if necessary, by termination. However, serious offenses may result in immediate suspension or termination for the first offense. The department has the right to take more severe

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Tamm M. Raygott 3 March 2010

disciplinary action against any employee whose cumulative misconduct evidences an unwillingness to comply with department policy and procedures.

- K. Temporary, temporary grant, time limited and probationary employees may be terminated from employment at the discretion of the director or the director's designee. This policy does not apply to these employees.
- L. All performance-related problems should be addressed in accordance with the Employee Performance Management System Policy. [Policy 400.06]

V. INFORMATION AND PROCEDURES

A. Level I Reprimand

- 1. A Level I reprimand will be documented by way of a memorandum addressed to the employee from the deputy director or a designee. A request for a Level I reprimand should ordinarily be submitted in writing with supporting documents to the department's Office of Human Resources for review. After review, the reprimand will be issued and signed by the employee acknowledging receipt of the reprimand. A copy of the reprimand should be given to the employee and the original forwarded to the department's Office of Human Resources to be retained in the employee's personnel file. [26.1.5] [26.1.8]
- 2. Level I reprimands cannot be grieved through the Grievance Process. However, an employee may submit a written response to the reprimand which will become part of the employee's personnel file. [26.1.6]
- 3. Level I reprimands will become a permanent part of the employee's personnel file. [26.1.8]

B. Level II Reprimand

- 1. A Level II reprimand will be documented by way of a memorandum addressed to the employee from the deputy director or a designee. A request for a Level II reprimand should ordinarily be submitted in writing with supporting documents to the department's Office of Human Resources for review. After review, the reprimand will then be issued to and signed by the employee, acknowledging receipt of the reprimand. A copy of the reprimand should be given to the employee and the original forwarded to the department's Office of Human Resources to be retained in the employee's personnel file. [26.1.5] [26.1.8]
- 2. Level II reprimands cannot be grieved through the Grievance Process. However, an employee may submit a written response to the reprimand which will become a permanent part of the employee's personnel file. [26.1.6]
- 3. Level II reprimands will become a part of the employee's personnel file. [26.1.8]

C. Suspensions

1. A suspension will be documented by a letter [Notice of Suspension] addressed to the employee from the deputy director or a designee. An employee will generally receive a suspension as the third step in the progressive discipline process. However, if supervisors or managers determine that the first or second offense warrants a suspension, one may be imposed. Suspensions are without pay. A recommendation to suspend should ordinarily be submitted in writing with supporting documents to the department's Office of Human Resources for review and the director's approval. After review and approval, the suspension may be imposed. The Notice of Suspension should be signed by the employee acknowledging receipt of the suspension. A copy of the suspension document should be given to the employee and the original forwarded to the department's Office of Human Resources to be retained in the employee's personnel file. The beginning date of the suspension and the ending date will be indicated on the Notice of Suspension. [26.1.5] [26.1.8] [52.2.7]
2. Covered employees may grieve a suspension. A copy of the department's Grievance Procedure Policy [Policy 400.10] should be attached to the written Notice of Suspension given to covered employees. [26.1.6]
3. The Notice of Suspension will become a permanent part of the employee's personnel file. [26.1.8]
4. An employee who is the focus of/or implicated in an administrative investigation into alleged misconduct may be suspended when the director or his designee determines that the employee's continued presence at work is not in the best interest of the department. Under such circumstances, the employee will be placed on an indefinite suspension pending the outcome of the investigation. If the department's investigation determines that the employee did not engage in misconduct, he may be entitled to reinstatement with back pay. An employee arrested, charged or indicted for a violation of Federal or State law which adversely reflects on his suitability for continued employment or which causes adverse publicity against the department may be suspended immediately pending final disposition by the courts or further investigation by the department. If the employee is exonerated or charges are dismissed by the court, the employee may be eligible for reinstatement with back pay. The department, however, may conduct its own investigation and take disciplinary action based upon its own findings. That is, the department is not bound to reinstate an employee simply because criminal charges are dismissed or withdrawn or because an employee is acquitted at trial. [52.2.7]
5. An employee who is suspended based on alleged violations of Federal or State laws may be terminated before disposition of the charge if the director or the director's designee administratively investigates the matter and determines that termination is warranted. Termination may occur

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OFFICE OF HUMAN RESOURCES

12mm M. M. M. 3 March 2010

notwithstanding the fact that the charge(s) is ultimately dismissed or dropped or the employee is acquitted. [26.1.5]

D. Demotion or Reassignment

1. Demotions and reassignments may also be used in the progressive discipline process. In instances where they are grievable and appealable a copy of the department's Grievance Procedure Policy will be attached to the disciplinary letters. Refer to the department's Grievance Procedure Policy [Policy 400.10] to determine if a demotion or reassignment is grievable and appealable. [26.1.6] [26.1.8]
2. The department's Office of Human Resources will be consulted prior to demoting or reassigning an employee.
3. Involuntary demotion or reassignment of an employee will be submitted for review to the department's Office of Human Resources and approved by the director or his designee. [26.1.5]

E. Termination

1. An employee may be terminated from employment as the final step in the progressive discipline process or for committing a serious offense or for refusing to comply with department policy and procedures. [52.2.7]
2. Covered employees may grieve a termination as provided for under the department's Grievance Procedure Policy. [Policy 400.10] [26.1.6]
3. A recommendation to dismiss an employee should be submitted in writing with supporting documents to the department's Office of Human Resources for review. The final decision to terminate an employee will be made by the director or a designee. Notice of Termination will be in writing addressed to the employee and will explain the reason for termination. The Notice of Termination should be personally given to and signed by the employee acknowledging receipt or sent by certified mail "return receipt requested." The original or a copy of the Notice of Termination should be forwarded to the department's Office of Human Resources to be retained in the employee's personnel file. A copy of the department's Grievance Procedure Policy [Policy 400.10] will be attached to the Notice of Termination if the employee is entitled to the right to grieve. [26.1.5] [26.1.7] [26.1.8]
4. If the Notice of Termination is mailed to the employee, the certified return receipt or "green card" will be retained by the department's Office of Human Resources in their files. [26.1.7] [26.1.8]
5. A Notice of Termination will include the reason for dismissal, effective date of dismissal and a statement regarding status of benefits after dismissal. [26.1.7]

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OFFICE OF HUMAN RESOURCES
11mm m. 3 March 2010

VI. PROPER DOCUMENTATION

- A. All disciplinary actions must be supported by appropriate documentation. Actions affecting pay may require additional documentation such as time sheets, Request for Leave forms and Personnel Action Request forms. [26.1.8]
- B. Disciplinary memoranda [Level I or Level II reprimands, Notice of Suspension and Notice of Termination] must be signed by the employee being disciplined unless the disciplinary memoranda are mailed. The employee's signature means only that the employee received a copy of the disciplinary memoranda, not that the employee agrees with the content of the memoranda or that disciplinary action is warranted. Refusal to sign disciplinary memoranda constitutes insubordination and is separately punishable as such.

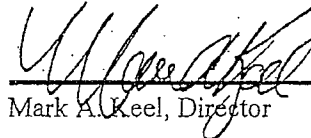
VII. MAINTENANCE OF DISCIPLINARY ACTION FILES

The department's Office of Human Resources will maintain the official department disciplinary action files for employees. Supervisors may maintain supervisory notes and files. However, the files maintained in the department's Office of Human Resources shall constitute the only official personnel file. [26.1.5] [26.1.8]

Date

3/2/10

Mark A. Keel, Director



Guidelines to Disciplinary Action

APPROVED
OFFICE OF HUMAN RESOURCES
Tamm M. Bennett 30 March 2010

POLICY:	400.08
EFFECTIVE DATE:	May 11, 1994
ISSUE DATE:	
OLD NUMBER:	119
SUBJECT:	DISCIPLINARY ACTION
APPLICABLE STATUTES:	S. C. Code of Laws §8-11-230, §8-11-690, R. 19-717 et al.
APPLICABLE STANDARDS:	CALEA 26.1.1, 26.1.4, 26.1.5, 26.1.6, 26.1.7, 26.1.8, 52.2.7
DISTRIBUTION:	TO ALL EMPLOYEES

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GUIDELINES FOR PROGRESSIVE DISCIPLINARY ACTION				
OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Unauthorized absence without approval, does not report for work, or does not report for work after unauthorized leave.	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Abandonment of position.	Employees who voluntarily fail to report to work for three consecutive work days and fail to contact the department during this time period will be considered to have abandoned their position and voluntarily resigned.			

Terra M. Barnett 3 March 2010

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Excessive or Habitual Absence of Duties Outside Assigned Work Hours	Level I Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Absence from Security Work Area without Authorization	Level I Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Absence from Security Work Area with Authorization	Suspension to Termination		Termination	
Unauthorized Use of Leave (for all types of annual or sick leave) without sufficient notification and/or leave approved in advance, purposes of use of sick leave for any purpose not authorized for the use of sick leave	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Excessive Absence from Duty	Level I Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Action will be in accordance with the Family and Medical Leave Act
Unauthorized Absence from Duty	Level II Reprimand to Termination	Suspension to Termination	Termination	
Unauthorized Use of Work Order or Intimidation or Alcohol or Drugs	Suspension to Termination	Termination	Action will be in accordance with the Act on Alcoholism and the department's policy on Alcohol and Drug Testing Program	
Unauthorized Use of Force or Intimidation or the Job	Termination	Refer to the department's Policy on Alcohol and Drug Testing Program		

APR 1 2010
OFFICE OF PUBLIC AFFAIRS
Terry M. Duggott 3 March 2010

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Gambling During Work Hours	Level I Reprimand to Suspension	Suspension to Termination	Termination	
Sleeping or Appearing to be Sleeping during Work Hours	Level I Reprimand to Suspension	Level II Reprimand to Termination	Suspension to Termination	Termination
Fighting or Acting in a Reasonable Manner to an Unprovoked Attack	Suspension to Termination	Termination		
Workplace Violence	Termination	Action will be in accordance with department's Violence in the Workplace Policy 200.29		
Discrimination Based on Race or Ethnicity	Level I Reprimand to Level II Reprimand	Level II Reprimand to Termination	Termination	
Sexual Harassment	Level II Reprimand to Termination	Suspension to Termination	Termination	Action will be in accordance with the department's Harassment-Free Workplace Policy
Verbal Abuse or Threats to another Employee or Supervisor	Suspension to Termination	Termination		
Disruptive Interference with Other Employees' Work	Suspension to Termination	Termination		
Failure to Maintain Sanitary Work Environment or Relationships	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination

OFFICE
Tamm M. Brummitt 3 March 2010

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Discourteous Treatment of Visitors or Customers	Level I Reprimand to Suspension	Suspension to Termination	Termination	
Stealing State Property, Stealing while on duty or Stealing while on State Property	Suspension to Termination	Termination		
Misappropriation of department funds (including unauthorized charitable and social drives)	Termination			
Falsification of application for reemployment (essential information used to determine eligibility for reemployment, e.g. conviction record, education, training, employment history, etc.)	Termination			
Willful false State notification Supervisor	Termination			
Failure to Provide Truthful and Complete Information (includes written and oral communications, reports or testimony)	Termination			
Refusal to Cooperate with Administrative Investigations	Level II Reprimand to Termination	Termination		
Misuse of State Property or Equipment	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination

OFFICE
Sam M. Magall 3 March 2010

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Neglect or Willful Destruction or Damage to State Property or Facilities	Level I Reprimand to Suspension	Suspension to Termination		
Willful Destruction or Alteration of Records or Documents	Level II Reprimand to Termination	Termination		
Misuse of Work Time	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	
Excessive Use of Telephone for Personal Matters	Level I Reprimand	Level II Reprimand	Suspension	Termination
Exposure or Release of Confidential Information	Level II Reprimand to Suspension	Suspension to Termination	Termination	
Unauthorized Distribution or Willful Release of Electronic Material or Storage of State Property or Information	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Procurement of State Property	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Sale or Solicitation of Sale of State Property	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Unauthorized Use of State Equipment or Property	Level I Reprimand to Level II Reprimand	Suspension	Termination	

OF: *Term M. Barnett 3 March 2010*

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Unauthorized Possession or Use of a Firearm or other weapon or contraband while on the job or on State property	Suspension to Termination	Termination		
Negligence in the Performance of Duty	Level I Reprimand to Termination	Suspension to Termination	Termination	
Negligence in the Performance of Supervisory Responsibilities	Level I Reprimand to Termination	Suspension to Termination	Termination	
Negligence in Following Rules, Regulations, Policies or Procedures	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Willful Violation of Rules, Regulations, Policy or Procedures	Level II Reprimand to Suspension	Suspension to Termination	Termination	
Mishandling of department funds	Level II Reprimand to Suspension	Suspension to Termination	Termination	
Mishandling of department documents	Level I Reprimand to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	Termination
Engaging in Unlawful Work Stoppages, Slowdowns or Strikes	Suspension to Termination	Termination		
Operating a State Vehicle while under the Influence of Alcohol or Drugs	Suspension to Termination	Termination	Refer to department's Policy on Alcohol and Drug Testing Program	
Operation of a State Vehicle or Equipment without Required Valid License	Suspension to Termination			
Violation of Traffic Laws in State Vehicle	Level I Reprimand to Termination	Level II Reprimand to Termination	Termination	

Terry M. Maggatt 31 March 2010

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
Intelligent Authorized Operation of State Vehicle Resulting in an Accident Requiring Injury	The Fleet Safety Policy should normally be followed regarding vehicle accidents; however, the department reserves the right to take disciplinary action as the Director of the department deems necessary. Accident reports should be reported to the Resource Management Office. If discipline is also required the Human Resources Office should be notified.			
Improper Conduct in Conducting Business of State	Level I Reprimand to Termination	Level II Reprimand to Termination	Termination	
Intentional or Reckless Probable Violation of Federal or State Laws or Regulations	Suspension to Termination	Termination		
Conviction or Adjudication of Federal or State Laws or Regulations	Level I Reprimand to Termination	Termination		
Failure to Report Violation of Policy	Level I to Level II Reprimand	Level II Reprimand to Suspension	Suspension to Termination	
Failure to Report Violation of Federal or State Laws or Regulations	Level II Reprimand to Suspension	Suspension to Termination	Termination	
Acceptance of Responsibility for Violation of Federal or State Laws or Regulations	Suspension to Termination	Termination		

Terrence M. Magallon 3 March 2010

OFFENSE	FIRST OCCURRENCE	SECOND OCCURRENCE	THIRD OCCURRENCE	FOURTH OCCURRENCE
	An employee charged (i.e. arrested or indicted) or under criminal investigation for an act which is true, would adversely reflect on his or her suitability for continued employment or which would impair his or her effectiveness and/or the department's effectiveness may be suspended pending completion of an investigation or pending disposition by a court. If the employee is exonerated or charges are dismissed through the judicial process or the court, the employee may be eligible for reinstatement with back pay. The Director, at his discretion, may temporarily reassign an employee until disposition of the charge. The department, however, may conduct its own investigation and take disciplinary action based upon its findings. An employee who is suspended due to an arrest, indictment or criminal investigation for criminal acts, may be terminated before the disposition of the charge against him or her by a court and notwithstanding that (1) the charge is ultimately dismissed or dropped or (2) the employee is acquitted, if the Director or his designee, after investigation, determines that it is more likely than not that the employee committed the act charged.			

THE ABOVE INDICATED ACTIONS IN RESPONSE TO SPECIFIC OFFENSES ARE TO BE USED AS A GUIDE AND ARE NOT INTENDED TO BE ALL INCLUSIVE. AT THE OCCURRENCE OF ANY OF THE LISTED OFFENSES, OR ANY THAT ARE NOT LISTED, THE APPROPRIATE DISCIPLINE WILL BE DETERMINED AFTER THE PARTICULAR CIRCUMSTANCES OF THE CASE HAVE BEEN CAREFULLY CONSIDERED. THE DIRECTOR OR THE DIRECTOR'S DESIGNEE MAY TAKE MORE SEVERE OR LESS SEVERE DISCIPLINARY ACTION THAN THAT INDICATED ABOVE, INCLUDING TERMINATION, IF A DIFFERENT ACTION IS DEEMED APPROPRIATE

3/2/10
Date

Mark A. Keel
Mark A. Keel, Director

10ms M. Mesquita 3 March 2010

Grievance Policy

POLICY NUMBER	400.10
EFFECTIVE DATE	NOVEMBER 8, 1990
ISSUE DATE	JUNE 18, 2008
OLD NUMBER	120
SUBJECT	GRIEVANCE
APPLICABLE STATUTES	:§§ 8-17-310 et seq
APPLICABLE STANDARDS:	25.1.1, 25.1.2, 26.1.6, 34.1.3, 35.1.12
DISTRIBUTION	ALL EMPLOYEES

THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE DEPARTMENT. THIS DOCUMENT DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE DEPARTMENT RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

I. PURPOSE

The State Employee Grievance Procedure Act provides that the Department of Public Safety shall establish an employee grievance procedure for covered employees which shall be reduced to writing and be approved by the State Human Resources Director. A copy of the approved grievance procedure must be made available to covered employees of the department. Employees choosing to file a grievance or appeal must not be disciplined or otherwise prejudiced for exercising rights or testifying under the provisions of this policy.

II. DEFINITIONS

Appeal A request by a covered employee to the State Human Resources Director for review of an agency's final decision concerning a grievance.

Calendar Days The sequential days of a year. The time must be computed by excluding the first day and including the last. If the last day falls on a Saturday, Sunday, or legal holiday, it must be excluded.

Covered Employee A full-time or part-time employee occupying a part or all of an established full-time equivalent (FTE) position who has completed the probationary period and has a "meets" or higher overall rating on the employee's performance evaluation and who has grievance rights. If an employee does not

Page 1 of 7

APPROVED
OFFICE OF HUMAN RESOURCES

15 June 2009 *Wm M. [Signature]*

Policy 400.10
Grievance Procedure

00697

receive an evaluation before the official review date, the employee must be considered to have performed in a satisfactory manner and be a covered employee. This definition does not include employees in positions such as temporary, temporary grant, or time-limited employees who do not have grievance rights.

Demotion The assignment of an employee by the appointing authority from one established position to a different established position having a lower state salary range.

Grievance A complaint filed by a covered employee or the employee's representative regarding an adverse employment action designated in Section 8-17-330 of the State Employee's Grievance Procedure Act.

Involuntary Reassignment The movement of an employee's principal place of employment in excess of thirty (30) miles from the prior work station at the initiative of the agency. The reassignment of an employee by the agency in excess of thirty (30) miles from the prior work station to the nearest facility with an available position having the same state salary range for which the employee is qualified is not considered involuntary reassignment.

Mediation An alternative dispute resolution process whereby a mediator who is an impartial third party acts to encourage and facilitate the resolution of a dispute without prescribing what it should be. The process is informal and non-adversarial with the objective of helping the disputing parties reach a mutually acceptable agreement.

Pay Band or Salary Range The dollar amount between the minimum and maximum rates of a pay to which a class or position is assigned.

Promotion An employee's change from a position in one class to a position in another class having a higher state salary range. Failure to be selected for a promotion is not an adverse employment action that can be considered as a grievance or appeal.

Punitive reclassification The assignment of a position in one class to a different lower class with the sole purpose to penalize the covered employee.

Reassignment The movement within an agency of an employee from one position to another position having the same state salary range, or the movement of a position within an agency which does not require reclassification.

Reclassification The assignment of a position in one class to another class which is the result of a natural or an organizational change in duties or responsibilities of the position.

Page 2 of 7

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15 June 2009 *Terry M. [Signature]*

Policy 400.10
Grievance Procedure

Reduction In Force A determination made by an agency head to eliminate one or more filled positions in one or more organizational units within the agency due to budgetary limitations, shortage of work, organizational changes, or outsourcing or privatization.

Salary Decrease Based on Performance The reduction of a covered employee's compensation based on the results of an Employee Performance Management System (EPMS) evaluation.

State Employee Grievance Committee A committee composed of State employees who are appointed by the Budget and Control Board and who conduct hearings involving appeals of the following adverse employment actions: terminations, salary decreases based on performance, demotions, suspensions of more than 10 days, and reductions in force where the State Human Resources Director determines there is a material issue of fact regarding inconsistent or improper application of the department's reduction in force plan or policy, filed by State employees covered by the State Employee Grievance Procedure Act.

State Human Resources Director The head of the Office of Human Resources of the State Budget and Control Board, or his designee.

Suspension An enforced leave of absence without pay pending investigation of charges against an employee or for disciplinary purposes.

Termination The action taken by an agency against an employee to separate the employee involuntarily from employment.

Transfer The movement to a different agency of an employee from one position to another position having the same state salary range, or the movement of a position from one agency to another agency which does not require reclassification.

III. STATEMENTS OF POLICY

As provided for in the Act, grievances or appeals shall include terminations, suspensions, involuntary reassignments in excess of thirty (30) miles from the prior work station, and demotions. Reclassifications, reassignments, and transfers within the same state salary range are not considered grievances or appeals. However, reclassifications are considered grievable or appealable if the department or the State Human Resources Director determines that there is a material issue of fact that the action is a punitive reclass. Promotions are not adverse employment actions which may be considered grievances or appeals except in instances where the department, or in the case of appeals, the State Human Resources Director, determines that there is a material issue of fact as to whether or not the department has considered a qualified covered employee for a position for which the employee formally applied or would have applied if the

Page 3 of 7

APPROVED
OFFICE OF HUMAN RESOURCES

15 June 2009 Terry M. [Signature]

Policy 400.10
Grievance Procedure

employee had known of the promotional opportunity. However, when the department promotes an employee one organizational level above the promoted employee's former level, that action is not a grievance or appeal for any other qualified covered employee. Failure to be selected for a promotion is not considered an adverse employment action which can be considered a grievance or an appeal.

Compensation is not grievable or appealable under the State Employee Grievance Procedure Act. However, a salary decrease based on performance as the result of an EPMS evaluation, is an adverse employment action that may be considered as a grievance or an appeal. A reduction in force is also an adverse employment action considered as a grievance only if the department, or as an appeal if the State Human Resources Director, determines that there is a material issue of fact that the department inconsistently or improperly applied its reduction in force policy or plan.

Prior to filing a formal grievance, the covered employee may first attempt to resolve the matter informally with his immediate supervisor. This matter may be presented verbally or in writing. However, this is merely an informal attempt to resolve the matter and cannot be substituted for the requirements of Step One in the following procedure.

IV. STEP ONE

If the matter was not resolved informally with the covered employee's immediate supervisor, the covered employee must notify the department's Human Resources Office in writing to initiate a formal grievance. The covered employee must initiate the grievance with the department's Human Resources Office within fourteen (14) calendar days of the effective date of the action.

The department's Human Resources Director or other designated official shall initially review the grievance to determine whether the matter involves a grievance as defined by the Act. The department's Human Resources Director or other designated official may conduct appropriate investigations and fact findings as he may consider necessary to make this determination. If it is determined that the matter is not grievable, the covered employee shall be so advised in writing by the Department Director or a designee, normally within five (5) calendar days of receipt of the grievance. Such determination shall be a final decision within the department which may be appealed to the State Human Resources Director.

If it is determined that the matter is grievable, the department's Human Resources Director or other designated official will contact the covered employee and the appropriate department representative(s), normally within three (3) calendar days of receipt of the grievance, to inform them the issue can be heard under this grievance procedure and inquire whether or not they desire to participate in voluntary mediation. Both parties must make a written decision to the

Page 4 of 7

APPROVED
OFFICE OF HUMAN RESOURCES

15 June 2009 *Terry M. [Signature]*

Policy 400.10
Grievance Procedure

department's Human Resources Director within three (3) calendar days of this notification. Failure by either party to respond timely to this notification is deemed a refusal to participate in the voluntary mediation.

Any initial determination by the department's Human Resources Director or other designated official that the matter may be grieved shall only entitle the covered employee to have the matter considered in accordance with this grievance procedure and shall in no way be construed to be an adjudication of the merits of the grievance.

V. WITH MEDIATION

When the covered employee and the department representative(s) both agree in writing to participate in voluntary mediation, the department's Human Resources Director or other designated official will schedule a mediation conference to occur within five (5) calendar days and make the necessary arrangements for acquiring a mediator. The mediator will serve as an impartial third party who will encourage and facilitate a resolution to the dispute without advising what the result should be. The mediation conference(s) will be confidential and limited to the parties and their representatives. Other persons may attend with the permission of the mediator and the other party. The mediator may not be compelled by subpoena or otherwise to divulge any records or discussions or to testify in regard to the mediation conference in any adversary proceeding or judicial forum.

If the parties agree to settle the matter, the mediator will assist in drafting a mediation agreement which both parties must sign. The mediator may share terms of the settlement agreement with the department's designated officials who need to finalize and assist in implementing the agreement.

If the matter is not settled within five (5) calendar days of the initial mediation conference, the mediator will inform the department's Human Resources Director or other designated official that settlement has not occurred. The department's Human Resources Director or other designated official will then schedule a conference to occur between the covered employee and the appropriate department representative within five (5) calendar days. At the conference with the appropriate department representative, the covered employee will have an opportunity to present his position regarding the grievance. The department representative may conduct appropriate investigations and fact findings to determine whether to accept, reject, or modify the disciplinary action taken against the covered employee. The covered employee will be advised of the department's representative's decision in writing within five (5) calendar days of the conference.

VI. WITHOUT MEDIATION

Page 5 of 7

APPROVED
OFFICE OF HUMAN RESOURCES

Policy 400.10
Grievance Procedure

15 June 2009 *Terry M. Haggatt*

00701

If the matter is grievable and the covered employee or the department submits a written decision not to participate or fails to respond timely concerning voluntary mediation, the department's Human Resources Director or other designated official will promptly schedule a conference to occur between the covered employee and the appropriate department representative, normally within five (5) calendar days. At the conference the covered employee will have an opportunity to present his position regarding the grievance. The department's representative may conduct appropriate investigations and fact findings to determine whether to accept, reject, or modify the disciplinary action taken against the covered employee. The covered employee will be advised of the department's representative's decision in writing within five (5) calendar days of the conference.

VII. STEP TWO

If a covered employee is not satisfied with the decision in Step One, he or she may file in writing with the department's Human Resources Office a continuation of the grievance to the Director within three (3) calendar days after receiving the Step One decision. The Department Director or a designee must promptly schedule and conduct a conference with the covered employee, normally within five (5) calendar days. The covered employee will be provided an opportunity at this time to present his position regarding the grievance. The Department Director or a designee may conduct appropriate investigations and fact findings to determine whether to accept, reject, or modify the disciplinary action taken against the covered employee. The Department Director or a designee must advise the covered employee of the decision in writing within five (5) calendar days of the conference. This decision will be final within the department.

VIII. FURTHER INFORMATION

The Act provides for an appeal of a grievance beyond the department to the State Human Resources Director. Any covered employee may appeal the decision of the Department Director or a designee. Such appeal must be in writing and submitted to the State Human Resources Director within ten (10) calendar days of receipt of the department's final decision or 55 calendar days from the initial date the grievance was filed within the department, whichever occurs later. As to the 55 calendar days, the Act provides that a covered employee may appeal directly to the State Human Resources Director in the event the department does not complete its entire internal grievance procedure within 45 calendar days from the time the grievance is initially filed within the department.

Failure by the department to issue a final decision within this 45 calendar day period is considered an adverse decision. The failure to issue a final decision allows the covered employee to proceed with an appeal to the State Human Resources Director after 45 calendar days, but no later than 55 calendar days from the initial date the grievance was filed within the department. Failure by the

Page 6 of 7

APPROVED
OFFICE OF HUMAN RESOURCES

Policy 400.10
Grievance Procedure

15 June 2009 *Tom M. Baggett*

covered employee to file an appeal within the time periods referenced in this paragraph shall constitute a waiver of the right to appeal.

Failure by the covered employee to comply with the internal time periods in the department grievance procedure constitutes a failure to exhaust administrative remedies and waives the covered employee's right to further continue the grievance. The internal time periods of the department grievance procedure, however, may be waived upon the mutual written agreement of both parties. The 45 calendar day period for action by the department may not be waived except by mutual written agreement of both parties.

The Act allows the covered employee to appeal to the State Human Resources Director any grievance involving the issues specified in the Act after all administrative remedies to secure relief within the department have been exhausted.

The Act provides that a covered employee has the right during the grievance and appeal process to a representative, which may include legal counsel. If the covered employee chooses to exercise the right of legal counsel, it shall be at his expense.

Date

6/3/09

Mark A. Keel, Director

APPROVED BY THE OFFICE OF HUMAN RESOURCES BUDGET AND CONTROL on

Page 7 of 7

Policy 400.10
Grievance Procedure

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OFFICE OF HUMAN RESOURCES

15 June 2009 Tom M. Haggitt

00703

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October 11, 2010

Ms. M. Malissa Burnette
Callison Tighe & Robinson, LLC
Post Office Box 1390
Columbia, South Carolina 29202-1390

Ms. Teresa Kitchens
Human Resources Administrator
S.C. Department of Public Safety
10311 Wilson Blvd.
Blythewood, South Carolina 29016

Re: E. Shawn Sorrell v. South Carolina Department of Public Safety (DPS)

Dear Ms. Burnette and Ms. Kitchens:

The State Human Resources Director has determined that jurisdictional requirements have been met under the State Employee Grievance Procedure Act concerning the appeal of E. Shawn Sorrell v. DPS. A hearing is scheduled before the State Employee Grievance Committee on **December 2, 2010, at 9:00 AM, 8301 Parklane Road, 3rd Floor Hearing Room, Columbia, South Carolina**. A mediator who has been assigned by the State Human Resources Director will meet with both parties prior to the hearing in an effort to resolve the appeal, avoiding the additional time and costs that a hearing requires. To accomplish a timely resolution at this stage, it is essential that the parties or their representatives attending a mediation conference have full authority to negotiate and recommend settlement.

The mediation effort should not interfere with the timely preparation and exchange of necessary information leading to the date of the hearing before the Committee. The State Employee Grievance and Appeal Regulations contain specific time frames for submitting documents, requesting subpoenas, and exchanging witness lists. These regulations have the force and effect of law and both parties must comply with them, regardless of the ongoing attempt to resolve the appeal by mediation. Therefore, the appeal process leading up to the scheduled hearing date does not stop unless a mediation agreement is signed by both parties prior to the hearing date.

If the appeal is not resolved through mediation, the employee has the burden to establish, at the hearing before the Committee, that the agency's decision to discipline the employee is improper based upon §8-17-340(E) of the S.C. Code of Laws of 1976, as amended.

Ms. M. Malissa Burnette
Ms. Teresa Kitchens
October 11, 2010
Page Two

The Administrative Procedures Act in §1-23-320 of the S.C. Code of Laws requires that both parties to an appeal be afforded a statement of the matters asserted. This letter is intended to comply with that law.

Mr. Sorrell contends:

- 1.) he was accused of having no probable cause to arrest three individuals for disorderly conduct on March 28, 2010;
- 2.) the individuals were creating a loud disturbance in the middle of the night in an area that includes a hotel and private residences;
- 3.) he saw the adults throwing projectiles and he heard one of them scream and upon investigation, they were found to be throwing water balloons;
- 4.) he believes the matter was reviewed only because the father of one of the individuals is a current or former FBI agent and it is his understanding that he complained about his son's arrest;
- 5.) had there been any impropriety on his part, he thinks his chain of command would have questioned the validity of the arrest sometime shortly after March 28;
- 6.) his arrest of the three individuals meets the standards and definition of "probable cause" based upon his law enforcement training;
- 7.) he denies the allegations that he conducted himself in any manner other than as a professional law enforcement officer;
- 8.) he was not overly aggressive, threatening, intimidating or bullying, nor did he abuse his authority; and
- 9.) he feels that he has been unfairly singled out for termination.

DPS contends:

- 1.) an investigation by the Office of Professional Responsibility (OPR) revealed that Mr. Sorrell acted improperly on March 28, 2010, when he arrested three individuals for disorderly conduct where there was no probable cause;
- 2.) Mr. Sorrell intimidated, threatened, and bullied the individuals for engaging in what was basically a harmless practical joke among friends;
- 3.) Mr. Sorrell's actions are viewed as an abuse of authority which constitutes improper conduct and he has a history of incidents in which he conducted himself in a rude and aggressive manner; and
- 4.) Mr. Sorrell was terminated effective July 12, 2010, for violation of South Carolina Department of Public Safety Policy #400.08, *Disciplinary Action Policy*, for **Improper Conduct**.

Prior to the hearing the employee is requested to identify and state why, on the enclosed Grounds for Appeal Form, which portions of §8-17-340(E) (see enclosure) would require the Committee to change the agency's disciplinary action. The Grounds for Appeal Form should be returned to the Office of Human Resources, 8301 Parklane Road, Suite A220, Columbia, South Carolina 29223 and received no later than seven calendar days before the date of the Committee hearing.

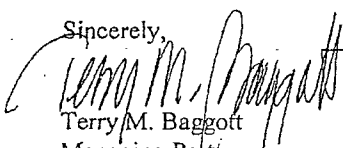
Ms. M. Malissa Burnette
Ms. Teresa Kitchens
October 11, 2010
Page Three

All documents submitted concerning this appeal, which could possibly include polygraph examination results, will be forwarded to the Committee for review approximately one week prior to the hearing date. All objections raised by either party to these documents before transmittal to the Committee, including objections to any polygraph examination results, must be made to this office prior to that time. This time frame, however, will not preclude appropriate evidentiary objections from being raised by either party at the hearing.

Please refer to our website at www.ohr.sc.gov/OHR/OHR-commappeal.phtm for further information regarding the State Employee Grievance Procedure Act; the State Employee Grievance and Appeal Regulations; a copy of the Witness and Representative forms; a copy of the Grounds for Appeal form; a flowchart for the steps in the Grievance Committee process; and a sample opening statement. If you do not have internet access, please contact Mr. Joseph Miller at (803) 896-5088 for a copy of the State Employee Grievance Procedure Act, the State Employee Grievance and Appeal Regulations, and the forms listed above.

Please call me if you have any questions.

Sincerely,



Terry M. Baggott
Managing Partner

Alternative Dispute Resolution Program

Enclosure

c: Mr. Mark Keel (without enclosure)
Mr. John A. O'Leary (without enclosure)

STATE EMPLOYEE GRIEVANCE COMMITTEE

~Grounds for Appeal Form~

Please identify which ground(s) listed below from §8-17-340(E) of the S.C. Code of Laws you contend would require the Committee to change the agency's decision. In addition, state why these grounds are relevant to your appeal.

(E) The committee may sustain, reject, or modify a grievance hearing decision of an agency as follows:

(1) In cases involving actual or threatened abuse, neglect, or exploitation, to include those terms as they may be defined in Section 43-35-10 or 20-7-490, of a patient, client, or inmate by an employee, the agency's decision must be given greater deference and may not be altered or overruled by the committee, unless the covered employee establishes that:

- (a) The agency's finding that the covered employee abused, neglected, or exploited or threatened to abuse, neglect, or exploit a patient, client, or inmate is clearly erroneous in view of reliable, probative, and substantial evidence;
- (b) The agency's disciplinary action was not within its established personnel policies, procedures, and regulations; or
- (c) The agency's action was arbitrary and capricious.

(2) In all other cases, the committee may not alter or overrule an agency's decision, unless the covered employee establishes that the agency's decision is one or more of the following and prejudices substantial rights of the covered employee:

- (a) in violation of constitutional or statutory provisions;
- (b) in excess of the statutory authority of the agency;
- (c) made upon unlawful procedure;
- (d) affected by other error of law;
- (e) clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or
- (f) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

Please return this from to: Office of Human Resources
8301 Parklane Road, Suite A220
Columbia, South Carolina 29223

Also, please send a completed copy of this document to the agency.

00707

STATE OF SOUTH CAROLINA

COUNTY OF RICHLAND

Samantha Swanson, Charles B. Spaht, and
Matthew Keith,

Plaintiff(s)

vs.

Shawn E. Sorrell and South Carolina
Department of Public Safety,

Defendant(s)

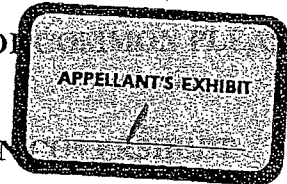
(Please Print)

Submitted By: Reynolds H. Blankenship, Jr.

Address: 917 Calhoun Street, Columbia, SC 29201

IN THE COURT OF

CIVIL ACTION



2011 CP 400 562

SC Bar #: 72784

Telephone #: (803) 748-9999

Fax #: (803) 748-9948

Other:

E-mail: rblankenship@scbar.com

NOTE: The cover sheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this cover sheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

*If Action is Judgment/Settlement do not complete

- ☒ JURY TRIAL demanded in complaint. ☐ NON-JURY TRIAL demanded in complaint.
☐ This case is subject to ARBITRATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☒ This case is subject to MEDIATION pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- Contracts**
☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☐ Breach of Contract (140)
☐ Other (199)

- Torts - Professional Malpractice**
☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20__-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299)

- Torts - Personal Injury**
☒ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399)

- Real Property**
☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499)

- Inmate Petitions**
☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599)

- Judgments/Settlements**
☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured
Settlement Payment Rights
Application (760)
☐ Other (799)

- Administrative Law/Relief**
☐ Reinstate Driver's License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899)

- Appeals**
☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Commission
(990)
☐ Employment Security Comm (991)
☐ Other (999)

- Special/Complex/Other**
☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in
an Out-of-County Action (660)
☐ Sexual Predator (510)

Submitting Party Signature: _____

Date: March 2, 2011

ings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous

00708

FOR MANDATED ADR COUNTIES ONLY

Allendale, Anderson, Beaufort, Clarendon, Colleton, Florence, Greenville, Hampton, Horry, Jasper, Lee, Lexington, Pickens (Family Court Only), Richland, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)

COUNTY OF RICHLAND)

Samantha Swanson, Charles B.)
Spaht, and Matthew Keith,)

Plaintiffs,)

vs.)

Shawn E. Sorrell and South Carolina)
Department of Public Safety,)

Defendants.)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

Case No.

SUMMONS

JEANETTE W. HOSBRIDGE
C.C.P. & G.S.

2011 MAR -8 AM 10:32

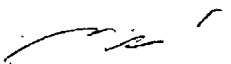
RICHLAND COUNTY
FILED

TO: DEFENDANTS SHAWN E. SORRELL AND SOUTH CAROLINA DEPARTMENT
OF PUBLIC SAFETY

YOU ARE HEREBY SUMMONED and required to answer Plaintiffs' Complaint, a copy of which is hereby served upon you, and to serve a copy of your Answer to Plaintiffs' attorney at his office located at 917 Calhoun Street, Columbia, South Carolina, 29201, within thirty (30) days after service hereof, exclusive of the day of service. If you fail to answer the Complaint within that time, Plaintiffs shall apply to the Court for a judgment by Default against you for the relief demanded in the Complaint.

Respectfully Submitted,

MASELLA LAW FIRM, P.A.


Reynolds H. Blankenship, Jr.
917 Calhoun Street
Columbia, SC 29201
(803) 748-9990
(803) 748-9948/fax

Attorneys for Plaintiffs Samantha Swanson, Charles
B. Spaht, and Matthew Keith

Columbia, South Carolina
March 4, 2011

00711

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS
FIFTH JUDICIAL CIRCUIT

COUNTY OF RICHLAND)

Samantha Swanson, Charles B.
Spaht, and Matthew Keith,)

Case No.

Plaintiffs,)

vs.)

COMPLAINT

(Jury Trial Requested)

Shawn E. Sorrell and South Carolina)
Department of Public Safety,)

Defendants.)

JEANETTE M. McBRIDE
C.C.P. & G.S.

2011 MAR -8 AM 10:32

RICHLAND COUNTY
FILED

Plaintiffs Samantha Swanson (Samantha), Charles B. Spaht (Charlie), and Matthew Keith (Matthew) hereby complain of Defendants Shawn E. Sorrell (Officer Sorrell) and South Carolina Department of Public Safety (the Department) as follows. All allegations and paragraphs of this Complaint are incorporated into one another as if re-stated therein.

JURISDICTION AND VENUE

1. Samantha is a citizen and resident of Richland County, South Carolina.
2. Charlie is a citizen and resident of the State of California.
3. Matthew is a citizen and resident of Richland County, South Carolina.
4. Upon information and belief, Officer Sorrell is a citizen and resident of the State of South Carolina, but the county in which he lives is unknown.
5. The Department is a government entity established and existing pursuant to South Carolina Code section 23-6-20, and its headquarters is located in Richland County.
6. All of the acts and omissions giving rise to this action occurred in Richland County, South Carolina.
7. The Court has jurisdiction over the subject matter of this action and over all

parties, and venue is proper in Richland County.

FACTUAL BACKGROUND

8. On or about March 28, 2010, Samantha, Charlie, and Matthew met each other on the sidewalk across the street from the Berringer Building on Main Street in Columbia, South Carolina between approximately 1:00 a.m. and 2:00 a.m.

9. Neither Samantha, Charlie, nor Matthew was engaged in any activity that could have constituted any criminal or civil offense.

10. Suddenly, Officer Sorrell appeared at the meeting site and immediately ordered Samantha, Charlie, and Matthew to put their hands against the wall and "spread their legs," and each immediately complied without speaking.

11. Despite her compliance, Officer Sorrell went directly to Samantha, angrily and acerbically accused her of failing to comply, placed his hands on her lower back and hip, and began forcefully kicking the insides of her ankles.

12. Still standing against the wall as instructed, Samantha informed Officer Sorrell that he was hurting her, to which Officer Sorrell replied: "Shut your mouth. That's disobedience. I can raise your charge to a felony!"

13. Officer Sorrell informed Samantha that because she was a female, he could search only the hood of her sweatshirt, and a female officer would have to search beyond that.

14. To search the hood of Samantha's sweatshirt, Officer Sorrell forcefully yanked it backwards, causing the front neckline of the shirt to force Samantha's neck and head back.

15. Officer Sorrell also searched Charlie and Matthew.

16. Officer Sorrell found nothing illegal or anything that would cause him to fear for his own safety on either Samantha, Charlie, or Matthew.

17. Officer Sorrell conducted no investigation into whether Samantha, Charlie, or Matthew had committed a criminal offense of any sort.

18. Officer Sorrell informed Samantha, Charlie, and Matthew that they were being charged with public disorderly conduct and that they were going to jail.

19. Officer Sorrell transported Charlie and Matthew to Alvin S. Glenn Detention Center, and another officer transported Samantha.

20. Throughout the entire process, from the initial interaction through booking at the jail, Officer Sorrell continuously launched insults at Samantha.

21. Samantha and Matthew each spent more than twelve (12) hours in jail, and Charlie spent approximately twenty-seven (27) hours in jail.

22. On or about June 9, 2010, the Director of the Department informed criminal-defense counsel for Samantha, Charlie, and Matthew that the charges had been dismissed.

FIRST CAUSE OF ACTION
(Assault and Battery)

23. Through his words and physical conduct, Officer Sorrell intentionally and/or recklessly placed Samantha, Charlie, and Matthew in reasonable fear and apprehension of immediate forcible contact, offensive touching, and/or bodily harm.

24. Samantha, Charlie, and Matthew reasonably believed that Officer Sorrell had the present ability and intent to execute his threats to inflict forcible contact, offensive touching, and/or bodily harm.

25. Neither Samantha, Charlie, nor Matthew consented to Officer Sorrell's words or conduct against them or the threatened forcible contact, offensive touching, or bodily harm.

26. Further, Officer Sorrell in fact inflicted forcible contact, offensive touching, and bodily harm upon Samantha, Charlie, and Matthew.

27. Neither Samantha, Charlie, nor Matthew consented to the forcible contact, offensive touching, or bodily harm.

28. Officer Sorrell's assault and battery of Samantha, Charlie, and Matthew actually and proximately caused Samantha, Charlie, and Matthew to suffer damages, including but not limited to loss of freedom, pain and suffering, emotional distress, mental anguish, humiliation, loss of enjoyment of life and attorney fees.

29. In committing the assault and battery upon Samantha, Charlie, and Matthew, Officer Sorrell was acting within the scope of his official duties as an employee of the Department, and the Department is liable for all actual, consequential, and incidental damages caused by the assault and battery committed upon Samantha, Charlie, and Matthew by Officer Sorrell.

30. In the alternative, Officer Sorrell committed the assault and battery upon Samantha, Charlie, and Matthew with actual malice and/or intent to harm, and Officer Sorrell is liable for all actual, consequential, and incidental damages caused by his conduct.

31. Further in the alternative, Officer Sorrell acted intentionally, willfully, wantonly, and/or in reckless disregard of the rights of Samantha, Charlie, and Matthew, and punitive damages should be awarded against him.

SECOND CAUSE OF ACTION
(False Imprisonment)

32. Officer Sorrell intentionally restrained Samantha, Charlie, and Matthew without their consent, and each was aware of the restraint when it occurred.

33. Officer Sorrell lacked probable cause and had no warrant to restrain Samantha, Charlie, or Matthew.

34. Officer Sorrell's false imprisonment of Samantha, Charlie, and Matthew actually

and proximately caused Samantha, Charlie, and Matthew to suffer damages, including but not limited to loss of freedom, pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and attorney fees.

35. In restraining Samantha, Charlie, and Matthew, Officer Sorrell was acting in his official capacity as an employee of the Department, and the Department is liable for all actual, consequential, and incidental damages caused by the false imprisonment committed by Officer Sorrell.

36. In the alternative, Officer Sorrell committed the false imprisonment of Samantha, Charlie, and Matthew with actual malice and/or intent to harm, and Officer Sorrell is liable for all actual, consequential, and incidental damages caused by his conduct.

37. Further in the alternative, Officer Sorrell acted intentionally, willfully, wantonly, and/or in reckless disregard of the rights of Samantha, Charlie, and Matthew, and punitive damages should be awarded against him.

THIRD CAUSE OF ACTION
(Negligence)

38. The Department and Officer Sorrell had a duty to Samantha, Charlie, and Matthew to act in the same manner as that in which a reasonable person would have acted in the same or similar circumstances.

39. Officer Sorrell, in his official capacity as an employee of the Department, breached this duty in various particulars, including but not limited to the following:

- A. Failing to reasonably investigate whether Samantha, Charlie, or Matthew had committed a crime;
- B. Failing to conduct himself reasonably manner in restraining Samantha, Charlie, and Matthew;

C. Failing to conduct himself reasonably in searching Samantha, Charlie, and Matthew; and

D. Failing to exercise due care.

40. As a direct and proximate result of Officer Sorrell's negligence, Samantha, Charlie, and Matthew have suffered actual, consequential, and incidental damages, including but not limited to loss of freedom, pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and attorney fees.

41. The Department is liable for all damages actually and proximately caused by Officer Sorrell acting in his official capacity as an employee of the Department.

42. In the alternative, Officer Sorrell acted with actual malice and/or intent to harm, and Officer Sorrell is liable for all actual, consequential, and incidental damages caused by his conduct.

43. Further in the alternative, Officer Sorrell acted grossly negligently, recklessly, intentionally, willfully, wantonly, and/or in reckless disregard of the rights of Samantha, Charlie, and Matthew, and punitive damages should be awarded against him.

FOURTH CAUSE OF ACTION
(Intentional Infliction of Emotional Distress)
(Officer Sorrell Only)

44. Through his conduct described above, Officer Sorrell intentionally or recklessly inflicted severe emotional distress upon Samantha, Charlie, and Matthew, or in the alternative, Officer Sorrell was certain or substantially certain that such distress would result from his conduct.

45. Officer Sorrell's conduct was so extreme and outrageous as to exceed all possible bounds of decency and must be and was by these Plaintiffs regarded as atrocious and utterly

intolerable in a civilized community.

46. Officer Sorrell was in an actual and apparent position of authority over Samantha, Charlie, and Matthew; he had power to affect the interest of each; and his conduct was abusive.

47. Officer Sorrell's conduct was directed at Samantha, Charlie, and Matthew.

48. Officer Sorrell's conduct actually and proximately caused the emotional distress and other actual, consequential, and incidental damages suffered by Samantha, Charlie, and Matthew, including but not limited to loss of freedom, pain and suffering, mental anguish, loss of enjoyment of life, and attorney fees.

49. The emotional distress suffered by Samantha, Charlie, and Matthew was so severe that no reasonable person could be expected to endure it.

50. Officer Sorrell is liable for all actual, consequential, and incidental damages caused by his outrageous conduct.

51. Officer Sorrell acted intentionally, willfully, wantonly, and/or in reckless disregard of the rights of Samantha, Charlie, and Matthew, and punitive damages should be awarded against him.

FIFTH CAUSE OF ACTION

(Malicious Prosecution)

(Officer Sorrell Only)

52. In charging Samantha, Charlie, and Matthew with public disorderly conduct, Officer Sorrell instituted a criminal judicial proceeding.

53. Officer Sorrell instituted the criminal judicial proceeding without probable cause.

54. The Department dismissed the charges against Samantha, Charlie, and Matthew.

55. Officer Sorrell knew or should have known he lacked probable cause to charge Samantha, Charlie, or Matthew with public disorderly conduct, and he intentionally instituted the

criminal judicial proceeding without just cause.

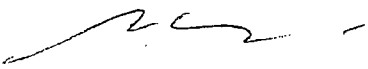
56. Officer Sorrell's malicious prosecution actually and proximately caused Samantha, Charlie, and Matthew to suffer damages, including but not limited to loss of freedom, pain and suffering, emotional distress, mental anguish, loss of enjoyment of life, and attorney fees.

57. Officer Sorrell acted intentionally, willfully, wantonly, and/or in reckless disregard of the rights of Samantha, Charlie, and Matthew, and punitive damages should be awarded against him.

WHEREFORE, Samantha, Charlie, and Matthew pray for judgment against the Department for all actual, consequential, and incidental damages caused by Officer Sorrell's acts and omissions committed in his official capacity as an employee of the Department and without actual malice or intent to harm; for judgment against Officer Sorrell for all actual, consequential, and incidental damages caused by Officer Sorrell's acts and omissions committed outside of his official capacity as an employee of the Department or with actual malice or intent to harm, along with punitive damages; for the costs of this action; and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,

MASELLA LAW FIRM, P.A.



Reynolds H. Blankenship, Jr.
917 Calhoun Street
Columbia, SC 29201

(803) 748-9990
(803) 748-9948/fax

Attorneys for Plaintiffs Samantha Swanson, Charles
B. Spaht, and Matthew Keith

Columbia, South Carolina

March 4, 2011



STATE OF SOUTH CAROLINA VERSUS Richard
Samantha A. Swanson
151 Springhaver Drive Columbia SC 29206
SC 10076786
N/A
YOU ARE SUMMONED TO APPEAR BEFORE THE TRIAL OFFICER
NAME OF TRIAL OFFICER: Hudner STREET AND NO.: 1500 Huger St
DATE OF TRIAL: 4/21/10 TIME OF TRIAL: 0930 CITY: Columbia STATE: SC ZIP CODE: 29201
VIOLATION - COURT APPEARANCE REQUIRED: YES NO VIOLATION SECTION NO.: 15-17-530
OWNER OF VEHICLE: N/A DATE OF ARREST: 3/25/10
ADDRESS OF OWNER: N/A DATE OF VIOLATION: 3/28/10
BAIL DEPOSITED: 500 NAME OF ARRESTING OFFICER: Sorell, E. S. RANK: CO
DESCRIPTION OF ACCUSED: Richard COUNTY: Richland
RACE: C SEX: M BIRTH DATE: 10/24/87 HT: 5'10" WT: 150 EYES: Brown BADGE: 3027
DATE BAIL RECD: 20 BY:
CASE BEFORE: MAGISTRATE ☐ MUN. COURT ☐ CIRCUIT COURT ☐ FAMILY COURT ☐ FEDERAL COURT ☐
NAME OF TRIAL OFFICER: 0235 TIME OF VIOLATION: 0235 WEATHER:
DEFENDANT: DID NOT APPEAR ☐ APPEARED ☐
NOLLE PROSSSED ☐ DISPOSITION: GUILTY ☐ MILES: 0 IN: 2 E: 3 S: 4
FORFEITED BOND ☐ FILED: NOLO CONTENDERE ☐ CITY: Columbia CODE:
TRIAL BY: TRIAL OFFICER ☐ JURY ☐
VERDICT OF: GUILTY ☐ DATE OF TRIAL IF ANY: 1st Main
TRIAL IF ANY: NOT GUILTY ☐
JAIL: Long SUSPEND: 200 FINE: 200 AMT COLLECTED: 200 AMT SUSPENDED: 200
COMMITTED TO: 86 Vehicle Searched: 1 Arrest as Result of: 1
CERTIFIED CORRECT: DATE: 4/21/10 D 360609

DRIVER RECORDS COPY

26250

Sorrell, Shawn

From: Sorrell, Shawn
Sent: Monday, February 18, 2008 5:08 AM
To: Walker, Larry R.
Cc: Skipper, Henry M.; Hancock, John D.
Subject: Information update

Gentlemen,

On Friday, a student was dropped for the second time from the CJA! He threatened to kill Cadre and himself according to students who reported him trespassing at the Academy last night. His weapons were seized and he had to be forcefully escorted from the property on Friday once again according to students. Students obviously thought he would commit the acts as they were so afraid they locked themselves in their rooms. After an intensive search, lockdown and otherwise uneventful night, I am still concerned with several things that should be brought to your attention to discuss with CJA. If you advise, I will inform them of my concerns. Please read the report on Police Central for additional information. 1993-027038

Firstly, when a person has the potential for violence, BPS should immediately be notified. Secondly, a photo of the individual was available and could have been immediately forwarded to us for decimation.

When I arrived at the academy on Sunday night I had no idea of this potentially deadly situation. And neither was the housing manager who arrived prior to me. Had this individual been targeting cadre Mrs. Mitchell would have been the first opportunity target! With better communication and feedback we might have prevented an event last night when I locked down the academy. Or, maybe we can prevent a future attack! Either way, CJA needs to communicate.

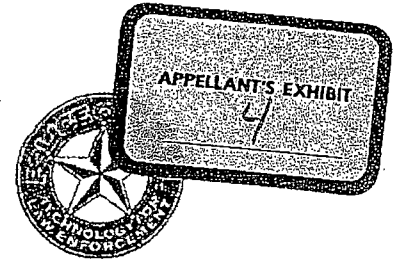
Shawn Sorrell
 Lance Corporal
 Bureau of Protective Services

4/21/2008

00722



SC Department of Public
Safety
City, State
ORI: SC040BP00



Case Status: Unfounded

Case Number: 1993-027038

Case Status Date: 3/22/2008

Main Incident Information

Location: 5400 BROAD RIVER ROAD COLUMBIA SC 29212

Start Date: 2/17/2008 End Date: 2/17/2008 Disp Date: 2/17/2008 Time Arrived: 22:00
Start Time: 21:16 End Time: 23:00 Disp Time: 22:00

NCIC INQ? False NCIC INQ Date: NCIC ENTD? False NCIC ENTD Date:
Subject Identified? True Subject Located? False
Summons Ticket Number: Monuments:
CAD Incident Number: Assigned Unit:
Call Nature: Disposition Code:
CAD Comments:

Offenses

Offense Type: Non-Reportable {90T}

Statute: TRESPASSING
AFTER NOTICE

Location Type: Government/Public Building
Completed: False Method of Entry: # Entered: Bias Motivation: None
Type of Criminal Activity 1: Weapon Type 1:
Type of Criminal Activity 2: Weapon Type 2:
Type of Criminal Activity 3: Weapon Type 3:
Location Type 2: Gang Activity:
Special Circumstances 1: Special Circumstances 2:
Special Circumstances 3:

People

Offenders

OFFENDER: MAXWELL, KENDRICK

Aliases:
Race: B Sex: M Height: Weight: Ethnicity: N
Hair: Eyes: Glasses: Complexion: Build:
Facial Hair: Skin: Teeth: Resident: State
DOB: SSN:
SID #: FBI #:
Driver's License #: License State:
Place of Birth City: Place of Birth State:
Special DOB: Age Range Age Range From: 21 To: 30
Day Phone: Evening Phone:

Suspected of Use 1: None

Suspected of Use 2:

Suspected of Use 3:

Type 1:

Type 2:

Type 3:

Drug Activity:

Drug Type:

OFFENDER: ALEXANDER, MICHAEL M

Aliases:
Race: W Sex: M Height: Weight: Ethnicity: N
Hair: Eyes: Glasses: Complexion: Build:
Facial Hair: Skin: Teeth: Resident: State
DOB: SSN:

4/21/2008 10:52:44 PM

00723

SID #:
Driver's License #:
Place of Birth City:
Special DOB: Age Range
Day Phone:

FBI #:
License State:
Place of Birth State:
Age Range From: 21 To: 30
Evening Phone:

Suspected of Use 1: None
Type 1:
Drug Activity:

Suspected of Use 2:
Type 2:
Drug Type:

Suspected of Use 3:
Type 3:

Victims

There are no Victims associated with this report.

Complainants

There are no Complainants associated with this report.

Witnesses

WITNESS: DOTSON, TIMOTHY

Aliases:
Race: W Sex: M Height: Weight: Ethnicity: N
Hair: Eyes: Glasses: Complexion: Build:
Facial Hair: Skin: Teeth: Resident: State
DOB: SSN:
SID #: FBI #:
Driver's License #: License State:
Place of Birth City: Place of Birth State:
Special DOB: Age Range Age Range From: 21 To: 30
Day Phone: Evening Phone:

Suspected of Use 1: None
Type 1:

Suspected of Use 2:
Type 2:

Suspected of Use 3:
Type 3:

WITNESS: YOUNG, WILLIAM LEE

Aliases:
Race: W Sex: M Height: Weight: Ethnicity: N
Hair: Eyes: Glasses: Complexion: Build:
Facial Hair: Skin: Teeth: Resident: State
DOB: SSN:
SID #: FBI #:
Driver's License #: License State:
Place of Birth City: Place of Birth State:
Special DOB: Age Range Age Range From: 21 To: 30
Day Phone: Evening Phone:

Suspected of Use 1: None
Type 1:

Suspected of Use 2:
Type 2:

Suspected of Use 3:
Type 3:

Property

There is no property associated with this report.

Narrative

AT THE ABOVE TIME, DATE AND LOCATION R/O RECEIVED A SUSPICIOUS PHONE CALL FROM (MARY PEELER 843-812-2620) CALLER ADVISED OF "SUSPICIOUS ACTIVITY" AT CJA. CADRE CONTACTED PEELER WHO ADVISED SHE WAS JUST LOOKING FOR INFORMATION ABOUT THE ACADEMY. APPROX. ONE HOUR LATER SEVERAL STUDENTS ADVISED R/O THAT A STUDENT (MAXWELL) HAD BEEN DROPPED ON FRIDAY AND HAD THREATENED HIMSELF AND OTHERS BEFORE BEING ESCORTED FROM THE ACADEMY. THEY ALSO STATED THEY WERE AFRAID AND HAD LOCKED THEMSELVES IN THE ROOM WHEN HE ENTERED. FEARING THE WORST, I NOTIFIED CADRE THAT I HAD BEGUN TO LOCK DOWN THE ACADEMY AREA. I USED YOUNG AND DOTSON TO ASSIST LOCKDOWN AND TO HELP IDENTIFY THE SUSPECT. AFTER SECURING THE INSIDE, A PERIMETER SEARCH WAS INITIATED. SEVERAL INDIVIDUALS OUTSIDE WERE

4/21/2008 10:52:44 PM

00724

ORDERED INSIDE AT WHICH TIME ALEXANDER REFUSED TO COMPLY. ALEXANDER ATTEMPTED TO ARGUE AND WAS SEVERAL TIMES ORDERED TO ENTER THE BLDG. AND LOCKDOWN. ALEXANDER REFUSED TO PRODUCE ANY IDENTIFICATION UNTIL BEING ADVISED THAT HE COULD BE ARRESTED IF HE FAILED TO COMPLY. HE FINALLY COMPLIED AFTER SURRENDERING HIS DL. AFTER CONFIRMING HE WAS NOT THE PERSON WE WERE SEARCHING FOR THE OUTSIDE WAS SECURED. AFTER LOCKDOWN A SEARCH OF THE CAMERA RECORDINGS REVEALED MAXWELL HAD ENTERED THE BLDG. ON CAMERA #29 AT 2116HRS AND DEPARTED AT 2136HRS. SEVERAL INDIVIDUALS REPORTED SEEING HIM ON THE SECOND FLOOR BUT A QUICK SEARCH MET WITH NEGATIVE RESULTS.

Signatures

Reporting Officer: SORRELL, EDWIN S ☐

Assisting Officer: ☐

Follow-Up Officer: COOMBS, CHRISTOPHER S ☐

Follow-Up Assisting Officer: ☐

Approving Officer: SKIPPER, HENRY M ☐

Validating Officer: AYCOCK, JENNIFER ☐



SC Department of Public
Safety
City, State
ORI: SC040BP00



SUPPLEMENTAL REPORT

Case Status: Unfounded

Case Number: 1993-027038

Case Status Date: 3/22/2008

Main Incident Information

Location: 5400 BROAD RIVER ROAD COLUMBIA SC 29212

Start Date: 2/17/2008 End Date: 2/17/2008 Disp Date: 2/17/2008 Time Arrived: 22:00
Start Time: 21:16 End Time: 23:00 Disp Time: 22:00

NCIC INQ? False NCIC INQ Date:
Subject Identified? True

NCIC ENTD? False
Subject Located?

NCIC ENTD Date:
False

Supplemental Information

Filing Date: 3/22/2008

R/O SPOKE WITH SEVERAL CADRE AT CIA, IN ADDITION TO SHEARN MITCHELL AND SEVERAL OF THE ADMIN SECRETARIES. NONE KNEW OF ANY INDIVIDUAL THAT HAD BEEN THREATENED BY SUSPECT #1 (MAXWELL). CIA STAFF DO NOT WISH TO PROSECUTE SUSPECT#1. AFTER FURTHER INVESTIGATION AS TO WHY SUSPECT #2 (ALEXANDER) WAS LISTED AS A CRIMINAL SUSPECT, IT WAS DISCOVERED THAT ALTHOUGH HE DID VIOLATE ACADEMY POLICY BY NOT PRESENTING HIS ID, HE DID NOT VIOLATE ANY SOUTH CAROLINA LAWS.

Signatures

Filing Officer: COOMBS, CHRISTOPHER; Cpl.;

Entered By: COOMBS, CHRISTOPHER; Cpl.;

4/21/2008 10:54:39 PM

00726



SECTION 16-17-530. Public disorderly conduct.

Any person who shall (a) be found on any highway or at any public place or public gathering in a grossly intoxicated condition or otherwise conducting himself in a disorderly or boisterous manner, (b) use obscene or profane language on any highway or at any public place or gathering or in hearing distance of any schoolhouse or church or (c) while under the influence or feigning to be under the influence of intoxicating liquor, without just cause or excuse, discharge any gun, pistol or other firearm while upon or within fifty yards of any public road or highway, except upon his own premises, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than one hundred dollars or be imprisoned for not more than thirty days.

00727



Samantha A. Swanson's Affidavit

Monday, May 03 1020

I was charged with Disorderly Conduct by officer Edwin S. Sorrell. I was arrested and "booked" into Allen S. Glenn Detention Center on the morning of March 28 2010. The following statement is a true account of the events that took place on March 28 2010.

Firstly, It should be known that absolutely no alcohol or any other drug was consumed by myself on March 27, 2010 or March 28 2010.

Late Saturday night, March 27 2010 Matthew C. Keith (Matt) and I invited our friend Charles W. Spaht Jr. (Charlie) to visit us at Matthew's apartment on 1331 Main St. "The Barringer Building". I hadn't seen Charlie in over a year and finally our schedules had provided an opportunity for us to see one another. Matt and I were ecstatic. While Charlie, who lives in Atlanta, GA was driving the three hours to Columbia, Matt and I planned for his arrival. Matt and I wanted to surprise Charlie when he arrived as a way of saying "Welcome To Columbia!" and ushering in a fun weekend. Matt and I decided to fill five balloons with water and burst them on the ground near Charlie when we met him a few hours later. We did not and had no intentions of throwing the balloons at Charlie or at each other and most certainly not at anyone else or any buildings. We specifically wanted to throw and subsequently threw four of the balloons onto the ground to burst them. When Charlie arrived in Columbia he called my phone. Matthew and I left his apartment and Matt placed the small bag of five water balloons behind a post on the street directly in front of where we were parked and planned on parking again (this is visible on the video surveillance tape). Downtown Columbia was virtually empty by this point in the night and the exit we were meeting Charlie at was only four minutes away so we felt secure in leaving the bag there.

Upon Charlie's arrival in Columbia, We met him at an interstate exit in my car and he followed us to Matthew's apartment in his car. Charlie and I both parked our cars a short distance from Matt's apartment at The Barringer Building and exactly in front of where the bag of five balloons was placed. After Charlie and I got out of our cars we hugged. Matt and I said in a low volume "we have a surprise for you!", all of us then walked towards the bag of balloons. Charlie almost immediately realized that the bag contained water balloons so with the element of surprise being lost we decided to just toss the balloons to the ground to pop them. I am very concerned with not littering so I made sure to pick up the pieces of balloons as they broke (this is visible on the video surveillance tape). All three of us intentionally kept our voices and actions at a low volume as to not disturb anyone. Then, just as Matt handed Charlie a balloon to toss (because Charlie hadn't tossed one) Officer Sorrell came running from the sidewalk to the left of us. Officer Sorrell yelled the order "*put your hands against the wall and spread your legs!*" to all three of us. All three of us immediately complied with this order, placing our hands against the wall and spreading our legs at least shoulder length apart (this is visible on the video surveillance tape). My hands were placed against the wall and my body was at such an angle that if the wall had been removed I would have fallen forwards. Officer Sorrell ran to me first and immediately placed his left hand on my lower back and his right hand on my right hip while saying in a very angry and annoyed tone (*ALRIGHT SMART BUTT, YOU DON'T WANT TO SPREAD YOUR LEGS?!*) he immediately began kicking my ankles at this time (this is visible on the video surveillance tape); The force in which Officer Sorrell used to spread my legs even further apart was apparent the next day when both my ankles had turned black and blue. While Officer Sorrell was kicking me, I said one time in a concerned tone "You are hurting me" Officer Sorrell replied "*Shut your mouth, that's disobedience, I can raise your charge to a felony!*" The whole time my hands remained on the wall and my legs remained spread as Officer Sorrell had ordered us to do.

Officer Sorrell then went to Charlie who was to my left and while searching his person said "*Do you know what I have you all on? Malicious intent to destroy government property!*". Officer Sorrell went to Charlie's left to search Matt and then Officer Sorrell came back to me. I was wearing a jacket with a hood and Officer Sorrell said "*I can only search your hood, we'll have a female officer search the rest of you.*" Officer Sorrell grabbed my hood in his

right hand and pulled it straight back for a few seconds causing my head to jerk backwards and the hood to choke my neck. Officer Sorrell then went back to Matt and walked him away from Charlie and I who had remained in the same previously ordered position. At this point another officer had arrived and stood to the right of Charlie and I. Officer Sorrell then took Charlie away to speak with him privately and then Officer Sorrell came to speak with me privately (this is visible on the video surveillance tape). Officer Sorrell first asked me "Why were you throwing balloons at the building?" I replied "I was not throwing balloons at the building, Sir." he then asked me "Why didn't you spread your legs when I told you to?" I replied "I'm sorry, I thought I had them spread Sir, I was really afraid" he replied "Well you didn't" then asked "Why were you copping an attitude with me over there (gesturing to the wall)". Even to this day I still search my head for what Officer Sorrell could have been referring to when he asked me that question. I would hate to think I offended someone unknowingly. To answer Officer Sorrell's question I replied "I'm sorry if you feel I had an attitude, I have no intention of being disrespectful to you Sir". Officer Sorrell then asked me for my I.D. I told him that it was in my car, he told me to go get it and he followed me the few feet to my car. While shining his flash light into the windows of my car Officer Sorrell asked if there was "any alcohol in there" I replied "No sir, none."

Officer Sorrell then walked me over to Charlie and Matt. Charlie and Matt were sitting on the ground where the concrete meets the CBRE building. Officer Sorrell instructed me sit on the concrete as well; At this moment I asked him "Sir, could I please stand? I just recently injured my tailbone." Officer Sorrell did not verbally say "yes" or "no" he only nodded his head in a "yes" motion while walking over to where the bag of balloons and other officer was. A few moments later Officer Sorrell told all three of us to "stand up and place your hands behind your backs". All three of us placed our hands behind our backs. Officer Sorrell came to me first, placed his hand on my shoulder and in a very pleased tone said "You ma'am are under arrest and you are going to jail!" he then placed me in hand cuffs and said "make sure I get these back, I am partial to these cuffs". He proceeded to tell Charlie and Matt "You sir are under arrest and you are going to jail!" he placed Charlie in handcuffs but not Matt, Officer Sorrell said he didn't have enough handcuffs. Matt was later handcuffed when another Officer arrived.

Officer Sorrell, one other Officer and a man in plain clothes who I assume was a security guard for the CBRE building walked all three of us into the lobby of the CBRE building. Officer Sorrell told us that he preferred to do the paperwork in the lobby so that he didn't have to "be around all the jail people". Officer Sorrell sat down behind the desk in the CBRE building's lobby while Matt, Charlie and I stood. The other Officer at the scene stood next to Matt. At this point I began to cry pretty hard; I think it was from all the fear of the situation and not knowing what a jail would be like. With my hands handcuffed behind my back I had no ability to wipe the tears from my eyes or nose and I could feel that my breathing was becoming obstructed. Matt was standing directly to my right so I rubbed my eyes and nose onto his sleeve, the Officer standing next to Matt saw this but said nothing and even to my recollection seemed understanding; When Officer Sorrell noticed this he said very angrily "Officer! Separate them!". The other Officer didn't move or need to move from where he was standing since I immediately stepped away from Matt after Officer Sorrell ordered me to do so. Officer Sorrell then called all three of us (separately) over to him at the desk to ask us questions about our appearances and home addresses; he had our personal IDs which contained this information. When Charlie was called to the desk to answer Officer Sorrell's questions Charlie asked "Sir, do you think you could just let us go on a warning?" Officer Sorrell replied "No, that option went out the window when your girl got smart with me". A short time after Officer Sorrell was ready to take all three of us to jail. Charlie and Matt rode in Officer Sorrell's car with him while I rode with another Officer. Just before the other Officer was going to put me into the front seat of his car Officer Sorrell came behind me, putting his right hand on my shoulder and said "Now he's got video and audio in his car, so you best not act out"; In retrospect I feel that Officer Sorrell was trying to embarrass me by insinuating to the Officer who was transporting me that I wasn't well behaved.

Once we were at the Jail, the officer who had transported me helped me from the car and I joined Matt and Charlie in the intake room at the jail (we were all still handcuffed). When we first arrived in the intake room two other male officers and a drunk driver were there. Charlie, Matt and I sat down in three available chairs and Officer Sorrell stood to the right of us.

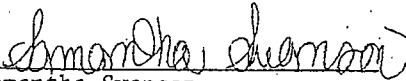
Officer Sorrell began a conversation with one of the other Officers in the room; Officer Sorrell asked "Busy night?" the other Officer replied "Yeah, but I'm making money." Officer Sorrell replied "Yep, I know what you mean, I get paid for every head I bring in!".

Officer Sorrell continued to dialog for a minute or so before he said to the room:

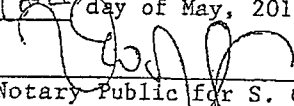
"*Yep, this one here (gesturing to myself) said she hurt her butt or something! If I was given an order to sit, you better believe I would have sat. I was shot in the stomach twice in Vietnam and even with bullets in my stomach I would have sat!*" When Officer Sorrell said this, there were six other males in the room and I was the only female. In retrospect I honestly feel that Officer Sorrell was intentionally mentioning my private areas in another attempt to embarrass me and/or draw attention of a sexual nature to me.

After the drunk driver was booked, I was booked. Charlie and Matt were booked after me. I had my mugshot taken, I was finger printed, checked out by a nurse and then put into a cell by myself. The cell I was in very noticeable had feces and what appeared to be vomit all over the walls. I stayed in that cell by myself for five+ hours. Matt and I left the jail around 4:45pm March 28 2010 after arriving to the jail around 4:00am. Charlie spent two days in jail.

In conclusion; My friends and I were unconscionably mistreated. I have an absolutely clean record and have always obeyed the Law. I was in full compliance and completely cooperative with Officer Sorrell's orders yet I was kicked, choked, manhandled and disgraced. It's hard to fathom and to me unusual, that an Officer of the Law would conduct himself so deleteriously. This whole ordeal has caused me great anxiety and has taken a large tole on my general well-being. I hope for a resolution and closure to this matter as it is extremely painful to recall.


Samantha Swanson

SWORN TO BEFORE ME this
1st day of May, 2010.


Notary Public for S. Carolina
My Commission Expires: 11-8-2017



AFFIDAVIT OF MATTHEW KEITH

Around 11:00pm-12:00am on Saturday, March 27nd, Charles Spaht (Charlie) made a last minute decision to visit Samantha Swanson (Sam), a close friend of mine. Charlie lives in Atlanta, GA, and because of the distance such visits were rare; Sam and I therefore hoped to make the visit special. We decided that a fun way to greet him would be with water balloons, as they were inexpensive and harmless. We never intended to get Charlie wet: the balloons were bought solely for the element of surprise.

Charlie arrived in Columbia around 2:00am (Sunday, March 28th). Sam and I chose to meet him at an exit near the interstate, at which point we led him back to my apartment complex on Main Street (I live in the Barringer building, right across the street from the scene of our arrest). The original plan was to bring the water balloons with us, but one of the balloons popped as I was carrying them to Sam's car. Not wanting to soak her backseat, I left the bag (with about 5 balloons inside) by a post on the sidewalk, directly in front of where Sam was parked. We chose the same location to park when we returned with Charlie.

Upon arrival, Sam and I casually walked up to the bag and tossed a water balloon at the ground. At this point, we felt the element of surprise had been lost, so there was no attempt to startle Charlie. Rather, all of the balloons were thrown directly at the ground; not a single person, vehicle, or building was hit in the process. Every possible measure was taken to ensure we weren't being disruptive to our surroundings. Sam insisted that we pick up the pieces of plastic to avoid littering, and she cleaned up after at least three of the balloons herself. Our voices were kept deliberately low; as a resident of Main Street, I am fully aware of how sound travels and what an appropriate volume would be for 2:00am. The balloons were not thrown particularly hard, and most were tossed underhand. In fact, the first few balloons failed to pop and bounced on the ground instead, due to a lack of sufficient force. No alcohol was involved in the incident, nor were there any other mitigating factors which could have caused our judgment to be flawed. It is also worth noting that Charlie never actually threw a balloon.

Approximately 10 minutes after we arrived, a voice was heard from the direction of Washington Street, instructing us to put our hands against the wall and spread our legs. All three of us immediately complied. Our arms were as straight as possible, and our bodies were at an angle so that our hands received the majority of our weight. As far as I could tell, all of us had our feet spread past the width of our shoulders, and everyone was silent. There was nothing about our behavior which could have been interpreted as defiant or suspicious.

Upon arrival, Officer Sorrell immediately chose to approach Sam. This struck me as odd, considering Sam was standing furthest from Sorrell and had followed his instructions just like me and Charlie. Without giving her a chance to respond, Sorrell said "ok, smart-butt" and proceeded to kick her feet into whatever position he was comfortable with. I heard this action before I actually saw it; the impact of his feet made a loud thud which instantly concerned me. When I turned my head to look, I saw that he was kicking her directly in the ankles. Sam said "sir, you're hurting me," which Sorrell seemed to take offense to. He then proceeded to pat Charlie and me down, during which he made a number of comments. I distinctly remember him stating we were guilty of "malicious intent to destroy property," and that if there was "any more back-talking," he could easily "raise it to a felony." When he was finished with Charlie and me, he told Sam that the only thing he could legally search was the hood of her jacket. He then grabbed her hood and pulled back with what was obviously an excessive amount of force; this

position was held for ten to fifteen seconds. It was clear that it was pressing against her neck, and I began to grow worried.

By this point, another officer had arrived and an un-uniformed individual was watching from a few feet away. I assumed he was an employee of CBRE, the building immediately to our right. Sorrell pulled me aside for questioning, leaving Sam and Charlie with the second officer. I was instructed not to look back at either of them. The first question he asked me was "why are ya'll throwing balloons at the building?" I told him that we weren't, and I proceeded to explain why we had the balloons in the first place; I said it was "all in good fun" and that we weren't trying to "cause any trouble." The only other question I can remember was "have you been drinking," to which I responded "no, sir." I was calm and respectful throughout the interrogation; I referred to Sorrell as "sir" and did not speak unless I was spoken to.

After he was done questioning me, which couldn't have taken more than a minute or two, I was told to sit on the ground in front of the CBRE building, which I did. He questioned Charlie second, and Samantha last. After talking to Samantha, he conducted a brief visual search of her car. When asked to sit down next to Charlie and me, Sam requested to remain standing. She stated that her tailbone had recently been injured (a statement I can verify to be true; it was painful for her to sit on hard surfaces without any support). Sorrell looked at Sam as if to acknowledge her, but said nothing and immediately turned to speak with the other officer. I did not interpret this look as disapproving or annoyed.

After a few minutes, Sorrell instructed us to stand up and face the wall, which we did. He then placed handcuffs on Charlie and Sam, declaring in a theatrical manner that they were now under arrest. There was an abundance of dramatic pauses and a pleased tone in his voice; he gave the impression of a superhero confronting a villain. "You, sir...are *under arrest*...and you are going to *jail*." When it was my turn, Sorrell had run out of handcuffs, so he put his hand on my shoulder and said "and *you*, son...are *also* under arrest."

The three of us were then led inside the CBRE building where Sorrell proceeded to fill out the paperwork, stating he'd prefer to do it there than "with all the jail people." A second officer soon arrived, at which point I was handcuffed like the others. We were asked to approach Sorrell one by one to confirm our addresses and physical appearance; at one point, he looked up and said "so, you all got brown hair and green eyes. I guess that's the common denominator." When it was Charlie's turn, he asked Sorrell if there was any way we could be let off with a warning; Sorrell replied "that option went out the window when your girl started giving me lip," or something to that effect. He also mentioned that the jail would be full of unsavory characters, due to it being a weekend; when the younger officer insisted it'd been a slow night, Sorrell seemed disappointed. Soon after, when it fully dawned on us that we were spending the night in jail, Sam began to cry and attempted to wipe her tears on the sleeve of my shirt (since her hands were unavailable). The younger officer seemed sympathetic and said nothing, but Sorrell yelled "could you separate them, please," as if the officer was neglecting his duties. Sam immediately moved away from me. A few minutes later, Sorrell declared that he was almost finished, but wanted to "make sure there's not any mistakes so the judge doesn't laugh at me in court." The older officer said "I don't think that's gonna help," to which Sorrell sarcastically replied, "thanks."

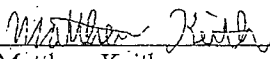
Sorrell then proceeded to drive Charlie and me to the detention center; Samantha was transported separately. As the car ride progressed, he seemed to become a little less hostile towards the two of us, stating that "this whole thing is unnecessary." At the same time, he became more critical of Sam and seemed to pin the entire incident on her shoulders. I'm still not

entirely sure why this was the case, as Sam displayed zero signs of disobedience, spoke in a calm, polite voice, and consistently referred to Sorrell as "sir."

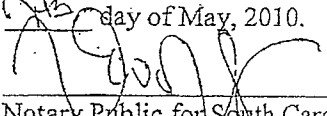
About halfway through the car ride, I asked Sorrell exactly what we were being detained for and what constituted public disorderly conduct. According to Sorrell, public disorderly conduct is "anything that isn't orderly," and the definition of "orderly" is "up to the discretion of the officer." In other words, if an officer sees something he considers unusual or personally disagreeable, he is justified in convicting that individual of a misdemeanor and sending him to jail. Sorrell believed that "orderly conduct" does not include playing with water balloons at 2:00am, and doing so was "disorderly" enough to constitute arrest.

We soon arrived at the jail and were reunited with Sam in the intake room. Throughout the intake process, Sorrell made constant remarks to whichever officer was in the room at the time; these comments were audible to everyone and he made no attempt to conceal his voice. One of the first comments he made was about Samantha's tailbone, which he loudly referred to as her "butt" in front of four other males (excluding Charlie and me). Sorrell claimed that he had been shot twice in the stomach, and that if an officer asked him to sit on the ground, he would do so regardless of any injury. Samantha appeared to be embarrassed. When it was her turn to be searched, she made a clear attempt to be cordial to Sorrell, saying that she didn't mean to disrespect him and was probably just frightened. I do not remember a response from Sorrell. She also made sure that Sorrell's handcuffs were returned to him (he had previously requested that his handcuffs be returned, as he had grown partial to them). As I was being searched (by this point, Charlie and Sam had both left the intake room), Sorrell was discussing work with another officer. He said that his current post was rather uneventful, and expressed nostalgia for earlier assignments. When asked to elaborate, Sorrell mentioned that he had shot people several times, and was in fact an advanced marksman. I cannot remember whether he claimed to have shot people in the military or in the police force, but he spoke of it boastfully, as if he wasn't content with his current line of work. I also remember him looking at me as he said it, which made me uncomfortable.

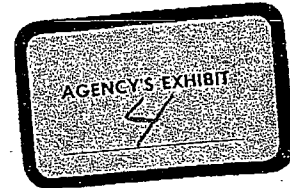
Following the intake room, I was led into the jail proper and had no further interaction with Officer Sorrell. Samantha and I were given PR bonds and were released around 4:00pm Sunday afternoon. Charlie, however, was given a cash bond, and we were unable to provide the \$262.50 before 5:30pm, when they stopped accepting payments. As a result, Charlie spent another night in jail and was not released until noon the following Monday.


Matthew Keith

SWORN TO BEFORE ME this
15 day of May, 2010.


Notary Public for South Carolina
My Commission Expires: 11-1-2017

00733

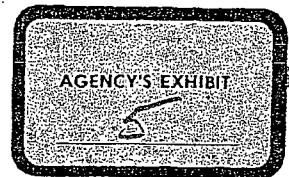


SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Off. E. S. Sorrell
DATE:	April 26, 2010
LOCATION:	OPR HQ
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 27, 2010

On April 26, 2010, Investigator C. Lee Carter III met with Capt. A. J. Curtis regarding Off. E. S. Sorrell. Captain Curtis provided copies of the complaint a Criminal Justice Academy (CJA) student filed on Officer Sorrell in February 2008. The student alleged that Officer Sorrell yelled at him while asking if he heard his instructions to get inside the building. The student said Officer Sorrell then said he had better move when he told him and he could go to jail for disobeying a police officer. Officer Sorrell even reached for his handcuffs while making this threat. Officer Sorrell also allegedly threatened to prevent the student from graduating the following week. According to the student, Officer Sorrell told him he has had "mouth problems" his entire life and it was going to cause his family to "go without." The student described Officer Sorrell as being on a "power trip" and he tries to "make everyone bow down to him." The student has seen Officer Sorrell use his baton to turn off a TV and lights and believes he does this just to display the weapon. The student commented that someone needed to "get a handle" on Officer Sorrell before someone got hurt.

Captain Curtis said the complaint was taken to Human Resources Administrator Terry Kitchens and counseling was recommended. The BPS also removed Officer Sorrell from the CJA and he has not returned to there. Captain Curtis recalled Officer Sorrell being in counseling for approximately two (2) years and it seemed to have helped.



SOUTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
OFFICE OF PROFESSIONAL RESPONSIBILITY
ACTIVITY REPORT

CASE NUMBER:	PR-1610-10-0024
SUBJECT:	Off. K. A. Rogerson (843-230-8451)
DATE:	April 23, 2010
LOCATION:	State Information Technology Office
INVESTIGATOR:	C. Lee Carter III
DATE TRANSCRIBED:	April 26, 2010

The following is a transcription of Officer Rogerson's affidavit:

On March 28, 2010, I was assigned to patrol duties around the state house and other government buildings when I heard L/Cpl. Sorrell calling for help. He stated over the radio that several persons were throwing "bottles" at the Lottery Commission building. I was the first officer to arrive. I heard Sorrell say he was on the north side of the building. I soon arrived at the north side and he was not there. I then went to the Main Street or the east side front of the building and found Sorrell with three subjects. The combination of what Sorrell said and my previous experience working in that area led me to think the subjects were intoxicated, upset with the lottery or a deranged homeless person.

Sorrell asked me to assist him with the three subjects who were standing against a wall with their hands above their heads. I did not notice any boisterous conduct or evidence of alcohol or drug use by any of the three. Sorrell then individually interviewed the subjects. I began looking around and saw the water on the ground but did not see any broken glass as Sorrell earlier stated. I then asked the female what happened and she said she or one of the males lived across the street. She told me they were having a water balloon fight and they went across the street to the Lottery Commission to do this. I had not yet talked to Sorrell and did not know exactly what had happened. After Sorrell finished interviewing the female, he told her to sit down. She said she could not due to a recent tailbone injury. Sorrell then said "I told you to sit down." I thought Sorrell's delivery was an attempt to intimidate her. She never sat down. I sort of intervened by trying to distract Sorrell. The subjects were taken inside and Corporal Harris arrived around this time. Sorrell asked me to double lock the handcuffs and to pat them down. The female was wearing a hoodie and I checked the big front pocket. She was also wearing skin tight jeans and I did not pat her down in that area. One asked if they were going to jail and Sorrell said yes. This shocked me because they were only throwing water balloons. Based on what I saw I did not think a physical arrest was necessary.

Page 2

The way the subjects acted toward me was completely different from the way they acted toward Sorrell. The female even thanked me for what I believe to be the way I treated her. One of the males also thanked me for loosening the tight handcuffs. The female started crying and she put her head on her boyfriend's shoulder. Sorrell saw this and asked me to separate them. They were not bothering anyone and I did not do anything to separate them. They eventually moved a part on their own. Sorrell was writing the tickets during this time. Corporal Harris was standing nearby. Sorrell, Harris and I were the only BPS officers there. There was also a young black male Lottery Commission security guard there. I do not know his name but I did hear him refer to Sorrell as "sarge." Corporal Harris heard this and looked around thinking the guard mistook him for a sergeant.

Sorrell used my patrol vehicle to transport the males to jail. Corporal Harris had a camera in his vehicle and he transported the female. I stayed at the Lottery Commission to take care of Sorrell's post until he returned. I was embarrassed by Sorrell's behavior. I was not surprised the three subjects complained and I was sort of expecting it.

00736

THE STATE OF SOUTH CAROLINA
ADMINISTRATIVE LAW COURT

The Honorable Deborah Brooks Durden, Administrative Law Judge

Case No. 2011-ALJ-30-0489-AP

RECEIVED

DEC 04 2012

E. Shawn Sorrell,

SC COURT OF APPEALS

Appellant,

vs.

South Carolina Department of Public Safety,

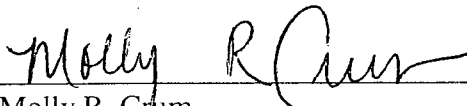
Respondent.

CERTIFICATE OF SERVICE

I, Molly R. Crum, Assistant General Counsel of the South Carolina Budget and Control Board, Office of General Counsel, do hereby certify that I have this day served a copy of the attached **Record on Appeal** on the parties listed below by causing same to be deposited in the United States mail, postage pre-paid, and addressed as follows:

John A. O'Leary, Esquire
O'Leary Associates, P.A.
714 Calhoun Street
Columbia, South Carolina 29201

Vance J. Bettis, Esquire
Gignilliat, Savitz & Bettis, LLP
900 Elmwood Avenue, Suite 100
Columbia, South Carolina 29201


Molly R. Crum

Columbia, South Carolina
January 9, 2012

00737

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

RECEIVED

DEC 04 2012

SC Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No. ALJ-30-0489-AP

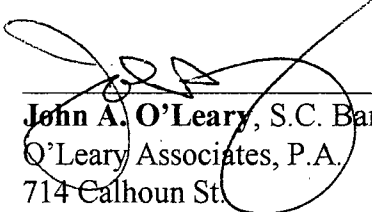
E. Shawn Sorrell.....Appellant,

vs.

South Carolina Department of Public Safety.....Respondent.

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.


John A. O'Leary, S.C. Bar 4274
O'Leary Associates, P.A.
714 Calhoun St.
Columbia, SC 29201
Phone: 803-779-5556
Counsel for Appellant

November 29, 2012

00738

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM THE ADMINISTRATIVE LAW COURT
Deborah Brooks Durden, Administrative Law Judge

Case No. ALJ-30-0489-AP

E. Shawn Sorrell.....Appellant,

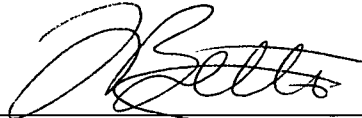
vs.

South Carolina Department of Public Safety.....Respondent.

CERTIFICATE OF SERVICE

I, Jeanette L. Bettles, do hereby certify that I have this day served a copy of the attached
Record on Appeal on the parties listed below by causing same to be delivered by hand:

Vance J. Bettis, Esquire
Gignilliat Savitz & Bettis, LLP
900 Elmwood Street, Suite 100
Columbia, SC 29201



Jeanette L. Bettles

Columbia, South Carolina
December 4, 2012

RECEIVED

DEC 04 2012

SC Court of Appeals