

# HEARING SUMMARY FORM

# 0543-18

**Hearing:**

May 2, 2019 2:00 P.M.  
Date Time

Location: 170 North Main # 12-12

Attended by: PII J. Graves # 10410  
PII K. Greer # 10924

Hearing Officer: DC T. Landrum # 4893

Statement of Hearing Officer: On Thursday, May 2, 2019 at 02:00 P.M. a disciplinary hearing was conducted at 170 N Main, room 12-12. Officer J. Graves was charged with (CONT)

Action Ordered: DR 101- Compliance with Regulations: Weapons-

**Sustained- five (5) day SWOP**

DR 101- Compliance with Regulations: Body Worn Camera

**Sustained – three (3) day SWOP**

DR 101- Compliance with Regulations: Command Officer

Notification – **Sustained- three (3) Day SWOP**

DR 104- Personal Conduct – **Sustained- Termination**

DR 301 - Excessive / Unnecessary Force- **Sustained- ten (10) Day SWOP**

DR 601 - Completing Official Reports – Sustained – **one (1) day SWOP**



Hearing Officer

Any employee holding a position not exempted from the provisions of Article 34 Civil Service, and not in the initial probationary period, who has been suspended in excess of ten, (10) days, terminated, or demoted, may appeal to the Civil Service Commission within ten, (10) calendar days after notification in writing of such action. In the event of multiple suspensions, only that suspension which causes the total number of days suspended to exceed five, (5) days within a six month period, and any subsequent suspension within said period shall be appeal able to the Commission (cont.)

Appeal: ☒ Will ☐ Will Not Be Filed

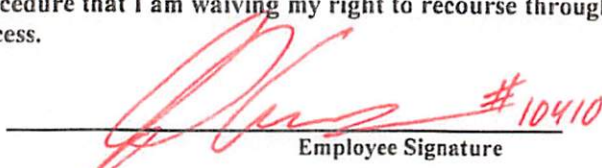
Grievance: ☐ Will ☒ Will Not Be Filed

I understand that by requesting the grievance procedure that I am waiving my right to recourse through the Internal or Civil Service Commission Appeal Process.

Date

06/02/19

Employee Signature

 #10410

If the disciplinary action is 10 days or less, the officer may submit to a grievance procedure or an internal appeal, but not to both.

In addition Chapter I Section 5 page 4 states in part: "Commissioned police officers with a status of suspension, probation, non-enforcement, relieved of duty, or leave of absence are not permitted to engage in any Secondary Employment and/or any Off Duty Security Employment where the officer's status is dependent on his/her state commissioned status. No commissioned police officer is permitted to engage in any Secondary Employment and/or Off duty Security Employment for a period of thirty (30) days after the final disposition of (1) any sustained Statement of Charges for violation of the Sick Abuse policy or (2) any sustained Statement of Charges resulting in a suspension and/or reduction in rank" Notification will be made to the Secondary Employment Office regarding this suspension. Violation of the above listed policy could result in additional charges.

Violation of DR 101 Compliance with Regulations to wit: Weapons, Violation of DR 101 Compliance with Regulations to wit: Body Worn Camera, Violation of DR 101 Compliance with Regulations to wit: Command Officer Notification, DR 104 Personal Conduct, DR 301 Excessive / Unnecessary Force and DR 601 Completing Official Reports. These charges were the result of an Internal Affairs investigation case #I2018-024 for an incident that allegedly occurred on May 9, 2018.

Present at the hearing was Officer Graves, Officer Greer and Deputy Chief Landrum. Officer Graves indicated that he wanted Officer Greer to be his union representative. Officer Graves was first made aware of these charges when he was served the charges on April 21, 2019 and was provided with a copy of the charges.

I read the Statement of Charges to Officer Graves and he indicated that he understood the charges.

Officer Graves was allowed to address the charges and advised that when the suspect jumped of the car his intention was not to choke the suspect out. Officer Graves advised that he grabbed the suspect and it looked accidentally like a choke hold. Officer Graves advised that the suspect was squirming around trying to get away and he (Graves) was trying to hold on when other officers ran up and grabbed the suspects legs and they were able to get the suspect back into the squad car.

I asked Officer Graves if he used a choke hold and he advised yes sir he did.

I asked Officer Graves if he had his body worn camera on and he advised that he had it on during the apprehension of the second suspect, who was transported and he then turned it off. Officer Graves advised that they were just driving by the location of the first arrest and stopped to talk. Officer Graves advised that he observed the suspect fidgeting around in the back seat of the car so he (Graves) opened the rear door to check on the suspect when the suspect bolted out of the door. Graves advised that the grabbed the suspect and the struggle began. Graves advised that he did not have time to turn on his body worn camera.

I asked Officer Graves if he notified a supervisor about the resisting and he advised that he did not and that it was his belief that a supervisor was already in route due to the arrest and use of force and felt this incident would be included in the original use of force report.

I asked if the force used during the arrest was reasonable and Officer Graves advised that it was.

I asked Officer Graves if he completed a use of force form and he advised that he only held him while other officers put his feet back in so he felt he was covered by the original use of force form.

Officer Greer was allowed to address the charges and advised that on the use of force report everyone has to be listed so he should have been covered on the use of force form. Officer Greer advised that he was partners with Officer Graves for five year plus and has never known him to be use excessive force or be extreme in his dealing with suspects.

I asked Officer Graves why he told the officer watching the suspect to check the air in the tires in the squad car in front of where the prisoner was being held. He advised that he (Graves) felt the tire pressure was low so he had the officer check the air in the tire and that is when he observed the suspect moving around and opened the door to check on him and the suspect jumped out. I asked why he opened the door and Graves advised that the suspect was sliding around and he needed to see what he was doing.

I continued the hearing to review all facts.

On I reconvened the hearing to render the following decision:

**DR 101 Compliance with Regulations: to wit Weapons-** Chapter 13, Section C and D of the Policy and procedures manual prohibits the use of the "Choke Hold" restraint due to the potential for life threatening consequences for the suspect. You advised that the suspect was attempting to escape and you inadvertently grabbed him around the neck in what could be viewed as a choke hold. The use of any choke hold is prohibited unless deadly force is authorized and this situation was not a situation where deadly force was issued. I asked you if you used a choke hold and you advised that you did use a choke hold which places you in violation of DR 101 Compliance with Regulations: to wit use of a choke hold. So the this charge is **Sustained and I order a five (5) day Suspension without pay**

**DR 101 Compliance with Regulations: to wit Body Worn Cameras** You had your BWC on during the first arrest but when you changed locations to where the altercation occurred you had not turned your camera on. You advised that the altercation occurred so quick that you did not have an opportunity to activate your camera. If you were going to the scene of the second suspect then you should have left your camera on or activated it prior to addressing the defendant. The camera policy is clear that a camera should have been activated prior to talking with a defendant. This failure to implement the BWC policy as required resulted in the violation of **DR 101 Compliance with Regulations to wit: Body Worn Camera. The charge is sustained and I order a three (3) day Suspension without pay.**

**DR 101 Compliance with Regulation: Command Officer Notification:** Officer Graves admitted that he did not notify a supervisor that he had used force. Officer Graves assumed that his use of force would be covered by the use of force used to take the suspect into custody. The force used by Officer Graves was after the suspect was in custody and as he was attempting to escape, therefore it was a second incident and should have been reported to his supervisor. **I sustain the charge violation of DR 101 Compliance with Regulations: to wit Command Officer Notification and order a three (3) day Suspension without pay.**

**DR 601 Completing Official Reports:** Officer Graves admitted that he did not file a use of force report after he used physical force on the suspect. Officer Graves advised that he assumed that his use of force would be covered by the use of force form when the suspect was arrested. This was two separate incidents and should have been documented as such. **I sustain the violation of DR 601 Completing Official Reports and order a one (1) day Suspension without pay.**

**DR 301 Excessive / Unnecessary Force:** When Officer Graves arrived on the scene the suspect was handcuffed and secured in the back seat of the squad car. Officer Graves advised the officer watching the suspect to check the air in the tires of a squad car parked in front of the vehicle that the suspect was secured in. This was captured on BWC. There were several officers on the scene doing various aspects of post arrest paperwork. Officer Graves advised that he saw the suspect "moving around" in the back seat and opened the door to check on him when the suspect attempted to get out of the car. Officer Graves advised that he grabbed the suspect and got him in a "Choke Hold" accidentally while trying to secure the suspect. Other scene officers ran to Officer Graves and helped him secure the suspect back into the rear seat of the squad car.

The fact that officers were available to assist Officer Graves in checking the suspect but he failed to ask for assistance led to the alleged escape attempt of the suspect. If Officer Graves had not opened the door for the suspect there would have been no escape attempt and force would not have been used. The use of force in this situation was the direct result of poor decisions and actions taken by Officer Graves and this use of force could have been avoided if Officer Graves had made sound decisions such as not sending the officer watching the prisoner to check the air in the tires, turning off his BWC and opening the door to where the suspect was secured or simply asking one of the other officers on the scene to step back to the squad car to assist while he checked the defendant. **I sustain the charge of violation of DR 301 Excessive / Unnecessary Force and order a ten (10) day Suspension without pay.**

**DR 104 Personal Conduct:** When both suspects in this case were taken into custody after a brief pursuit / physical altercation Officer Graves was on the scene of the other suspect's arrest. Officer Graves made a conscious decision to drive to the scene of this incident and to turn off his Body Worn Camera. Officer Graves spoke to several of the officers on the scene and when the other officers were occupied, Officer Graves spoke to the one officer guarding the prisoner. Officer Graves on camera advised that he told the officer to go check the air in the tires of another car that was parked in front of the suspects' vehicle. The other officer did as instructed leaving Officer Graves alone with the prisoner while all of the other officers were working on various aspects of the arrest paperwork. Officer Graves was alone with the prisoner when he stated that the prisoner was moving around so he opened the door to check him. At the best this was a poor decision and placed both Officer Graves and the suspect into a dangerous position that could have been avoided. At the worst Officer Graves' actions indicate that he got the officer that was guarding the prisoner occupied and out of the area where the suspect was located and took the opportunity to have a personal conversation with the suspect that turned violent when the suspect attempted to get out of the squad car. The actions of Officer Graves appear to be purpose driven to allow him time to address the suspect who had just ran and this is totally unacceptable. After careful consideration of the facts and viewing the available BWC I will **sustain the charge of violation of DR 104 Personal Conduct.** The actions of Officer Graves were of such a magnitude that they cannot be condoned by the Memphis Police Department for the good of public safety and the safety of Officers, citizens and even criminals that we come into contact with on a daily basis. I order the **termination of Officer Graves for violation of DR 104 Personal Conduct.**

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June 7, 2019

Jerry Graves

Arlington, Tennessee 38002

Dear Jerry Graves,

On June 7, 2019 at 9:00 A.M., an Administrative Hearing was concluded that stemmed from Statement of Charges #0543-18 issued to you for violation of DR 101 Compliance with Regulations: Weapons, DR 101 Compliance with Regulations : Body Worn Cameras, DR 101 Compliance with Regulations : Command Officer Notification, DR 104 Personal Conduct, DR 301 Excessive / Unnecessary Force and DR 601 Completing Official Reports.

After a careful review of the allegations against you and your statements made during the Administrative Hearing, the Hearing Officer found the charges of DR 101 Compliance with Regulations : Weapons was sustained and a five (5) day SWOP was ordered, DR 101 Compliance with Regulations : Body Worn Cameras was sustained and I ordered a three (3) day SWOP, DR 101 Compliance with Regulations: Command Officer Notification was sustained and I ordered a three (3) day SWOP, DR 301 Excessive / Unnecessary Force was sustained and I ordered a ten (10) day SWOP, DR 601 Completing Official Reports was sustained and I ordered a one (1) day SWOP, DR 104 Personal Conduct sustained and termination was ordered.

You have ten (10) calendar days after receipt of written notification of the action taken to file an appeal with the Civil Service Commission. You may file your request for a Civil Service Hearing in person or by mail to the following:

The Civil Service Administration  
City Hall, Room #406  
125 North Main Street  
Memphis, TN 38103

Your correspondence should be marked to the attention of Bridgette Wilder, Secretary of the Civil Service Commission. If you have any questions regarding filing an appeal, please contact Human Resources at (901) 576-6437.

Sincerely,

DC Y.   


**Deputy T. Landrum**  
**Uniform Patrol**

**Cc: Director M. Rallings**  
**Deputy Director M. Ryall**  
**Police Services Human Resources**  
**City Attorney**  
**City Human Resources**



City of Memphis  
Police Division  
Inspectional Services Bureau

Administrative Summons

Memphis Police Department VS.  
Graves, Jerry IBM: 10410

Date: August 6, 2018  
ISB Case #: I2018-024

I. Allegation

On May 9, 2018, you responded to 1091 Claybrook where you were involved in an altercation with an arrestee. You used force, but did not document or report this to a supervisor.

II. Rules, regulations or orders violated.

DR 101 Compliance With Regulations: Weapons  
DR 101 Compliance With Regulations: Body Cameras  
DR 101 Compliance With Regulations: Command Officer Notification  
DR 104 Personal Conduct  
DR 301 Excessive/Unnecessary Force  
DR 601 Completing Official Reports

III. Hearing

Date: 4/23/19  
Place: 1700 N. Main 12-12  
Time: 10:00 A.M.

You are entitled to representation during this hearing.

Served by:

Curry, RLT AFS 10 0143  
Name/Rank/Assignment/IBM

Date: 4/21/19

Time: 1:37 pm

Signature of Officer:

[Signature] 10410

YOUR ATTENDANCE AT THE HEARING NOTICED HEREIN IS REQUIRED, UNLESS EXCUSED DUE TO A MEDICAL EMERGENCY. FAILURE TO ATTEND WILL BE CONSTRUED BY THE HEARING OFFICER AS A WAIVER OF YOUR RIGHT TO BE HEARD. ATTENDANCE WILL BE EXCUSED DUE TO A MEDICAL EMERGENCY IN THE SOLE DISCRETION OF THE HEARING OFFICER, AND ONLY IF YOU HAVE DELIVERED, OR CAUSED TO BE DELIVERED, TO THE HEARING OFFICER, PRIOR TO THE HEARING DATE, A WRITTEN STATEMENT OF MEDICAL CONDITION, PREPARED AND SIGNED BY THE YOUR TREATING PHYSICIAN, DESCRIBING YOUR MEDICAL CONDITION AND ADVISING THAT YOU ARE NOT ABLE TO ATTEND THE HEARING AS A RESULT OF SAID CONDITION.



City of Memphis  
Police Division  
Inspectional Services Bureau

Case # I2018-024 Statement of Charges

Officer's Name: Graves, Jerry

IBM # 10410

Rank: POLICE OFFICER II

Assignment: Crump Station - "B"

Date: August 6, 2018

Notice is hereby given that you are being charged with violation(s) of policy, law or regulations as shown below:

DR 101 Compliance With Regulations: Weapons - Sustained 5 day SWOP  
DR 101 Compliance With Regulations: Body Cameras - Sustained 3 day SWOP  
DR 101 Compliance With Regulations: Command Officer Notification - Sustained 3 day SWOP  
DR 104 Personal Conduct - Sustained termination of employment  
DR 301 Excessive/Unnecessary Force - Sustained ten day SWOP  
DR 601 Completing Official Reports - Sustained - 1 day SWOP

Date of Occurrence: May 9, 2018

Statement of Particulars:

On May 9, 2018, a citizen was arrested by witness officers. While being detained in the backseat of a patrol vehicle as officers completed documents for his arrest, you came into contact with him when you approached the vehicle in which he was seated. You stated that the arrestee was agitated and talking "shit" while seated and handcuffed in the rear of the patrol car. You took it upon yourself to then reply, "Yeah, that's the same punk motherfucker that was talking shit the other day." You then told fellow officers to check the air pressure of the vehicles tires in order to have them leave the area. The officers checked the tires and waited for paramedics to treat another arrestee. Moments later, you opened the back door and a struggle ensued. You stated that you observed the arrestee moving around and you opened the door to see what he was doing. When you did so, the arrestee jumped out and you grabbed him in a bear hug. However, when grabbing the arrestee, your arm was around his neck and head. Your actions are captured on video with you stating, "I'm gonna choke you out! I'm gonna choke you out!" This was captured on a witness officer's body worn camera. You stated that you did not mean to grab the male in that way, but felt it was the only way you were able to secure the prisoner.

You further stated that you were not in fear for your safety and that you performed this prohibited maneuver to prevent the arrestee from escaping. According to the Memphis Police Department's policies and procedures, the described restraint that you used is prohibited (**Chapter 13, Section: Weapons, Subsections C & D**). Therefore, the force you utilized to prevent the escape of the arrestee is a prohibited restraint and according to the circumstances is unnecessary. Thus, this made your actions questionable and unprofessional. You admitted to the exchange of words and that you used this prohibited restraint/maneuver on an already handcuffed and detained arrestee. Therefore, your actions placed you in violation of **DR-104 Personal Conduct, DR-101 Compliance with regulations to wit: Weapons and DR-301 Excessive Force / Unnecessary Force**.

Your actions were recorded on a witness officer's body worn camera. Video X81079856 shows when you arrived on the scene and when you approached the vehicle where the arrestee was seated. At 16:21 the sequence of events begins and ends at approximately 16:24.

**The Memphis Police Department's DR 101 Compliance with Regulations states:**

**DR 101 COMPLIANCE WITH REGULATIONS**

Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.

**The Memphis Police Department's policy is listed as follows and states: Chapter 13: Equipment, Section: Weapons, Subsections C & D**

**C. Prior Training:**

Any previous baton training that any officer has received which may employ any type strike to the head area above the shoulder line should not be utilized. This will include any prior training received through the Memphis Police Academy, military training, or any training received by any other means.

Any prior training received in any type choke-hold, carotid type or otherwise should not be utilized. This will include any prior training received through the Memphis Police Department, military training, or by any other means.

Any prior training received in any type come-along technique which employs a baton, flashlight, or other weapon which applies any type hold to the head area above the shoulder line should not be utilized. This will include any prior training received through the Memphis Police Academy, military training or by any other means.

**D. Exceptions:**

The only exception for the use of any strike, choke-hold, or come-along applied to the head area above the shoulder line, would be if the officer was otherwise justified under the current Memphis Police Department deadly force policy.

Personal body weapons (hands, feet, fists, etc.) are excluded from these requirements **WITH THE EXCEPTION OF ANY TYPE CHOKE-HOLD.**



The Memphis Police Department's policy is listed as follows and states: Chapter 2: Arrests, Charges and Investigation, Section 8: Response to Resistance, Subsection V, page 6-7

V. Use of Deadly Force **Prohibited**

The use of DEADLY FORCE is prohibited in the following circumstances:

- A. To apprehend or arrest a person for a misdemeanor offense; or
- B. To effect the arrest of any person for escape from the commission of any misdemeanor offense; or
- C. As warning shots [Warning shots will not be utilized under any circumstance (1.3.3)]; or
- D. To apprehend or arrest a person known to be or believed to be a juvenile, unless the use of deadly force is immediately necessary in the defense of the officer's life or of another person's life after all other reasonable means have been exhausted [The officer's knowledge or belief of a person's age may be based upon factors such as the officer's previous knowledge of the person, his observations of the person's appearance, or upon reliable information given to him by other persons]; or
- E. To apprehend or arrest a person fleeing from a felony which is not a violent felony This includes, but is not limited to, felonies such as auto theft, larceny, embezzlement, fraud, burglary of an auto, or any other felony, which does not involve the use of deadly force, attempted use of deadly force, or threatened use of deadly force; or
- F. From or at any moving vehicle, except in a case where an officer has probable cause to believe that the suspect committed a violent felony and the poses a direct threat of serious bodily injury or death to other persons if not immediately apprehended. If the officer is in the path of the vehicle, the officer's first responsibility, if possible, is to move from the path of the oncoming vehicle, as shooting the driver of a moving vehicle raises the danger from an uncontrolled vehicle. Officers should not intentionally place themselves in the path of a moving vehicle or reach inside of a moving vehicle; or
- G. In any case, where the officer does not have a clear field of fire and cannot be reasonably certain that only the suspect will be hit and that the potential for harm to innocent persons is minimum.

The Memphis Police Department's DR 104 Personal Conduct states:

**DR 104 PERSONAL CONDUCT**

The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession. This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.

**The Memphis Police Department's DR 301 Excessive Force/ Unnecessary Force states:**

**DR 301 EXCESSIVE FORCE / UNNECESSARY FORCE**

**Excessive Force/Unnecessary** is defined as the amount of force which is beyond the need and circumstances of the particular event, or which is not justified in the light of all circumstances, as is the case of deadly force to protect property as contrasted with protecting life.

Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers should consider the facts and circumstances known at the time of the confrontation when determining the amount of force to use, including: the severity of the subject's crimes, the immediate threat posed by the subject to the safety of others, and whether the subject exhibits active aggression or is actively resisting arrest. Officers are permitted to use whatever force that is necessary and reasonable to protect others or themselves from bodily harm.

Officers shall never use force or violence that is unprovoked, needless, or not required during performance of their duties when making an arrest or in dealing with a prisoner or any person.

**Graham v. Connor (US 1989)** is the landmark US Supreme Court case that defines reasonable use of force by police officers in the line of duty. As such, this standard was applied in defining the Memphis Police Department's use of force policies, which are contained in the Memphis Police Department Policies and Procedures Manual, Chapter 2, Section 8, Response to Resistance, pages 1-11.

The ruling in **Graham V. Connor** holds that all claims that law enforcement officials had used excessive force --deadly or not-- in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen, are properly analyzed under the Fourth Amendment's "objective reasonableness" standard.

The "reasonableness" of a particular use of force must be judged from the perspective of a **reasonable officer on the scene**, rather than with the "20/20 vision of hindsight."

The test of reasonableness is **not capable of precise definition or mechanical application**.

Its proper application requires careful attention to the facts and circumstances of each particular case, including:

1. The severity of the crime at issue;
2. Whether the suspect poses an immediate threat to the safety of the officers or others; and
3. Whether he/she is actively resisting arrest or attempting to evade arrest by flight.

This "objective reasonableness" standard was applied during the investigation of the crime scene by Officer J. Graves at 1091 Claybrook. The three standards applied in Graham v. Connor were used to determine the reasonableness of the use of force applied by Officer Potts and revealed the following:

1. The crime at issue in this investigation is Disorderly Conduct, Obstructing Highway/Passageway, and Resisting Stop Arrest all misdemeanors in the State of Tennessee. (These offenses occurred prior to the encounter with Officer Graves.)
2. The suspect Jacques Reverand did not pose an immediate threat to the safety of Officer Graves.
3. By jumping out of the vehicle and attempting to escape custody, Jacques Reverand was actively resisting arrest.

During the incident that occurred on May 9, 2018, you and your trainee arrived at Claybrook where you spoke with officers and you encountered a detained suspect. You admitted that you were your partner's training officer and that you are required to make certain that all documents are correct before submitting them to your supervisor. You and your partner were recorded on video footage at the location of Claybrook; however, according to your log sheet you were never present at the location. You admitted that it was your duty as a field training officer to ensure that the reports submitted were correct. Furthermore, after the altercation with the arrestee, you did not think it was a big deal and you did not complete a Response to Resistance entry in Blue Team as required by Memphis Police Department Policy and Procedures. The fact is that, you did not submit an accurate log sheet nor did you submit the proper documentation for the force that you used to subdue the arrestee before going off-duty. Therefore, your actions place you in violation of **DR-601 Completing Official Reports**.

**The Memphis Police Department's DR 601 Completing Official Reports states:**

#### **DR 601 COMPLETING OFFICIAL REPORTS**

A member shall make reports promptly, accurately, completely, and in full conformity with specifications of the Department. A member shall make all necessary reports as soon as possible and practicable before going off-duty.

On May 9, 2018, you were involved in an altercation with an arrestee where you used force to control him. During this incident, you called for the assistance of fellow officers on the scene to get the arrestee back into the patrol car. However, after using force, you did not complete a Response to Resistance nor did you notify a supervisor of the encounter. You admitted that it is your duty to notify your supervisor when force is used to apprehend or subdue a suspect. Therefore, by not completing the proper documentation and notifying your supervisor of your actions you violated **DR-101 Compliance with Regulations to wit: Command Officer Notification**.

**The Memphis Police Department's policy is listed as follows and states:**

**Chapter 1 Organization, Section 12: Command Officer Notification, page 2-3,  
Subsection D, O**

**I. OFFICER RESPONSIBILITY**

**All sworn members have the duty responsibility of requesting a Supervisor to a scene with regard to the following circumstances or events. All initial notifications should be made via the Dispatcher.**

- D. Incidents where a suspect resists arrest. A *Response to Resistance Form* will be completed by the officer and signed by the supervisor called to the scene of the incident, prior to the completion of the shift.**
- O. Officers may call for a Supervisor on any incident where he/she has reason to believe that it is important or necessary.**

**NOTE:** It is the responsibility of the arresting officer to complete a *Response to Resistance Form* on all incidents involving the officer's response to resistance to affect an arrest, the discharge of a firearm, chemical agent use, SL-6/IDS events, and/or when a suspect is charged with T.C.A. 39-16-602 Resisting Arrest.

**The *Response to Resistance Form* will be submitted to the supervisor for approval prior to the end of the officer's shift. Copies of the form are to be forwarded to the Station/Bureau Commander, Inspectional Services, the Firearms Training Unit, and when applicable the Accreditation Office.**

**On May 9, 2018, you wore your body worn camera and captured footage of you driving to the location of Claybrook. However, once you and your partner arrived at the location you terminated the recording. After turning off your camera, you were involved in an altercation with an arrestee. However, shortly after the incident you turned on your camera and you are heard talking about the altercation. According to Memphis Police Department policy, you are to record all actions when you are on the scene until advised to terminate the video by a supervisor. You did not activate your camera to record your actions on the scene; however, other witness officers on the scene did capture video footage of the encounter that took place. Therefore, by not activating your body worn camera you violated DR-101 Compliance with Regulations to wit: Body Cameras.**

**The Memphis Police Department's DR 101 Compliance with Regulations states:**

**DR 101 COMPLIANCE WITH REGULATIONS**

**Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.**

**The Memphis Police Department's policy is listed as follows and states:**

**Chapter 13: Equipment, Section 15: In-Car Video/ Body Worn Camera, pages 3-5  
subsection B**



## **B. Use of BWC During the Shift**

1. An officer shall at all times during his/her shift have BWC equipment ready to record police interactions with those they may encounter. This state of readiness includes having the BWC on and in standby mode. Officers shall attempt to maintain a clear, level, and unobstructed forward-facing view. Officers shall attempt to keep the microphone portion of the device unobstructed in order to accurately record audio.
2. Officers shall activate their BWC when responding to all calls for service prior to making the scene of a dispatched call. In the event that recording was not started prior to making the scene of a dispatched call, an officer will activate the device as soon as reasonably possible.
3. Officers shall record all law-enforcement encounters and activities. Calls for service, self-initiated events (specials), and citizen contacts while not engaged in police activity are to be documented via BWC. It is not necessary for an officer to record in a constant state, but is required when his/her duties are being performed and allowed when otherwise prudent. It should be understood that under no circumstance shall an officer's safety be compromised in an effort to record an event.
4. Unless unsafe, impractical, or impossible, officers shall inform subjects that they are being recorded at the beginning of the contact (e.g. "Ma'am/Sir, I am advising you that our interaction is being recorded").
5. It should be understood that even when individuals are in various stages of undress, medically incapacitated, or in a location where video would otherwise be prohibited, BWC recording should continue. Videos will be redacted in a manner to reasonably protect privacy.
6. Once a recording event begins, the BWC shall remain activated until the event has concluded in order to conserve the integrity of the recording. Once an event has concluded, an officer will mark the conclusion of the recording verbally after clearing the call/special. In cases of arrest, an officer shall continue recording until custody is transferred.  
  
*Exceptions: Should an officer have an activated BWC and respond to a call inside of a location that is out of view of the ICV system, the officer may discontinue the ICV recording (e.g. indoor report calls, crime scenes, and other police related events). Should the call progress back towards the car and contact with another individual is made, the event should be recorded by the ICV system.*
7. Officers will document the fact that a BWC video was or was not captured on all incident reports, arrest tickets, misdemeanor citations, summons, and traffic citations. This documentation will be referenced by the Computer Aided Dispatch number written on/in the document. In the event that the BWC was not activated, terminated early, or otherwise interrupted, a supervisor will be immediately notified.
8. Officers will be permitted to review their own BWC video when preparing official documents. Officers may only view content on their assigned device and not those devices of other department members when preparing an official document. The supervisor must also review the BWC video prior to completing or approving official reports involving response to resistance/use of force. The viewing will be utilized as a tool when completing written reports to ensure the accuracy and consistency of events.

The availability of this review does not supersede policy directives governing the circumstances in which an event must be recorded. An officer may not simply stop recording in order to complete a report unless policy permits (e.g. cleared the scene, supervisor approval, etc.).

The following situations are exceptions to the above policy statement:

- a. If the officer is involved in (or witness to) a use of force incident that per policy requires the response of an Inspectional Services Bureau investigator, only after the ISB investigator has been consulted and approved may an officer be authorized to view their BWC recording. The viewing of any BWC recording will only be permitted after receiving authorization from the ISB investigator acting under the direction of the commander of ISB.
- b. If the officer is involved in (or witness to) a critical incident, such as a police shooting or an in-custody injury resulting in death, only after the commander of ISB and commander of Homicide have been consulted and approved may the officer be authorized to view their BWC recording. The viewing of any BWC recording will only be permitted after receiving authorization from both commanders and/or their designees.
9. Officers are responsible for the labeling and the categorization of videos they produce. The videos will be categorized in accordance with the available choices in the system. Officers will obtain the Computer Aided Dispatch number either through an automated feature, from the dispatcher, or through a manual lookup and entered in the ID field. (41.3.8G) Officers who categorize videos incorrectly may be subject to discipline.
10. Activation of the BWC is not required during periods of unassigned time, breaks or lunch periods.
11. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.

(The officer's disciplinary resume will be reviewed and become a part of this file)

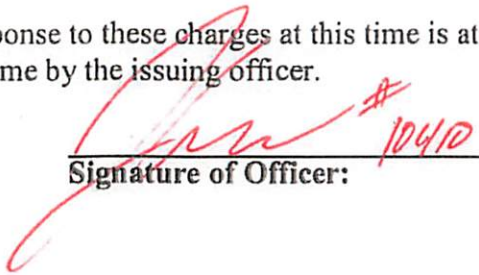
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Issuing Officer

*Det. [Signature]* #10025  
Charging Officer


I acknowledge receipt of this notice and understand that further investigation may result in additional charges, amendment of the above charges, or dismissal of these charges.

I further understand that a written response to these charges at this time is at my discretion unless specifically instructed to file same by the issuing officer.

 #10410  
Signature of Officer: \_\_\_\_\_

Written Response Ordered? ☐ Yes ☐ No

Was officer relieved of duty? ☐ Yes ☐ No

Reviewed by:  8/20/18 ☐ Dep. Dir. ☐ Dep. Chief ☐ Work Station Commander

Delegated to: ☒ Dep. Chief ☐ Station/Bureau

\_\_\_\_\_  
Major/Lt. Colonel/Colonel

*D/C Landrum*

**City of Memphis**  
**Police Division, Inspectional Services Bureau**  
**Case Summary I2018-024**

Printed On: 7/3/2020

**I) Principal Officer:**

Officer Jerry Graves, IBM #10410 Crump Station-B Shift

**II) Administrative Regulation:**

DR 101 Compliance with Regulations to wit: Weapons  
DR 101 Compliance with Regulations to wit: Body Cameras  
DR 101 Compliance with Regulations to wit: Command Officer Notification  
DR 104 Personal Conduct  
DR 301 Excessive Force/Unnecessary Force  
DR 601 Completing Official Reports

**III) Allegation:**

It is alleged that on May 9, 2018, Officer J. Graves, IBM #10410 used excessive force when dealing with a prisoner that was in custody. This incident took place during an arrest that occurred in the area of Claybrook.

**IV) Background:**

On Thursday, May 10, 2018, Lieutenant Chatman reviewed the video footage as a result of a Response to Resistance incident that occurred at Claybrook. The original Response to Resistance was reported by Officer Lawson regarding force used to arrest Jacquez Reverand. While reviewing the footage, it became apparent that Officer J. Graves arrived on the scene after Jacquez Reverand was handcuffed and secured in the back of Officer Lawson's squad car. Shortly afterwards, Officer Lawson's video footage shows Officer Graves involved in an altercation with Jacquez Reverand outside of the back door of the squad car. The officers were able to get Jacquez back into the backseat of the squad car. There was no notification made by Officer Graves to his supervisor that he was involved in a use of force/resistance incident. After this video footage was reviewed and the additional information discovered, Major Prince was advised. Lieutenant Colonel Sampietro was subsequently advised of the information. Lieutenant Robinson in IAB was notified and advised of the encounter.

**V) CAD #:**

P181291053

## **VI) Evidentiary Findings:**

### **A) Statements:**

**Principal Officer Jerry Graves** stated that on May 9, 2018, he and his trainee, **Officer M. Anderson** responded to the area of 1091 Claybrook to check on the officers involved. He stated that **Officer Anderson** kept the log sheet that day. **Officer Graves** reviewed the document and agreed it appeared to be correct and accurate. He also stated that he was **Officer Anderson's** training officer that day. **Officer Graves** reviewed the document and admitted that the location of 1091 Claybrook was not written on the log sheet. He also admitted that he did not check to ensure that the document was correct before submitting it to his supervisor.

**Officer Graves** stated that when he arrived at Claybrook, he came into contact with **Jacques Reverand**. According to **Officer Graves**, he stuck his head in the window to see if he recognized the guy and he started talking a bunch of trash. **Officer Graves** admitted that he then called **Jacques** a "punk motherfucker." **Officer Graves** added that **Jacques** continued to talk "shit" and then he replied, "Yeah, that's the same punk motherfucker that was talking shit the other day." After this exchange of words, **Officer Graves** observed **Jacques** moving around. **Graves** then opened the back door and **Jacques** jumped out. He grabbed **Jacques** and held him in a bear hug until other officers arrived to assist him. He added that **Jacques** jumped out head first and he grabbed the first thing he could, which happened to be **Jacques' head**. During this encounter, he stated that he told **Jacques**, "I'm a choke you out, I'm a choke you out." This was a scare tactic so that **Jacques** would relax and he could get him back in the patrol car. **Officer Graves** admitted that **Jacques** was not his prisoner and that he did not slap **Jacques**. He only used the force necessary to put **Jacques** back in the vehicle. He did not strike him, but he admits that he used a prohibited restraint when he was not in fear of his safety. **Officer Graves** added that he did not want the prisoner to get away. **Officer Graves** grabbed **Jacques** any way he could to get him back in the car, but it was not his intent to cause bodily harm to **Jacques**.

Several officers assisted **Officer Graves**. As this encounter calmed, they were able to get **Jacques** back into the patrol car. He did not think it was a big deal so he did not notify his supervisor of the incident nor did he create a Response to Resistance entry in Blue Team.

**Officer Graves** admits that his body worn camera was not activated when he arrived at the location. He stated that he did not realize that it wasn't on, but when he did, he activated his camera. **Officer Graves** admitted that his camera should have been on when he arrived on the scene.

**Witness Officer Gary Lawson** stated that on May 9, 2018, he and his partner **Ryan Williams** arrested **Mr. Jacques Reverand**. According to **Officer Lawson**, it appeared that **Jacques** was gambling on the property of Claybrook and later caused a disturbance. **Jacques** first ran to the rear of the house, but returned where **Officer Lawson** took him into custody with hand to hand techniques to detain him. A search for contraband was

completed and when nothing was recovered, Jacques was released. However, moments later his brother Marvin Reverand was arrested when told to get out of the street. Jacques returned and conducted himself in the same manner. Officers then arrested Jacques; he was handcuffed and seated in the rear of their patrol car. Marvin was seated, but not handcuffed and when they attempted to have Jacques to sit down, Marvin jumped out of the vehicle and ran. Jacques then attempted to jerk away from Officer Lawson. Officer Lawson wrapped his arms around Jacques to prevent his escape and held him until he calmed down and complied with his orders. Finally, Jacques was seated and secured in the rear of their patrol car. After this incident, Officer Lawson notified his supervisor and completed a Response to Resistance entry in Blue Team.

Moments later Officer Graves arrived on the scene and approached Officer Lawson's patrol car where Jacques was detained. Officer Lawson was told by Officer Graves to check the air pressure in his tires. He stated that he then went to the driver's side of the vehicle, but he didn't see anything wrong. He then went to where Marvin was detained to complete his information on the report and arrest ticket. Officer Lawson added that he did not find it suspicious that he needed to check the air in his tires. According to Officer Lawson, he did not see Graves open the door nor did he see the exchange between the two. However, he did recall Officer Graves saying to Jacques, "This is the motherfucka that was talking shit on the corner." Officer Lawson could not say this is exactly what was said, but it was something like that.

Officer Lawson admitted that Jacques was his prisoner, but he was a car length away when the incident occurred with Officer Graves. He helped to get Jacques back in the car, but he did not see how he got out or how the altercation started. He also stated that Officer Graves held Jacques outside of the car by placing his arm above the shoulder line about his neck and throat. After this incident, Jacques was seated back in the patrol car. Jacques stated the he was slapped by Officer Graves, but he did not see it nor did he advise Lieutenant Chatman of the allegation. After the incident, Jacques did not complain of any injuries nor did he ask for medical assistance. He then transported Jacques to jail where he was processed and booked.

Witness Officer Ryan Williams stated that on May 9, 2018, he and his partner Gary Lawson arrested Mr. Jacques Reverand. According to Officer Williams, it appeared that Jacques was gambling on the property of Claybrook and later caused a disturbance. He was detained when he returned from the rear of the house. He grabbed Jacques' arms and held him until he was handcuffed. During this detention, they did not find dice or any other prohibited items, so Jacques was released. Shortly after being released, Jacques returned and was then arrested for the actions that he committed the second time he approached officers. After being handcuffed for the second time, Jacques attempted to snatch away and run to escape. Jacques was detained and seated in the rear of his patrol car.

After detaining Jacques, Officer Graves arrived on the scene. However, Officer Williams did not recall Officer Graves' exchange of words with Jacques. He did recall that Officer Graves advised him to check the air in his tires. He checked because a senior officer



advised him to do so. He did not question why, he looked and walked away as he focused on completing arrest tickets for Marvin and Jacques. As he completed the arrest tickets, he heard the commotion from the exchange between Jacques and Officer Graves. He ran over to assist Officer Graves as Graves held Jacques across his upper chest. However, when viewing a still shot photo from the video footage he could see that Officer Graves' arm is wrapped about Jacques' neck. As he arrived, he assisted in putting Jacques back in the patrol car. He did not recall Jacques talking on his way to jail concerning the incident or that he needed medical assistance. Officer Williams also added that the patrol car they drove was not equipped with cameras to record the back seat.

**Witness Officer Rashad Ross** stated that on May 9, 2018, he responded to assist officers by arresting Marvin Reverand. He was not present for the initial encounter, but he later arrested and detained Marvin. Officer Ross remembered seeing Jacques seated in the back of a patrol car. According to Officer Ross, Jacques was handcuffed and sitting in the rear of the patrol car. Jacques wasn't unruly, but he did curse him, "Ya'll all some bitches, fuck you." Officer Ross did not lay hands on Jacques at this time.

Officer Ross did recall the confrontation between Officer Graves and Jacques. He observed Officer Graves struggling with Jacques outside of the patrol car. He did not see how Jacques got out of the vehicle nor did he hear an exchange of words between the two. At the time, the fire department was present to treat Marvin. Marvin cut his hands jumping fences when he ran from police. As the fire department started to treat Marvin, he noticed the struggle from approximately twenty five feet away. He slammed the car door and ran to assist Officer Graves. He then grabbed Jacques legs to help get him back into the patrol car. He could not tell where Officer Graves grabbed Jacques, but Jacques was turned around and Officer Graves was struggling with him. He never asked how Jacques got out of the car nor did he know how the confrontation started. Officer Ross added that a supervisor was notified and made the scene after the incident occurred, but he never heard Jacques say that an officer slapped him. Once at the jail, Officer Ross observed Jacques sitting in the waiting area. Again Jacques cursed Officer Ross, but he never stated that an officer slapped him.

**Witness Officer Lieutenant Jerry Chatman** stated that on May 9, 2018, he responded to Claybrook concerning two incidents where force was used to arrest a suspect. The officers involved submitted their Blue Team Response to Resistance. Lieutenant Chatman reviewed the forms and video footage connected to the incident. As he reviewed the video footage, he noticed that after the initial arrest the prisoner Jacques was approached by Officer Graves as he sat in the rear of Officer Lawson's patrol vehicle. According to Lieutenant Chatman, it appeared that Officer Graves became involved with a handcuffed prisoner and utilized a chokehold. As this encounter continued Officer Graves was heard saying, "I'm going to choke you out!" Lieutenant Chatman was never advised of this encounter by any other officer that was present when this occurred. After reviewing the video footage, Lieutenant Chatman advised Major Prince and Lieutenant Colonel Sampietro. He then completed a workstation complaint and forwarded the information to the Internal Affairs Bureau.

**Witness Officer Nathan Burford** stated that on May 9, 2018, he responded to Claybrook Cove after he assisted in the arrest of Marvin Reverand. According to Officer Burford, Marvin was taken into custody at Watkins and Lexington. He did recall seeing Jacques handcuffed and seated in the rear of a patrol car. Moments later he heard someone yell out, "He was trying to run." Officer Burford ran over to the patrol car, where several officers were at the door attempting to get Jacques back into the vehicle. He stated that Officer Graves, Lawson and his rookie were assisting to get Jacques back in the vehicle. Once Jacques was back in the car, he told Jacques to calm down. Jacques replied, "Motherfucka slapped me, man." Officer Burford advised Officer Lawson that Jacques said that he was slapped, but Officer Burford did not advise a supervisor of the allegation.

Officer Burford remained on the scene where he recalled the Fire Department making the scene to treat Marvin Reverand's injuries to his hands. Marvin's injuries occurred when he cut his hands jumping over a fence.

**Witness Officer Melishia Nelson** stated that on May 9, 2018, she responded to Claybrook with her partner Officer Graves. When they arrived at the location she observed two unmarked cars and noticed that Officers Lawson and Williams was there. She remained in the car working on her PDA when Officer Graves exited the vehicle. She remembers seeing the Fire Department on the scene, but she did not witness the encounter that occurred between Officer Graves and Jacques Reverand.

**Witness Officer Kyle Vlastos** stated that on May 9, 2018, he responded to Claybrook to assist officers chasing a suspect on foot. He remembers driving to the scene, but does not recall arriving at the location. The suspects were taken into custody prior to his arrival. He then proceeded to his next call at Lamar and Willett. Officer Vlastos added that he did not remember seeing Jacques Reverand nor did he observe the altercation that occurred with Officer Graves.

**Witness Officer Kevin Vincent** stated that on May 9, 2018, he heard officers calling for assistance but at that current time he was transporting a prisoner to Jail East. According to Officer Vincent, when a Taskforce car makes the scene they all enter the location on their log sheets whether they are there or not. Officer Vincent added that he had no contact with Marvin or Jacques Reverand and that he was not present at the location when they were arrested.

**B) Physical Evidence:**

1. Body Camera Video

**C) Forensic Evidence:**

N/A

**D) Recorded Evidence:**

1. Affidavit of Complaint
2. Arrest History
3. Arrest Reports
4. Audio Verification Form
5. Case Notes
6. Garrity Form
7. Log Sheets
8. Printed Photographs from camera footage
9. Printed Statements
10. Recorded Statement
11. Roll Calls

**E) Miscellaneous Evidence:**

N/A

**VII) AG Review:**

This case file was not submitted to Attorney General for review.

**VIII) Analysis:**

On May 9, 2018, Mr. Jacques Reverand was arrest by Officers Lawson and Williams. While being detained as officers completed documents for his arrest he came into contact with Officer Graves. Officer Graves stated that Jacques was agitated and talking "shit" while seated and handcuffed in the rear of the patrol car. Officer Graves took it upon himself to then reply, "Yeah, that's the same punk motherfucker that was talking shit the other day." He then told Officers Lawson and Williams to check the air pressure of the vehicles tires. They did so and walked back to other officers that were waiting on the fire department to treat another arrestee. Moments later, Officer Graves opened the back door and a struggle ensued. Officer Graves stated he observed Jacques moving around and opened the door to see what he was doing. When he did so, Jacques jumped out and Graves placed him in a bear hug. However, when grabbing Jacques, Officer Graves placed his arm around the neck and head of the handcuffed prisoner. Officer Graves' actions are captured on video and he is heard stating, "I'm gonna choke you out! I'm gonna choke you out!" The incident was also witnessed by Officers Lawson, Ross and Burford. Officer Graves said that he did not mean to grab him that way, but felt that this was the only way that he could. Officer Graves was not in fear for his safety and performed this prohibited maneuver to prevent Jacques from escaping. According to the Memphis Police Department's policies and procedures, the described restraint is prohibited (Chapter 13, Section: Weapons, Subsections C & D). Therefore, the force utilized by Officer Graves to prevent the escape of Jacques with the use of a prohibited restraint is unnecessary. Thus, this made Officer Graves' actions questionable and unprofessional. He admitted to the exchange of words and that he used a prohibited restraint/maneuver on an already handcuffed and detained arrestee. Therefore, Officer

Graves' actions place him in violation of **DR-104 Personal Conduct, DR-101 Compliance with regulations to wit: Weapons and DR-301 Excessive Force / Unnecessary Force.**

Officer Graves' actions are recorded on Officer Lawson's body worn camera. Video shows Officer Graves arrival on the scene and him approaching the vehicle where Jacques was seated. At 16:21 the sequence of events begins and ends at approximately 16:24.

The primary issue related to this investigation centers upon the actions of Officer Graves and whether these actions transcend the standards of the Memphis Police Department. These standards are established in the Memphis Police Department's **DR-101 Compliance with Regulations, DR-104 Personal Conduct and DR-301 Excessive Force /Unnecessary Force** which states:

**The Memphis Police Department's DR 101 Compliance with Regulations states:**

**DR 101 COMPLIANCE WITH REGULATIONS**

Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.

**The Memphis Police Department's policy is listed as follows and states:**  
**Chapter 13: Equipment, Section: Weapons, Subsections C & D**

**C. Prior Training:**

Any previous baton training that any officer has received which may employ any type strike to the head area above the shoulder line should not be utilized. This will include any prior training received through the Memphis Police Academy, military training, or any training received by any other means.

Any prior training received in any type choke-hold, carotid type or otherwise should not be utilized. This will include any prior training received through the Memphis Police Department, military training, or by any other means.

Any prior training received in any type come-along technique which employs a baton, flashlight, or other weapon which applies any type hold to the head area above the shoulder line should not be utilized. This will include any prior training received through the Memphis Police Academy, military training or by any other means.

**D. Exceptions:**

The only exception for the use of any strike, choke-hold, or come-along applied to the head area above the shoulder line, would be if the officer was otherwise justified under the current Memphis Police Department deadly force policy.

Personal body weapons (hands, feet, fists, etc.) are excluded from these requirements **WITH THE EXCEPTION OF ANY TYPE CHOKE-HOLD.**



The Memphis Police Department's policy is listed as follows and states:  
Chapter 2: Arrests, Charges and Investigation, Section 8: Response to Resistance,  
Subsection V, page 6-7

**V. Use of Deadly Force Prohibited**

The use of DEADLY FORCE is prohibited in the following circumstances:

- A. To apprehend or arrest a person for a misdemeanor offense; or
- B. To effect the arrest of any person for escape from the commission of any misdemeanor offense; or
- C. As warning shots [Warning shots will not be utilized under any circumstance (1.3.3)];  
or
- D. To apprehend or arrest a person known to be or believed to be a juvenile, unless the use of deadly force is immediately necessary in the defense of the officer's life or of another person's life after all other reasonable means have been exhausted [The officer's knowledge or belief of a person's age may be based upon factors such as the officer's previous knowledge of the person, his observations of the person's appearance, or upon reliable information given to him by other persons]; or
- E. To apprehend or arrest a person fleeing from a felony which is not a violent felony  
This includes, but is not limited to, felonies such as auto theft, larceny, embezzlement, fraud, burglary of an auto, or any other felony, which does not involve the use of deadly force, attempted use of deadly force, or threatened use of deadly force; or
- F. From or at any moving vehicle, except in a case where an officer has probable cause to believe that the suspect committed a violent felony and the poses a direct threat of serious bodily injury or death to other persons if not immediately apprehended. If the officer is in the path of the vehicle, the officer's first responsibility, if possible, is to move from the path of the oncoming vehicle, as shooting the driver of a moving vehicle raises the danger from an uncontrolled vehicle. Officers should not intentionally place themselves in the path of a moving vehicle or reach inside of a moving vehicle; or
- G. In any case, where the officer does not have a clear field of fire and cannot be reasonably certain that only the suspect will be hit and that the potential for harm to innocent persons is minimum.

**The Memphis Police Department's DR 104 Personal Conduct states:**

**DR 104 PERSONAL CONDUCT**

The conduct of each member, both on and off-duty, is expected to be such that it will not reflect adversely on other members, the Department, the City of Memphis, or the law enforcement profession. This regulation applies to both the professional and private conduct of all members. It includes not only all unlawful acts by members but also acts which, although not unlawful in themselves, would violate either the Law Enforcement or

Civilian Code of Ethics, and would degrade or bring disrespect upon the member or the Department.

**The Memphis Police Department's DR 301 Excessive Force/ Unnecessary Force states:**

**DR 301 EXCESSIVE FORCE / UNNECESSARY FORCE**

**Excessive Force/Unnecessary** is defined as the amount of force which is beyond the need and circumstances of the particular event, or which is not justified in the light of all circumstances, as is the case of deadly force to protect property as contrasted with protecting life.

Control may be achieved through advice, warnings, and persuasion, or by the use of physical force. While the use of reasonable physical force may be necessary in situations which cannot be otherwise controlled, force may not be resorted to unless other reasonable alternatives have been exhausted or would clearly be ineffective under the particular circumstances. Officers should consider the facts and circumstances known at the time of the confrontation when determining the amount of force to use, including: the severity of the subject's crimes, the immediate threat posed by the subject to the safety of others, and whether the subject exhibits active aggression or is actively resisting arrest. Officers are permitted to use whatever force that is necessary and reasonable to protect others or themselves from bodily harm.

Officers shall never use force or violence that is unprovoked, needless, or not required during performance of their duties when making an arrest or in dealing with a prisoner or any person.

**Graham v. Connor (US 1989)** is the landmark US Supreme Court case that defines reasonable use of force by police officers in the line of duty. As such, this standard was applied in defining the Memphis Police Department's use of force policies, which are contained in the Memphis Police Department Policies and Procedures Manual, Chapter 2, Section 8, Response to Resistance, pages 1-11.

The ruling in **Graham V. Connor** holds that all claims that law enforcement officials had used excessive force --deadly or not-- in the course of an arrest, investigatory stop, or other 'seizure' of a free citizen, are properly analyzed under the Fourth Amendment's "objective reasonableness" standard.

The "reasonableness" of a particular use of force must be judged from the perspective of a **reasonable officer on the scene**, rather than with the "20/20 vision of hindsight." The test of reasonableness is **not capable of precise definition or mechanical application**. Its proper application requires careful attention to the facts and circumstances of each particular case, including:

1. The severity of the crime at issue;
  2. Whether the suspect poses an immediate threat to the safety of the officers or others;
- and



3. Whether he/she is actively resisting arrest or attempting to evade arrest by flight.

This "objective reasonableness" standard was applied during the investigation of the crime scene by Officer J. Graves at 1091 Claybrook. The three standards applied in **Graham v. Connor** were used to determine the reasonableness of the use of force applied by Officer Potts and revealed the following:

1. The crime at issue in this investigation is Disorderly Conduct, Obstructing Highway/Passageway, and Resisting Stop Arrest, all Misdemeanors in the State of Tennessee. (These offenses occurred prior to the encounter with Officer Graves.)
2. The suspect Jacques Reverand did not pose an immediate threat to the safety of Officer Graves.
3. By jumping out of the vehicle and attempting to escape custody, Jacques Reverand was actively resisting arrest.

During this incident, Officer Graves and his trainee arrived at Claybrook and spoke with officers and Officer Graves encountered Jacques. Officer Graves admitted that he was Officer Nelson's training officer and that he is required to make certain that all documents are correct before submitting them to his supervisor. Officers Nelson and Graves are recorded on video footage at the location of Claybrook; however, according to their log sheet they were never present at the location. Officer Graves admitted that it was his duty as a Field Training Officer to submit corrected reports. Furthermore, after the altercation with Jacques, Officer Graves did not think it was a big deal and he did not complete a Response to Resistance entry in Blue Team as required by Memphis Police Department Policy and Procedures. The fact is that Officer Graves did not submit an accurate log sheet nor did he submit the proper documentation for the force that he used to subdue Jacques before going off-duty. Therefore, Officer Graves' actions place him in violation of **DR-601 Completing Official Reports**.

**The Memphis Police Department's DR 601 Completing Official Reports states:**

#### **DR 601 COMPLETING OFFICIAL REPORTS**

A member shall make reports promptly, accurately, completely, and in full conformity with specifications of the Department. A member shall make all necessary reports as soon as possible and practicable before going off-duty.

On May 9, 2018, Officer Graves was involved in an altercation with Jacques Reverand where he used force to control and subdue Jacques Reverand. During this incident, Officer Graves called for the assistance of his fellow officers to get Jacques back into the patrol car. However, after using force, he did not complete a Response to Resistance nor did he notify his supervisor of the encounter. Officer Graves admitted that it is his duty to notify his supervisor when force is used to apprehend or subdue a suspect. Therefore, by not completing the proper documentation and notifying his supervisor of his actions he violated **DR-101 Compliance with Regulations to wit: Command Officer**

## Notification.

The Memphis Police Department's policy is listed as follows and states:  
Chapter 1 Organization, Section 12: Command Officer Notification, page 2-3,  
Subsection D, O

### I. OFFICER RESPONSIBILITY

All sworn members have the duty responsibility of requesting a Supervisor to a scene with regard to the following circumstances or events. All initial notifications should be made via the Dispatcher.

- D. Incidents where a suspect resists arrest. A *Response to Resistance Form* will be completed by the officer and signed by the supervisor called to the scene of the incident, prior to the completion of the shift.
- O. Officers may call for a Supervisor on any incident where he/she has reason to believe that it is important or necessary.

**NOTE:** It is the responsibility of the arresting officer to complete a *Response to Resistance Form* on all incidents involving the officer's response to resistance to affect an arrest, the discharge of a firearm, chemical agent use, SL-6/IDS events, and/or when a suspect is charged with T.C.A. 39-16-602 Resisting Arrest.

The *Response to Resistance Form* will be submitted to the supervisor for approval prior to the end of the officer's shift. Copies of the form are to be forwarded to the Station/Bureau Commander, Inspectional Services, the Firearms Training Unit, and when applicable the Accreditation Office.

On May 9, 2018, Officer Graves was wearing his body worn camera and captured footage of him driving to the location of Claybrook. However, once he and his partner arrived at the location his camera was turned off and the recording terminated. After turning off his camera, he was involved in an altercation with arrestee Jacques Reverand. This was not recorded by Officer Graves' camera because he said that he forgot to activate it. However, shortly after the incident Officer Graves turned his camera on and is heard talking about the altercation. According to Memphis Police Department Policy, Officer Graves is to record all actions when he is on the scene until advised to terminate the video by a supervisor. Officer Graves failed to activate his camera to record his actions on the scene; however, other officers on the scene captured video footage of the encounter that took place and the actions that he took when dealing with Jacques. Therefore, by not activating his body worn camera Officer Graves violated **DR-101 Compliance with Regulations to wit: Body Cameras**.

The Memphis Police Department's DR 101 Compliance with Regulations states:

### DR 101 COMPLIANCE WITH REGULATIONS

Disciplinary action may be taken for, but not limited to, violations of the stated policy, rules, regulations, orders, or directives of the Department.

**The Memphis Police Department's policy is listed as follows and states:**  
**Chapter 13: Equipment, Section 15: In-Car Video/ Body Worn Camera, pages 3-5 subsection B**

**B. Use of BWC During the Shift**

1. An officer shall at all times during his/her shift have BWC equipment ready to record police interactions with those they may encounter. This state of readiness includes having the BWC on and in standby mode. Officers shall attempt to maintain a clear, level, and unobstructed forward-facing view. Officers shall attempt to keep the microphone portion of the device unobstructed in order to accurately record audio.
  2. Officers shall activate their BWC when responding to all calls for service prior to making the scene of a dispatched call. In the event that recording was not started prior to making the scene of a dispatched call, an officer will activate the device as soon as reasonably possible.
  3. Officers shall record all law-enforcement encounters and activities. Calls for service, self-initiated events (specials), and citizen contacts while not engaged in police activity are to be documented via BWC. It is not necessary for an officer to record in a constant state, but is required when his/her duties are being performed and allowed when otherwise prudent. It should be understood that under no circumstance shall an officer's safety be compromised in an effort to record an event.
  4. Unless unsafe, impractical, or impossible, officers shall inform subjects that they are being recorded at the beginning of the contact (e.g. "Ma'am/Sir, I am advising you that our interaction is being recorded").
  5. It should be understood that even when individuals are in various stages of undress, medically incapacitated, or in a location where video would otherwise be prohibited, BWC recording should continue. Videos will be redacted in a manner to reasonably protect privacy.
  6. Once a recording event begins, the BWC shall remain activated until the event has concluded in order to conserve the integrity of the recording. Once an event has concluded, an officer will mark the conclusion of the recording verbally after clearing the call/special. In cases of arrest, an officer shall continue recording until custody is transferred.
- Exceptions:** *Should an officer have an activated BWC and respond to a call inside of a location that is out of view of the ICV system, the officer may discontinue the ICV recording (e.g. indoor report calls, crime scenes, and other police related events). Should the call progress back towards the car and contact with another individual is made, the event should be recorded by the ICV system.*
7. Officers will document the fact that a BWC video was or was not captured on all incident reports, arrest tickets, misdemeanor citations, summons, and traffic citations.

This documentation will be referenced by the Computer Aided Dispatch number written on/in the document. In the event that the BWC was not activated, terminated early, or otherwise interrupted, a supervisor will be immediately notified.

8. Officers will be permitted to review their own BWC video when preparing official documents. Officers may only view content on their assigned device and not those devices of other department members when preparing an official document. The supervisor must also review the BWC video prior to completing or approving official reports involving response to resistance/use of force. The viewing will be utilized as a tool when completing written reports to ensure the accuracy and consistency of events. The availability of this review does not supersede policy directives governing the circumstances in which an event must be recorded. An officer may not simply stop recording in order to complete a report unless policy permits (e.g. cleared the scene, supervisor approval, etc.).

The following situations are exceptions to the above policy statement:

a. If the officer is involved in (or witness to) a use of force incident that per policy requires the response of an Inspectional Services Bureau investigator, only after the ISB investigator has been consulted and approved may an officer be authorized to view their BWC recording. The viewing of any BWC recording will only be permitted after receiving authorization from the ISB investigator acting under the direction of the commander of ISB.

b. If the officer is involved in (or witness to) a critical incident, such as a police shooting or an in-custody injury resulting in death, only after the commander of ISB and commander of Homicide have been consulted and approved may the officer be authorized to view their BWC recording. The viewing of any BWC recording will only be permitted after receiving authorization from both commanders and/or their designees.

9. Officers are responsible for the labeling and the categorization of videos they produce. The videos will be categorized in accordance with the available choices in the system. Officers will obtain the Computer Aided Dispatch number either through an automated feature, from the dispatcher, or through a manual lookup and entered in the ID field. (41.3.8G) Officers who categorize videos incorrectly may be subject to discipline.

10. Activation of the BWC is not required during periods of unassigned time, breaks or lunch periods.

11. Officers are encouraged to inform their supervisor of any recordings that may be of value for training purposes.

## **IX) Conclusion**

Based on the facts of the case, the preponderance of evidence shows that, **Officer Jerry Graves, IBM #10410** IS in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: Weapons**. Therefore the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, **Officer Jerry Graves, IBM #10410** IS in violation of the stated allegation, **DR-101 Compliance with**

**Regulations to wit: In-Car Video/ Body Worn Cameras. Therefore the allegation is SUSTAINED.**

**Based on the facts of the case, the preponderance of evidence shows that, Officer Jerry Graves, IBM #10410 IS in violation of the stated allegation, DR-101 Compliance with Regulations to wit: Command Officer Notification. Therefore the allegation is SUSTAINED.**

**Based on the facts of the case, the preponderance of evidence shows that, Officer Jerry Graves, IBM #10410 IS in violation of the stated allegation, DR-104 Personal Conduct. Therefore the allegation is SUSTAINED.**

**Based on the facts of the case, the preponderance of evidence shows that, Officer Jerry Graves, IBM #10410 IS in violation of the stated allegation, DR-301 Excessive Force / Unnecessary Force. Therefore the allegation is SUSTAINED.**

**Based on the facts of the case, the preponderance of evidence shows that, Officer Jerry Graves, IBM #10410 IS in violation of the stated allegation, DR-601 Completing Official Reports. Therefore the allegation is SUSTAINED.**