

HEARING SUMMARY FORM

0541-18

Hearing:

09-12-2018 17:00
Date Time

Location: Mt. Moriah Station

Attended by: PII Brandon Jenkins 12584, Sgt. Essica Littlejohn 1705, Major Robin Campbell 1638, Lt. Cezar Polk 6508

Hearing Officer: Deputy Chief. D. Crowe 1585

Statement of Hearing Officer: at

On Wednesday, September 12, 2018 at 17:00 an Administrative Hearing was held for PII Brandon Jenkins 12584 regarding Statement of Charges (SOC) 0541-18. The SOC accuses Officer Jenkins of violation of DR-301 Excessive Force/Unnecessary Force and DR 104 Personal Conduct.

See Page 2 for continuation of Statement of Hearing Officer

Action Ordered: DR 301 12 Day SWOP
 DR 104 5 Day SWOP
 Remedial Training

D. E. Crowe 1585
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. 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 dependant 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.

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.

9-19-18
Date

B. Jenkins #12584
Employee Signature

Distribution: MPD Human Resources, Branch Commander/Division Commander, Precinct

Statement of Hearing Officer Continued:

Officer Jenkins selected Sgt. E. Littlejohn for representation and she was present at the hearing. Officer Jenkins was asked if he and Sgt. Littlejohn had reviewed the SOC and Investigative file. Sgt. Littlejohn had reviewed it. Officer Jenkins had not. He was given several minutes to review it.

DC Crowe explained prior to the Administrative Hearing DC Crowe read the entire file and reviewed seven (7) DVDs. DC Crowe read the SOC out loud. DC Crowe asked Officer Jenkins to explain what happened and why.

Officer Jenkins said the SOC was unacceptable.

Officer Jenkins reviewed and described the call for service that led to this SOC. On May 29, 2018 Officer Jenkins responded to a call to the Reserve Apartments. Officer Jenkins explained in great detail what he encountered and the circumstances that led to the arrest of Nechoe Lucas. Officer Jenkins described what occurred in the sally port during the booking process. This description was consistent with reports, statements, and Body Worn Camera (BWC) video until the very end of the event.

Officer Jenkins said he was behind the post when, "He spit. I went over and started punching him. They pulled me off of him. A supervisor came out." Officer Jenkins said he completed a Response to Resistance Report. Officer Jenkins went on to explain testing and emergency treatment for possible exposure to Blood Borne Pathogens.

DC Crowe asked Officer Jenkins if he had watched his BWC video. He replied he watched parts of it before giving his ISB statement.

Officer Jenkins said, "They say I kicked him. I disagree. I did not kick him."

Sgt. Littlejohn was asked what she would like to add to the hearing. Sgt. Littlejohn said she reviewed the file and all statements. All officers agree the suspect was aggressive and spitting on officers. Jenkins tried to stop the spitting. She understood Officer Jenkins' frustration. She explained she watched the video with DC Crowe in DC Crowe's office. She saw why ISB sustained the SOC. She asked DC Crowe to keep in mind the event did not make the news. Sgt. Littlejohn asked that the charge of Personal Conduct be reviewed and asked if the charge was necessary. She pointed out there were no conflicting statements. She reminded DC Crowe the suspect did not participate in the investigation. She believed Jenkins was patient with the suspect and asked that these points be considered in the hearing.

Major Campbell was allowed to ask questions or provide input. When asked by DC Crowe, Major Campbell stated he had not seen the video. Major Campbell pointed out assistance from the Shelby County Sheriff's Office (SCSO) or a better response by SCSO could have prevented this event from escalating. Major Campbell asked a series of questions. This included how many officers were in the sally port. Officer Jenkins said three. Did Officer Jenkins ask for an isolation room? Officer Jenkins said he did not know SCSO had a room available. SCSO never offered to help. They just watched through the windows. Officer Jenkins said he had exhausted all means of controlling the suspect. The suspect was repeatedly threatening harm to Officer Jenkins and Officer Jenkins' family including sexual crimes. The suspect was using intimidation. Officer Jenkins said it was the third time the suspect spit in his face. Officer Jenkins said he did not know what he could have done differently.

Officer Jenkins said he could not remember all the events or how they transpired. Officer Jenkins went on to say, "The public thinks you cannot hit a suspect in handcuffs. We train to fight and win, but then everyone gets mad when we win. The charges I cannot fathom. It is not who I am. He warranted what he got." Officer Jenkins said he never really had to do a Response To Resistance. Officer Jenkins asked that his file be considered.

Lt. Polk was asked to comment or ask questions. Lt. Polk said he concurred with Major Campbell and Sgt. Littlejohn but he had not watched the BWC Footage. He explained Officer Jenkins is easy to supervise and understands what MPD and the Mt. Moriah Delta Shift is trying to accomplish. Officer Jenkins helps to accomplish this.

DC Crowe then asked Officer Jenkins a series of questions. In response to questions Officer Jenkins said he had watched some of his BWC footage but not all. This was right before his formal statement to ISB. Officer Jenkins believes he was completely justified in all actions taken against the suspect. When asked if he kicked the suspect, Officer Jenkins said he was told he kicked the suspect two or three times, but he did not kick the suspect. Officer Jenkins was asked if the suspect was handcuffed when Officer Jenkins struck him. Officer Jenkins replied the first time he struck the suspect one arm was cuffed to a chair. The second time both arms were cuffed to the chair.

DC Crowe asked Officer Jenkins which video he would like to watch. DC Crowe offered to watch all DVDs in their entirety. Officer Jenkins said he would allow DC Crowe to show which ever video was relevant.

We watched the first video on what is labeled DVD Crowe 3. It is BWC video from another officer that was in the sally port during Officer Jenkins's interactions with the suspect. We watched over twenty minutes of the video. The suspect is clearly intoxicated. The suspect is aggressive, uncooperative, antagonistic, and made multiple threats to Officer Jenkins, his family, and all officers in the sally port. All the officers tried to calm the suspect with verbal skills. All officers had to use soft hand techniques on the suspect.

At one point during the video it clearly shows the suspect sitting in a chair in the sally port. Each arm is handcuffed to an arm rest on the chair. The suspect spits a mouthful of fluids and bloody spittle on Officer Jenkins. Officer Jenkins responds by kicking the suspect in the face. Officer Jenkins punches the suspect several times in the head. The other officers stop Officer Jenkins. Officer Jenkins then kicks the suspect in the head one more time.

We watched this portion of the video a second time.

Officer Jenkins was asked if he would like to add anything to his statement. Officer Jenkins said the suspect was not injured. Officer Jenkins said he tried to kick the suspect, but he could not tell if he was successful. Officer Jenkins said, "I feel like I did what I was supposed to do. He bit and spit at me. This went to the DA; no charges." Officer Jenkins discussed the use of force continuum. Officer Jenkins said chemical spray was not an option because he was in doors.

DC Crowe offered to show this video again any other video. Officer Jenkins declined to watch any additional video.

At 18:40 hours a recess was declared with a continuation date of September 19, 2018.

DC Crowe reviewed the case file and the hearing notes.

The Administrative Hearing was continued until Wednesday, September 19, 2018 at 20:00 hours.

After careful review of the ISB file for SOC 0541-18 the charges against Officer Brandon Jenkins 12584 are

DR-301 Excessive Force/Unnecessary Force: SUSTAINED

DR-104 Personal Conduct: SUSTAINED

Officer Jenkins's disciplinary resume was reviewed. It contained three SOC entries from 2016. Two were for DR 904 and one was for DR 115. All three SOC's were sustained. None of these SOC's factor into this decision.

The following Corrective Action was ordered.

DR-301 Excessive Force/Unnecessary Force: Twelve (12) Days Suspension without Pay

DR-104 Personal Conduct: Five (5) Days Suspension without Pay

Remedial Use of Force Training as determined by the Training Academy

The Administrative Hearing Concluded at 20:30

September 19, 2018

Brandon Jenkins, IBM# 12584

Memphis, TN 38116

Dear Officer Jenkins,

On September 19, 2018 at 20:00 hours, an administrative hearing was conducted for you, Officer Brandon Jenkins, resulting from Statement of Charges #0541-18, issued to you for violation of DR 301 Excessive Force/Unnecessary Force and DR 104 Personal Conduct. The hearing officer found that the charge of violating DR 301 Excessive Force/Unnecessary Force was sustained and a twelve (12) DAY SUSPENSION was ordered. The hearing officer found that the charge of violating DR 104 Personal Conduct was sustained and a five (5) DAY SUSPENSION was ordered for a total of seventeen (17) days suspended without pay. Remedial Training was also 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 the Civil Service Commission. If you have any questions regarding filing an appeal, please contact Human Resources at (901) 576-6438.

Sincerely,

Deputy Chief D. Crowe

Information Technology

Cc: Deputy Director M. Ryall

Police Human Resources

**City of Memphis
Police Division
Inspectional Services Bureau**

Administrative Summons

**Memphis Police Department VS.
Jenkins, Brandon IBM: 12584**

**Date: July 25, 2018
ISB Case #: I2018-026**

I. Allegation

It is alleged that on May 29, 2018, you used excessive force/unnecessary force while processing a male at 201 Poplar.

II. Rules, regulations or orders violated.

**DR 301 Excessive/Unnecessary Force
DR 104 Personal Conduct**

III. Hearing

Date: 9/12/18

Place: mms

Time: 5:00 p.m.

You are entitled to representation during this hearing.

Served by:

H.B. [Signature] 0389 mms-C
Name/Rank/Assignment/IBM

Date:

9/17/18

Time:

9/17/18 @ 1730

Signature of Officer:

B.G. [Signature] # 12584

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.

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.

x Kendall Delwit 11059
Signature of Officer:

Written Response Ordered? ☐ Yes ☒ No

Was officer relieved of duty? ☐ Yes ☒ No

Reviewed by: ☒ Dep. Dir. ☐ Dep. Chief ☒ Work Station Commander

Delegated to: ☐ Dep. Chief ☒ Station/Bureau

Col. P.R. Jolly #4380 8/1/18
Work Station Commander

Col. P.R. Jolly #4380
Major/Lt. Colonel/Colonel

Jolly

**City of Memphis
Police Division
Inspectional Services Bureau**

Case # I2018-026 Statement of Charges

Officer's Name: Jenkins, Brandon

IBM # 12584

Rank: POLICE OFFICER II

Assignment: Mt. Moriah Station - "D"

Date: July 23, 2018

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

DR-301 Excessive Force/Unnecessary Force **SUSTAINED: 12 Day SWOP**

DR-104 Personal Conduct **SUSTAINED: 5 Day SWOP**

Remedial Use of Force Training

Date of Occurrence: May 29, 2018 September 20, 21, 22, 23, 26, 27, 28, 29, 30

Statement of Particulars:

Oct 1, 2, 5, 6, 7, 8, 9, and 12

RTW October 13, 2018

On May 29, 2018, you transported a male to the jail at 201 Poplar. Several times you were seen kicking and punching him in the facial area while he was handcuffed to a chair, to which you acknowledged in your recorded statement. Your actions were captured on your assigned body worn camera as well. Therefore, you are in violation of DR 301 Excessive/Unnecessary Force, which states:

DR 301 Excessive/Unnecessary Force

Excessive Force/Unnecessary Force 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.

You were observed by several witnesses striking a prisoner who was clearly handcuffed. Your actions show you displaying an unprofessional, negative, and degrading persona, upon the City of Memphis and its member. Therefore, you are in violation of DR-104 Personal Conduct, which 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 officer's disciplinary resume will be reviewed and become a part of this file)



Issuing Officer



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.

 12584

Signature of Officer:

Written Response Ordered? ☐ Yes ☐ No

Was officer relieved of duty? ☐ Yes ☐ No

Reviewed by: ☒ ^{12/18} Dep. Dir. ☐ Dep. Chief ☒ Work Station Commander

Delegated to: ☒ Dep. Chief ☐ Station/Bureau

Major/Lt. Colonel/Colonel

D/C Doug Crowe

City of Memphis
Police Division, Inspectional Services Bureau
Case Summary I2018-026

Printed On: 7/3/2020

I) Principal Officer:

Police Officer Brandon Jenkins #12584

Mt. Moriah Station "D"

II) Administrative Regulation:

DR-301 Excessive force/Unnecessary force
DR-104 Personal Conduct

III) Allegation:

It is alleged that Officer Brandon Jenkins #12584 is accused of using excessive force/unnecessary force on Nechoe Lucas while processing him at 201 Poplar due to an arrest.

IV) Background:

On May 28, 2018, Officers received a domestic disturbance call at John Sykes. Mr. Nechoe Lucas was arrested and transported to 201 Poplar by Officer B. Jenkins #12584. Upon arrival to 201 Poplar inside the Sally Port, an altercation took place between Officer Jenkins and Mr. Lucas. Officers attempted to detain him and he resisted officers. After a struggle, officers were able to detain the suspect and proceeded with the booking process. Shelby County Jail officials observed the video footage and advised Officer Jenkins to transport Mr. Lucas to Regional One hospital. Mr. Lucas was transported to Regional One by Officer Jenkins for minor injuries. He was released from Regional One and cleared by medical staff where he was later transported to 201 Poplar by Officer Majors.

V) CAD #:

(P181482654 & P181490057)

VI) Evidentiary Findings:

(A) Statements:

Principal Officer Brandon Jenkins #12584 stated that on May 29, 2018, he was dispatched on a domestic disturbance call at John Sykes. Upon his arrival he advised that he encountered an intoxicated male who was later identified as Nechoe

Lucas. Shortly after the encounter, officers made contact with the complainant, Jamesha Gwynn, who advised that she was the wife of Lucas. Gwynn wanted Lucas to leave the residence because he was intoxicated. Lucas' identification was checked on the PDA which showed him to have an active misdemeanor warrant for Violation of Probation. The warrant was verified through Station B and Lucas was transported to Jail at 201 Poplar.

Upon entry into the sally port, Lucas became agitated and began threatening Officer Jenkins and advising that he was going to spit in his face. Officer Jenkins escorted Lucas out of the squad car, Lucas began to resist and "snatch away." Officer Jenkins escorted Lucas over to be "wanded," but he snatched away and fell to the ground stating "Officer Jenkins is going to work tonight." Jenkins was able to "wand" Lucas while he was lying on the ground. Jenkins attempted to assist Lucas off of the ground but was unsuccessful because Lucas refused to stand up. Officer Torres was also in the sally port and observed Lucas lying on the ground, refusing to get up. Torres assisted Officer Jenkins with lifting Lucas off of the ground and escorted him into the jail. Officer Jenkins noticed a small amount of blood on Lucas' lips and assumed it came from when he fell to the ground.

Lucas' handcuffs were taken off to obtain a thumbprint for the arrest ticket, but he refused to comply and "snatched away." Lucas turned to Officer Jenkins, swung his arms around and spat in his face. Officer Jenkins placed his hands around Lucas' mouth to prevent him from spitting at officers. A physical altercation ensued between Lucas and Officer Jenkins. Accordingly to Jenkins, Officers VandVoorde and Crawford came to assist Officer Jenkins. Officers Jenkins, VandeVoorde and Crawford grabbed Lucas by his arms and escorted him over to the seating area and secured his left wrist to a chair with a handcuff. Lucas became upset and started spitting blood at Officer Jenkins while advising that he hoped that he had HIV or AIDS so that he could give it to the officers. Officers tried to place an additional handcuff on Lucas, but he became combative and began snatching Officer Jenkins' radio microphone off of his shirt. Lucas was also attempting to bite Jenkins' legs and hands. Officers Jenkins gave several verbal commands and strikes to Lucas' facial area to gain control and stop Lucas from destroying departmental equipment. After a brief struggle, Lucas released Officer Jenkins' shirt but continued to spit on him which made contact to Jenkins right arm. Officer Jenkins stated he became upset and punched Lucas in the facial area while he was handcuffed. Officers intervened and separated Officer Jenkins from Lucas, as Lucas continued to spit at officers. Officers were able to secure Lucas' right wrist to the chair with a handcuff. Officers placed a second spit mask on Lucas but he removed it by leaning his head down toward his hands.

Shelby County Jail administration came out and advised that they witnessed the incident on camera and denied Mr. Lucas access into the jail. Officer Jenkins escorted Mr. Lucas outside of the jail and transported him to Regional One hospital. Lucas arrived at the hospital and continued to spit at Officers Jenkins.

Witness Officer Pedro Torres # 13063 stated that he transported a prisoner to 201 Poplar on the morning of May 29, 2018, at about 1:20 a.m., Officer Torres stated while in

the sally port, he observed Officer Jenkins, and a handcuffed prisoner who was later identified as, Nechoe Lucas, involved in a physical altercation. He advised he assisted Officer Jenkins with restraining his combative prisoner who was later identified as Nechoe Lucas. Officers escorted the prisoners into the jail where Officer Jenkins released Lucas' handcuffs to obtain a thumbprint for the arrest ticket. Lucas began to swing his arm in an aggressive motion toward Officer Jenkins, and a physical altercation ensued between Lucas and Officer Jenkins.

Officers Crawford and VandeVoorde observed the altercation and assisted in subduing Lucas. Officers gained control over Lucas, escorted him to the seating area, and handcuffed his left arm to the chair. Lucas became upset and proceeded to spit at Officer Jenkins with saliva that appeared to be mixed with blood. Officers Jenkins gave Lucas several verbal commands to calm down and stop spitting. Lucas refused to comply and continued spitting on Officer Jenkins' arm. Officer Jenkins walked toward Lucas, who was handcuffed, and began to kick and punch him in the facial area several times. Lucas' mouth appeared to have sustained injuries due to Officer Jenkins' actions but Lucas continued spitting.

Officers attempted to place a spit mask on Lucas' face, but they were unsuccessful due to him "snatching the mask" off. Officers placed a second handcuff on Lucas and attempted to apply another mask but were unsuccessful because he "snatched" it off as well. Shelby County Jail Administration came out and advised that they witnessed the incident on camera and denied Mr. Lucas access into the jail. Officer Jenkins escorted Lucas outside of the jail and transported him to Regional One Hospital.

Witness Officer Ethan VandeVoorde #13896 stated he and his partner Officer Crawford transported a wanted person to the jail at 201 Poplar. They were booking their prisoner into the jail when he heard a loud commotion from the sally port. He observed Officer Jenkins and his handcuffed prisoner involved in a physical altercation. He and his partner went to assist Officer Jenkins with restraining his combative prisoner, who was identified as Nechoe Lucas. Officers escorted Lucas into the jail where his handcuffs were removed but Lucas refused to provide a thumbprint. Lucas began pulling and swinging his arms around and began spitting on Officer Jenkins. Officer Jenkins responded by punching Lucas in the face. Officers intervened and physically separated Lucas and Officer Jenkins from one another.

Lucas became upset and began threatening and spitting at officers. Officers came to an agreement to place a spit mask on Lucas face to stop him from spitting. A spit mask was placed on Lucas but he was able to "snatch" it off his face while both hands were handcuffed to a chair. A second mask was applied to Lucas's face which Lucas removed as well. Lucas at some point grabbed Officer Jenkins' radio microphone off of his shirt while he was handcuffed and spat in his face.

Officer Jenkins became upset and began punching and kicking Lucas in the facial area while advising him to stop playing with him. A Shelby County Jail lieutenant came into the intake area after the altercation ended. She instructed Officer Jenkins to take Lucas to

Regional One for a medical clearance in order to return back to the jail. VandeVoorde advised that he and his partner cleared 201 Poplar and notified Lieutenant R. Cummings via phone of the incident that took place. A memo was submitted and a Response to Resistance was completed by VandeVoorde.

Witness Officer Joshua Crawford #12784 stated he and his partner Officer Ethan VandeVoorde transported a wanted person to the jail at 201 Poplar. From the intake area they heard a loud commotion from the Sally Port. He observed an altercation between Officer Jenkins, and a prisoner who was identified as Nechoe Lucas. Officer Crawford stated heard Lucas advising that he was going to spit on Officer Jenkins when he took his handcuffs off. Officers Crawford, VandeVoorde, Jenkins and Torres escorted Lucas into the jail where his handcuffs were removed. Lucas refused to give a thumbprint, and became combative by swinging his arms around then began spitting at Officer Jenkins.

Officers then escorted Lucas to a metal chair and his left wrist was handcuffed to the chair. Lucas became upset and started spitting saliva mixed with blood at Officer Jenkins which made contact with Jenkins' arm. Crawford observed Jenkins walk over toward Lucas and punched him in the facial area while Lucas was handcuffed to the metal chair. He and Officer VandeVoorde assisted in separating Officer Jenkins and Lucas during the physical altercation. Lucas continued to be physically combative while spitting and cursing at officers. Officers Crawford, VandeVoorde and Torres assisted with handcuffing Lucas' right wrist to the chair. Officers placed a second handcuff on Lucas and administered a spit mask to prevent him from spitting.

Lucas "snatched" the mask off while handcuffed and spat on Officer Jenkins again and another altercation ensued between the two of them. Officer Jenkins punched and kicked Lucas while both of Lucas' hands were handcuffed to the metal chair. A Shelby County Jail lieutenant came into the intake area and the altercation ended. The lieutenant instructed Officer Jenkins to take Mr. Lucas to Regional One for a medical clearance in order to return back to the jail. Crawford advised that he cleared 201 Poplar and notified Lieutenant R. Cummings via phone of the incident that took place. A memo was submitted and he completed a Response to Resistance.

Mr. Nechoe Lucas was contacted by phone, and gave a brief description of what took place on the morning of May 29, 2018. An appointment was scheduled for Mr. Lucas to come into the Inspectional Services Bureau on June 6, 2018, to provide a recorded statement and sign an affidavit for his complaint. Mr. Lucas missed his appointment as scheduled. Mr. Lucas was called to reschedule his appointment but I received his voice mail box. The Inspectional Services Bureau investigator left a contact number for Lucas to call I received no response.

Lucas was contacted on June 21, 2018 to reschedule his appointment with the Inspectional Services Bureau, and at that time, Lucas advised that he did not want to proceed with the process of this investigation. He advised that he apologizes for his actions and realized that his behavior was inappropriate on the night of May 29, 2018. I asked Mr. Lucas if he could give a recorded statement in regards to his response and he

advised that he would call me when he get off of work. ISB investigator left several messages for Lucas to call but received no response.

B) Physical Evidence:

N/A

C) Forensic Evidence:

N/A

D) Recorded Evidence:

- (1) Log Sheets
- (2) Roll Call
- (3) Netviewer Chronology of Event #P18142654
- (4) Offense Report #1805015456ME
- (5) Type and Signed Officers Statements
- (6) Body Worn Camera Video
- (7) CD of Officers Audio Statements

E) Miscellaneous Evidence:

N/A

VII) AG Review:

This case file was submitted to the District Attorney General's Office for review. Based on all facts and circumstances, no criminal charges will be filed against Memphis Police Officer Brandon Jenkins.

VIII) Analysis:

The purpose of this investigation was to identify the officers involved in the arrest of Nechoe Lucas and determine whether or not excessive force and/or unnecessary force was used. Body worn camera footage, in-car video footage (Referred hereafter as BWC and ICV), and video footage captured from 201 Poplar, was also reviewed.

The facts of this investigation revealed that on May 29, 2018, Mr. Nechoe Lucas was arrested at John Sykes at approximately 11:15 hours, by Officer Brandon Jenkins. Officer Jenkins responded to the residence for a domestic disturbance, but placed Lucas in custody due to an outstanding warrant. Upon arrival to 201 Poplar, Officer Jenkins attempted to "wand" Lucas, but he fell to the ground refusing to be "wanded." Officer Jenkins had to "wand" Mr. Lucas while lying on the ground. Lucas had to be assisted off of the ground by Officer Jenkins and Officer Torres. Lucas was escorted into the jail where he continued to resist. Lucas informed Officer Jenkins that he was going to spit in his face, when he took the handcuffs off. Officer Jenkins took the handcuffs off to

get Lucas' thumbprint. Lucas became combative and began spitting saliva mixed with blood in Officer Jenkins' face. An altercation ensued between Officer Jenkins and Lucas. Officers Crawford, VandeVoorde and Torres heard the commotion and assisted by escorting Mr. Lucas by the arm in an attempt to restrain him during the altercation.

Officers escorted Mr. Lucas to a metal chair where his left wrist was secured to the chair with a handcuff. Mr. Lucas stood up from the metal chair with his left wrist handcuffed and spat on Officer Jenkins' arm. Officer Jenkins walked toward Lucas then kicked and punched him in the facial area. Officers intervened and physically separated Officer Jenkins and Lucas. Officers held Mr. Lucas down and attempted to place a spit mask on his face. Mr. Lucas snatched the mask off and continued to spit on Officer Jenkins. There was a second attempt to place a spit mask on Mr. Lucas, but he snatched it off of his face and tried to bite Officer Jenkins on his hands and legs. After the altercation, a Shelby County lieutenant entered into the intake area and advised that she witnessed the incident on the camera. The lieutenant advised Officer Jenkins to take Mr. Lucas to Regional One Hospital to obtain medical clearance. Mr. Lucas would have to be medically cleared prior to being accepted into the jail.

Officer Jenkins transported Mr. Lucas to Regional One for medical treatment. Lucas advised that he was going to tell hospital officials that he was beaten and raped to gain a civil law suit against Officer Jenkins. Officer Jenkins proceeded to escort Lucas into the hospital where he fell to the ground and stretched out refusing to go inside of the hospital. Memphis police officers assigned to Med Holding assisted Officer Jenkins with lifting Mr. Lucas up and placing him into a chair. Lucas continued to be combative and spit at Officer Jenkins. Officer Jenkins notified his lieutenant of the incident and that he needed to seek treatment for a blood borne pathogen exposure due to Lucas' bloody saliva making contact with his eye and an open cut that was on his arm.

Medical staff treated Mr. Lucas for injuries to his lip. Officer Majors #10734 made the scene and completed an assault report (1805015527ME) in reference to the incident that took place at 201 Poplar. Officer Majors transported Mr. Lucas back to 201 Poplar. Shelby County Sheriff's Office generated an assault report (1805001151SH) listing Lucas as the victim and an un-named Memphis Police Department officer as the suspect.

The primary issue related to this investigation centers upon the actions of the officer and whether his actions transcend the standards of the Memphis Police Department. Witness officers were notified and interviewed. Body worn camera footage, in-car video footage was also obtained and reviewed. This video footage showed you striking and kicking a prisoner who was clearly handcuffed. These standards are established in the Memphis Police Department's DR-301 Excessive/Unnecessary Force. Therefore, Officer Brandon Jenkins is in violation of DR-301 Excessive/Unnecessary Force.

The Memphis Police Department's DR 301 Excessive/Unnecessary Force states: Excessive Force/Unnecessary Force 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 'Excessive/Unnecessary Force by Officers Shelby County Jail at 201 Poplar.

The three standards applied in *Graham v. Connor* were used to determine the reasonableness of the use of force applied by Officer Brandon Jenkins and revealed the following:

1. The crime at issue in this investigation is Simple Assault, which is a misdemeanor in the state of Tennessee.

2. The suspect, Mr. Nechoe Lucas, did pose an immediate threat to the safety of everyone on the scene.

3. Per the video and Officer statements, Mr. Nechoe Lucas was physically combative after being arrested.

The three standards applied in *Graham v. Connor* were used to determine the reasonableness of the use of force applied by Officer and revealed the following: Officer's actions were in violation of DR 301 Excessive/Unnecessary Force.

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.

The second issued related to this investigation centers upon the actions of Officer Brandon Jenkins, and whether or not his actions transcend the standards of Memphis Police Department. Officer Jenkins' actions clearly show him displaying an unprofessional, and negative reflection, upon the City of Memphis and its members, as is prescribed in the Memphis Police Department Policy and Procedures. Therefore, you is in violation of DR-104 Personal Conduct, which 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.

IX) Conclusion

Based on the facts of the case, the preponderance of evidence shows that, **Officer Brandon Jenkins #12584 IS** in violation of the stated allegation, **DR 301 Excessive/Unnecessary Force**. Therefore the allegation **IS SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, **Officer Brandon Jenkins #12584 IS** in violation of the stated allegation, **DR 104 Personal Conduct**. Therefore the allegation **IS SUSTAINED**.