

HEARING SUMMARY FORM

0153-21

Hearing: 08/27/21 0930 hours
Date Time

Location: 170 N Main Room 12-12

Hearing Officer: Deputy Chief P. Wright, Jr IBM #9511

Attended by: Officer Christopher Freeman IBM #13031

MPA Representative: Sergeant Dominick Wirt IBM 10945

Supervisor: Lt. Colonel Carlos Davis IBM #2247

Statement of Hearing Officer: On Friday, August 27, 2021 at 0915 hours, Deputy Chief Paul Wright, Jr IBM #9511 held a hearing on Austin Peay "C" shift Officer Christopher Freeman for violation of DR-301 Excessive/Unnecessary Force (2 counts), DR-101 Compliance with Regulations to wit: Search and Seizure, DR-101 Compliance with Regulations to wit: BWC, and DR-104 Personal Conduct.

(Continued on page 2)

Action Ordered:

DR-301 Excessive/Unnecessary Force (2 counts) – (2x) SUSTAINED 6 Day SWOP

DR-101 Compliance with Regulations to wit: Search and Seizure – SUSTAINED 2 Day SWOP

DR-101 Compliance with Regulations to wit: BWC – SUSTAINED 1 Day SWOP

DR-104 Personal Conduct - SUSTAINED 4 Day SWOP

P. Wright - 9511

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 *CF* Will Not Be Filed

Grievance: Will *CF* 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.

11/2/21
Date

Christopher Freeman
Employee Signature

Hearing Summary Form

I, **(Deputy Chief P. Wright, Jr)** read the allegations of the complaint that said in part:

During the course of an investigation into excessive force/unnecessary force, (Case #I2021-002) on January 4, 2021, you pushed a female white off of her porch which was unwarranted. You assisted with taking a male white into custody. You stated to ISB investigators that you hit the male white five or six times. You stated that you struck the male in the face. There were three or four officers subduing the male when you engaged. You were seen on body worn camera punching the male in the face rather than using other tactics that would directly assist in handcuffing the suspect.

Therefore, these actions place you in violation of DR-301 Excessive/Unnecessary Force (2 counts)

Memphis Police Department DR-301 Excessive/Unnecessary Force (2 counts) which 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.

You used profanity while speaking to a female white. You stated, "Shut the fuck up" multiple times. You had to be restrained by other officers on the scene. Your actions occurred in a neighborhood easily viewed by the public and your actions were captured on your body worn camera. Your actions were unprofessional and reflect negatively upon the City of Memphis and its members.

Therefore, these actions place you in violation of DR-104 Personal Conduct.

Memphis Police Department 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

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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.

During the course of an investigation into case #I2021-002, an investigation into an excessive/unnecessary force, on January 4, 2021, you unlawfully entered a locked bedroom without containing consent or a search warrant.

Therefore, these actions place you in violation of DR-101 Compliance with Regulations to wit: Search & Seizure.

Memphis Police Department DR-101 Compliance with Regulations to wit: Search and Seizure which states:

Authority and Procedures

Officers have the authority to conduct searches and make seizures without a warrant under certain circumstances. These circumstances include, but are not limited to the following:

A. Exigent Circumstances

“Exigent Circumstances” are emergency conditions. A search is reasonable, and a search warrant is not required, if all of the circumstances known to the officer at the time, would cause a reasonable person to believe that entry or search was necessary to prevent physical harm to the officer or other persons; the destruction or concealment of evidence; the escape of a suspect; and if there was insufficient time to get a search warrant. [1.2.4.e]

B. Searches by Consent

Officers may conduct a search of a person or property by obtaining prior consent. The consent must be voluntarily given, and that voluntary consent must be shown to be unequivocal, specific, and intelligently given, uncontaminated by duress or coercion. The consent must be proven to be voluntarily given by a preponderance of the evidence and is never lightly inferred by the courts. The prior consent must be obtained from the person or persons with authority to give a valid consent. Officers should have the proper departmental consent forms, appropriate to the search circumstances, available for their use. If consent is written, consent forms must be signed prior to the search. [1.2.4.a]

During the course of an investigation into case #I2021-002, an investigation into an excessive/unnecessary force, on January 4, 2021, you had seven body worn camera entries for one incident. You stated to ISB investigators that you turned your camera off to cool down. An audit showed that you stopped your camera during an encounter with a male white. You did not record the event in its entirety.

Therefore, these actions place you in violation of DR-101 Compliance with Regulations to wit: Body Worn Camera.

Memphis Police Department DR-101 Compliance with Regulations to wit: Body Worn Camera
which states:

. 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.

Officer Christopher Freeman was given the opportunity to respond to these alleged allegations. Officer Freeman denied violating DR-301 Excessive/Unnecessary Force (2 counts). He did admit to violating DR-101 Compliance with Regulations to wit: Search and Seizure, DR-104 Personal Conduct, and DR-101 Compliance with Regulations to wit: BWC.

Officer Freeman advised on January 4, 2021 he and his partner; Officer Chasidy Beard responded to a disturbance call at [REDACTED] Thrift. During their investigation, a male complainant informed them that his neighbor had struck his vehicle with a shovel. The complainant stated that he also threatened him with the shovel and that he was possibly kidnapping white females. The complainant informed Officer Freeman and Officer Beard that he did not want to prosecute he just wanted his neighbor to stay away

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from him. Officer Freeman said he went to the neighbor's front door with his partner to just warn Mr. McCoy to stay away from his neighbor's property. He said Officer Beard knocked on his door and did not get a response. As they were waiting in the driveway, Ms. Lauren Cole pulled up with Mr. Cody Jones. Officer Freeman said that Ms. Cole advised that she was the property owner and that Therman McCoy was her brother and lived at the location with her. Officer Freeman stated that Ms. Cole went into the side door of the residence to try and get her brother to come out and talk to the officers. He said after a few minutes she came back out and told the officers that he was not cooperating with her and would not come out of the house. Officer Freeman said that he saw Mr. McCoy attempting to pull Ms. Cole back into the house. Officer Freeman stated that he put his hand on the center of Ms. Cole's back to move her out of the way and off the porch. As he was moving Ms. Cole, Mr. McCoy opened the door and struck him in the face with his fist. After he struck him in the face, he closed the door and looked out of the window. Officer Freeman said he attempted to kick the door in to arrest Mr. McCoy for the assault, but the door did not open when he kicked it. Officer Freeman kicked a hole in the door and broke the window of the door with his ASP baton in an attempt to gain entry into the location. He said he deployed his taser in an attempt to gain control of Mr. McCoy. He stated that during the commotion Mr. McCoy must have exited the house through the back door.

Officer Freeman said he did get very emotional after being struck in the face and called the "N" word. Officer Freeman apologized for his personal conduct on the scene. He admitted that he was told he couldn't enter the location by Ms. Cole prior to him physically moving her from the porch. Officer Freeman said that he went to the scene of the arrest after hearing that officers were pursuing Mr. McCoy on foot and he participated in taking Mr. McCoy into custody. He said that he struck Mr. McCoy five or six times to get him to comply with the officers that he was struggling with. He stated that he observed Officer Robinson using closed fist strikes on Mr. McCoy also. Officer Freeman said that he did not observe any injuries to Mr. McCoy after the arrest. He stated that after Mr. McCoy was in handcuffs he broke away from officers and ran but was taken into custody by another officer for a second time. Officer Freeman said he felt his force against Mr. McCoy was minimum force and justified.

Officer Freeman admitted that he turned his BWC on and off several times during the entire incident, but never did he stop the camera during the times he physically engaged with Mr. McCoy.

Sergeant Dominick Wirt was given the opportunity to respond to the alleged allegations made against Officer Freeman. He said that Officer Freeman has already accepted responsibility for his personal conduct and his compliance as it relates to BWC and Search and Seizure. He said that Officer Freeman admitted that the incident was very emotional for him and he acted out of character. He said the force used eventually ended the confrontation between suspect and officers. Sergeant Wirt asked that DR-301 Excessive/ Unnecessary Force be dismissed or reconsidered as a lesser violation.

Colonel Lambert Ross stated that Officer Christopher Freeman is a good worker, and this was out of character for him.

At 1100 hours, the hearing concluded. The hearing officer did not render a decision on this matter.

On Tuesday, November 2, 2021, at 1130 hours, the Administrative Hearing reconvened and a decision was rendered.



Deputy Chief Wright the Hearing Officer (Deputy Chief Paul Wright) noted the listed facts from the Administrative Hearing:

When asked by the hearing officer, Officer Freeman denied violating DR-301 Excessive/Unnecessary Force, but admitted violating DR-104 Personal Conduct, DR-101 Compliance with Regulations to wit: Search and Seizure, and DR-101 Compliance with Regulations to wit: BWC.

Officer Christopher Freeman said on January 4, 2021, he and his partner, Officer Chasidy Beard responded to a disturbance call at [REDACTED] Thrift. Officer Freeman admitted that he used physical force to move Ms. Lauren Cole from her porch after she told him that he could not enter the location at [REDACTED] Thrift. He did acknowledge that prior to the incident occurring he had been told that he could not go into the location by Ms. Cole. Officer Freeman admitted that he became angry and upset because he had been hit in the face by Ms. Cole's brother, Therman McCoy. Officer Freeman apologized for his behavior during the entire incident. Officer Freeman admitted to participating in the arrest of the suspect. He said the force he used during that encounter was minimum and justified because the suspect was kicking and struggling with officers.

Officer Freeman admitted that he turned his BWC on and off several times during the entire incident, but never did he stop the camera during the times he physically engaged with Mr. McCoy.

Considering all the statements made and after reviewing the ISB investigative file the following action was taken:

- **As for DR-301 Excessive/Unnecessary Force the charge will be sustained and a six (6) day Suspension Without Pay is ordered;**

According to MPD Policy, the Response to Resistance Continuum uses as escalating/de-escalating format to determine how Officers should consider the response to resistance. Officers must quickly react and establish objective reasonableness according to circumstances and the totality of facts known to the officer at the time of the incident. Officers are allowed to escalate their response to resistance in reaction to a particular situation as their experience and training dictate. Officers should also de-escalate their response to resistance when the situation is safely under control and a higher level of force is no longer necessary or reasonable.

The hearing officer determined that Officer Freeman had a lapse in judgement choosing the proper arrest and control tactic during this situation. The hearing officer found no criminal intent with Officer Freeman's actions, but there was a training concern as it relates to his response to resistance and de-escalation techniques.

Officer Freeman's disciplinary resume reflected no previous violations.

- **And for DR-101 Compliance with Regulations to wit: Search and Seizure the charge will be sustained and a two (2) Suspension Without Pay is ordered;**

Officer Freeman ADMITTED violating DR-101 Compliance with Regulations to wit: Search and Seizure. During the initial encounter, homeowner Lauren Cole denied Officer Freeman's request to enter her home under voluntary consent.

- **As for DR-104 Personal Conduct will be sustained and a four (4) day Suspension Without Pay is ordered;**

Officer Freeman ADMITTED violating DR-104 Personal Conduct. Officer Freeman admitted and apologized for his unprofessional behavior and conduct. Freeman admitted the incident was very emotional for him and he acted out of character; doing and saying things he should not have said or done. His conduct was not that of a law enforcement specialist.

- **And for DR-101 Compliance with Regulations to wit: BWC will be sustained and a one (1) day Suspension Without Pay is ordered.**

Officer Freeman ADMITTED that he turned his BWC on and off several times during the entire incident, but never did he stop the camera during the times he physically engaged with Mr. McCoy.

Officer Freeman will also be ordered to attend and complete a mandatory (8) hour Excessive Force Training Course at the Memphis Police Department's Training Academy.

**Suspension Date: (13) days totals
November 3-5, November 8-12, November 15-19.**

Return to duty: November 20, 2021.

HEARING SUMMARY FORM

0156-21

Hearing: 08/25/21 1550 hours
Date Time

Location: Austin Peay Station Conference Room

Hearing Officer: Deputy Chief P. Wright, Jr IBM #9511

Attended by: Officer Niesha Robinson IBM #13886

MPA Representative: Sergeant Dominick Wirt IBM #10945

Supervisor: Colonel Lambert Ross IBM #7353

Statement of Hearing Officer: On Wednesday, August 25, 2021 at 1550 hours, Deputy Chief Paul Wright, Jr IBM #9511 held a hearing on Austin Peay "C" shift Officer Niesha Robinson for violation of **DR-301 Excessive/Unnecessary Force, DR-104 Personal Conduct, DR-101 Compliance with Regulations to wit: BWC.**

(Continued on page 2)

Action Ordered:

DR-301 Excessive/Unnecessary Force – SUSTAINED – Six (6) days Suspension Without Pay

DR-104 Personal Conduct – SUSTAINED - Five (4) days Suspension Without Pay

DR-101 Compliance with Regulations to wit: BWC – 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. 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.

Appeal: _____ Will NL Will Not Be Filed

Grievance: _____ Will NL 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.

8/11/21
Date


Employee Signature

Hearing Summary Form

I, **(Deputy Chief P. Wright, Jr)** read the allegations of the complaint that said in part:
During the course of an investigation into excessive force/unnecessary force, (Case #I2021-002) on January 4, 2021, you assisted with taking a male white into custody. You stated to ISB investigators that there were five or six officers who were trying to subdue the male to place him in handcuffs. You were seen on body worn camera kicking and punching the male. Your actions inflicted pain and your tactics did not assist with taking the male into custody.

Therefore, these actions place you in violation of DR-301 Excessive/Unnecessary Force

Memphis Police Department DR-301 Excessive/Unnecessary Force which 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.

You used profanity while punching a male white. You stated, "Bitch ass nigga, hoe what the fuck is wrong with you." You yelled, "Let Officer Freeman beat his ass," as you were running down the street of the neighborhood. Your actions occurred in a neighborhood easily viewed by the public and your actions were captured on your body worn camera. Your actions were unprofessional and reflected negatively upon the City of Memphis and its members.

Therefore, these actions place you in violation of DR-104 Personal Conduct.

Memphis Police Department 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.

During the course of an investigation into case #I2021-002, an investigation into an excessive/unnecessary force, on January 4, 2021, you had three body worn camera entries for one incident. An audit showed that you stopped your camera during an encounter with a male white. You did not record the event in its entirety or give a reason allowed by policy.

Therefore, these actions place you in violation of DR-101 Compliance with Regulations to wit: Body Worn Camera.

Memphis Police Department DR-101 Compliance with Regulations to wit: Body Worn Camera which states:

. 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.

Officer Niesha Robinson was given the opportunity to respond to these alleged allegations. Officer Robinson denied violating DR-301 Excessive/Unnecessary Force but admitted to violating DR-104 Personal Conduct and DR-101 Compliance with Regulations to wit: BWC.

Officer Robinson stated that she responded to Officer Christopher Freeman calling for help and when she arrived on the scene, she saw Mr. McCoy on the ground kicking and punching. Officer Robinson said that officers on the scene had given him verbal commands, but he did not listen. She advised that at some point during the altercation Mr. McCoy had his hands concealed underneath his body and officers could not see his hands and that is when she began kicking and punching the suspect feeling as though she was protecting herself and others. Officer Robinson advised that she knew Mr. McCoy but had never made an arrest nor had he ever attempted to fight with her.

In response to being asked about her verbal language heard on her BWC and Officer C. Yancey's BWC, "I tried to kick him in his stomach. I had to get me some licks in on video", she stated that she was emotional and said things that were unprofessional because he had assaulted Officer Freeman. She admitted that she violated personal conduct. She advised that she said things during the course of the arrest and after the arrest that should not have been said.

When asked about turning her BWC off four times, Officer Robinson stated that her BWC was never off while she was in contact with Mr. McCoy. She advised that she did turn it off during noncontact with the suspect. Officer Robinson advised that she turned it off one time when she was in the car with her partner. She advised that at least one time her BWC turned off, but she did not know how it turned off. Officer Robinson advised that she knows the BWC policy, and she understands that it should be kept on during the entirety during any call.

Sergeant Dominick Wirt was given the opportunity to responded to the alleged allegations made against Niesha Robinson. He said that Officer Robinson has already accepted responsibility for her personal conduct and her compliance as it relates to BWC. He said that Officer Robinson admitted that the incident was very emotional for her and she acted out of character. Sergeant Wirt said that when Officer Robinson made the scene, she knew that Mr. McCoy had been violent and assaulted an officer. He said that at some point during the arrest, she could not see the suspect's hands and he would not give his hands to the officers for arrest. Sergeant Wirt stated that officers were unable to use their spray or batons because the incident was hands on, and the only option was to use physical force. He said he never saw in any of the videos were Officer Robinson actually kicked the suspect. He said the force used eventually ended the confrontation between suspect and officers. Sergeant Wirt asked that DR-301 Excessive/ Unnecessary Force be dismissed or reconsidered as a lesser violation.

Colonel Lambert Ross stated that he had never seen Officer Niesha Robinson act as she did in the video. He advised that the video footage was alarming.

At 1700 hours, the hearing concluded. The hearing officer did not render a decision on this matter.

On Wednesday, November 3, 2021, the Administrative Hearing reconvened and a decision was rendered.

Deputy Chief Wright

The Hearing Officer (Deputy Chief Paul Wright) noted the listed facts from the Administrative Hearing:

During the administrative hearing, Officer Niesha Robinson admitted violating DR-104 Personal Conduct and stipulated the Personal Conduct allegations made in the Statement of Charges. She also admitted violating DR-101 Compliance of Regulations to wit: Body Worn Camera and stipulated the allegations made in the Statement of Charges pertaining to her violating the BWC policy. Officer Robinson denied violating DR-301 Excessive/Unnecessary Force.

Officer Robinson said on January 4, 2021, she and her partner Officer Darrell Adams responded to an officer in need of assistance call at [REDACTED] Thrift. Officer Robinson said Officer Christopher Freeman had been assaulted and called for help via radio. Officer Robinson and Officer Adams made it in the area and observed the suspect, later identified as Therman McCoy, struggling and fighting with at least six officers. Officer Robinson said as she was getting out of the car she said, "Let Officer Freeman beat his ass". She said she was speaking her thoughts out loud but did not really mean it. She said she was angry that Mr. McCoy assaulted an officer.

Officer Robinson and Officer Adams ran to help subdue Mr. McCoy. There were five to six other officers attempting to arrest Mr. McCoy. As the officers attempted to place him in handcuffs, Officer Robinson is seen on BWC footage kicking and punching Mr. McCoy. Officer Robinson used hard hand techniques to take Mr. McCoy into custody that consisted of one or two punches and at least two kicks.

Officer Robinson's response to the situations was excessive and unreasonable. As defined in policy, excessive 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. Officers should only use the necessary amount of force to safely accomplish their duties. Whenever possible, officers should allow individuals time to submit to the officer's commands before force is used. Officers should react to the amount of resistance shown by a suspect and then determine the amount of force that is reasonable and necessary to safely take this person into custody during a lawful arrest.

The Response to Resistance Continuum uses an escalating/de-escalating format to determine how Officers should consider the response to resistance. Officers must quickly react and establish objective reasonableness according to circumstances and the totality of facts known to the officer at the time of the incident. Officers are allowed to escalate their response to resistance in reaction to a particular situation as their experience and training dictate. Officers should also de-escalate their response to resistance when the situation is safely under control and a higher level of force is no longer necessary or reasonable. At no time did Officer Robinson consider the alternative options to hard hand tactics (Chemical Irritant). Immediately after the encounter, Officer Robinson was recorded on Officer C. Yancey's BWC, describing her arrest tactics. In the video, Officer Robinson is heard saying, "I tried to kick him in his stomach. 'I had to get me some licks in'. She stated she was emotional and said things that wasn't appropriate.

I, Deputy Chief Paul Wright, do hereby find that Officer Robinson did violated DR-301 Excessive/Unnecessary Force, DR-104 Personal Conduct, and DR-101 Compliance with Regulations to wit: BWC.

Therefore, all charges will be **SUSTAINED**. Officer Robinson had no documented incidents on her disciplinary resume.

- **As for DR-301 Excessive/Unnecessary Force a six (6) days Suspension Without Pay is ordered;**

Officer Robinson's response to the situations was excessive and unreasonable. As defined in policy, excessive 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. Officers should only use the necessary amount of force to safely accomplish their duties. Whenever possible, officers should allow individuals time to submit to the officer's commands before force is used. Officers should react to the amount of resistance shown by a suspect and then determine the amount of force that is reasonable and necessary to safely take this person into custody during a lawful arrest. Officer Robinson made statements after the incident, on BWC, that validated her actions to be excessive in nature.

- **As for DR-104 Personal Conduct a four (4) days Suspension Without Pay is ordered;**
Officer Niesha Robinson admitted violating DR-104 Personal Conduct and stipulated the Personal Conduct allegations made in the Statement of Charges.

- **And for DR-101 Compliance with Regulations to wit: BWC a one (1) day Suspension Without Pay is ordered.**

Officer Robinson admitted violating DR-101 Compliance of Regulations to wit: Body Worn Camera and stipulated the allegations made in the Statement of Charges pertaining to her violating the BWC policy.

Officer Robinson will also be ordered to attend and complete a mandatory (8) hour Excessive Force Training Course at the Memphis Police Department's Training Academy.

Officer Robinson's suspension days are as follows:
Total (11) days suspension

November 4, 2021
November 5, 2021
November 6, 2021
November 7, 2021
November 10, 2021
November 11, 2021
November 12, 2021
November 13, 2021
November 14, 2021
November 17, 2021
November 18, 2021

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City of Memphis
Police Division
Inspectional Services Bureau

Administrative Summons

Memphis Police Department VS.
Robinson, Niesha IBM: 13886

Date: February 1, 2021
ISB Case #: I2021-002

I. Allegation

On January 4, 2021, you responded in the area of [REDACTED] Thrift. You used unnecessary force when you took a male white into custody. You punched and kicked the male and used profanity while taking the male into custody. You had three different entries on your body-worn-camera for one incident.

II. Rules, regulations or orders violated.

DR 301 Excessive/Unnecessary Force
DR 104 Personal Conduct
DR 101 Compliance with Regulations to wit: Body Worn Camera

III. Hearing

Date: *Wednesday August 25, 2021*
Place: *Houston Perry Conference Room*
Time: *3:00pm*

You are entitled to representation during this hearing.

Served by:

LT. DARRYL DOTSON APS-C 6861
Name/Rank/Assignment/IBM

Date: *8/19/2021* Time: *1731 HRS.*

Signature of Officer: *[Signature]* *13886*

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**

Administrative Summons

**Memphis Police Department VS.
Freeman, Christopher IBM: 13031**

**Date: February 1, 2021
ISB Case #: I2021-002**

I. Allegation

On January 4, 2021, you responded to an armed party call. You made unlawfully entry into a locked room. You used unnecessary force when you took a male white into custody. You punched the male white five or six times. You used profanity while speaking engaging in conversation with several individuals during the incident. You had seven different entries on your body-worn-camera for one incident.

II. Rules, regulations or orders violated.

**DR 301 Excessive/Unnecessary Force (2 Counts)
DR 101 Compliance with Regulations to wit: Search and Seizure
DR 101 Compliance with Regulations to wit: Body Worn Camera
DR 104 Personal Conduct**

III. Hearing

Date: Friday, August 27, 2021
Place: 170 N. Main Street, Room 12-12, Deputy Chief PADI Wright's office
Time: 9:15 AM

You are entitled to representation during this hearing.

Served by: Mark Wojcik, Lieutenant, Training Academy, #1703
Name/Rank/Assignment/IBM

Date: 8-20-21 **Time:** 4:49 PM

Signature of Officer:  1303

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 Summary I2021-002

Printed On: 5/10/2021

I) Principal Employee:

POLICE OFFICER II Christopher Freeman #13031	Austin Peay Station – “C”
POLICE OFFICER II Chasidy Beard #14107	Austin Peay Station – “C”
POLICE OFFICER II Niesha Robinson #13886	Austin Peay Station – “C”
POLICE OFFICER II Darrell Adams #13310	Austin Peay Station – “C”
POLICE OFFICER II Stanley Dickerson #11666	Austin Peay Station – “C”
POLICE OFFICER II Marcus Joyner #13457	Austin Peay Station – “C”
POLICE OFFICER II Dareen McCloud #13464	Austin Peay Station – “C”
POLICE OFFICER II Carlos Rodgers #13704	Austin Peay Station – “C”
POLICE OFFICER II Catrellus Yancey #13796	Austin Peay Station – “C”
LIEUTENANT Israel Taylor #8663	Austin Peay Station – “C”

II) Administrative Regulation:

DR 301 Excessive Force / Unnecessary Force
DR 104 Personal Conduct
DR 101 Compliance with Regulation to wit: Body Worn Camera
DR 101 Compliance with Regulation to wit: Response to Resistance
DR 101 Compliance with Regulation to wit: Search and Seizure

III) Allegation:

It is alleged that on January 4, 2021, at approximately 4:45 p.m., Officer Freeman and Officer Beard bruised Ms. Lauren Cole’s arm by forcefully grabbing her, while attempting to gain entry inside her residence.

IV) Background:

On January 4, 2021, at approximately 4:45 p.m., Officers Freeman and Beard responded to an armed party call at [REDACTED] Thrift. Officers spoke with the complainant who stated his neighbor, Mr. Therman McCoy, struck his vehicle with a shovel. Officers attempted to make contact with McCoy and were met by McCoy’s sister, Ms. Lauren Cole. Officers spoke with Cole regarding the complaint. Cole attempted to get McCoy to come outside and speak with officers. A struggle ensued between Cole and McCoy. McCoy attempted to pull Cole inside the residence. Officer Freeman and Officer Beard assessed the situation, and Cole blocked the entrance and would not allow officers to speak with McCoy. Officer Freeman moved Cole away from the door. Cole stated her arm was

bruised from Freeman forcefully grabbing her, while officers attempted to gain entry inside her residence.

V) CAD #:

CAD #P210041395

VI) Evidentiary Findings:

A) Statements:

Civilian Complainant Lauren Cole advised that on January 4, 2021, at approximately 4:00 p.m., she pulled into her driveway and was met by Officer C. Freeman and Officer C. Beard. She inquired why the officers were at her home. Officers told her that the neighbor called the police on a male white at the residence. Cole told officers her brother Therman McCoy was an addict and was possibly high on drugs. She went to the door of her home and attempted to unlock the door, but her door would not unlock. She yelled for McCoy to come to the door, McCoy opened the door and observed the police. He stated he did not want to talk to police. McCoy slammed the door in Cole's face. Cole told Officers Beard and Freeman that she was not going to be able to get McCoy to speak with them.

Freeman approached the door in an attempt to go inside the home. Cole told Freeman he did not have a warrant and could not go inside of her home. Freeman yanked her off of her porch, and he said "Move out the mother fucking way." McCoy opened the door and said "you hit my sister," and McCoy punched Officer Freeman in the face and slammed the door.

According to Cole, Officer Freeman caused damage to her door, when he kicked the door with his boot and broke her door window with his baton. Freeman also pointed his weapon in her face, but he did not shoot the weapon. She said Freeman deployed his taser twice, once through the door and once through the door window. The taser missed McCoy, according to Memphis Fire Department.

Cole stated she was screaming and yelling at Freeman, asking him why he was damaging her property. Beard continuously pushed Cole's arm to move her out the way and told her to stop moving. Lieutenant Taylor made the scene, and Cole told him she would have been willing to open the door. She went inside her home and no one was inside. She gave officers verbal consent to go inside. Officers went inside her home to look for McCoy. Cole said her bedroom door was locked and the officer kicked the door in causing damage to the door lock. McCoy had apparently left the house.

Cole stated officers located her brother at the top of the hill on Thrift. Officers jumped out of their cars and jumped McCoy. There were approximately six police officers. She could hear the officers beating him, but she he could not see. She was in her driveway

and squad cars were blocking her view. Cole stated McCoy was on Xanax and Crystal Meth. McCoy had a drug induced disease and officers should have helped him instead of beat him.

Cole did not sustain injuries from Officer Beard; however, she stated she sustained a bruise on her right forearm and a bruise on her left inner arm toward her shoulder when Freeman grabbed her off the porch. She did not seek medical attention. McCoy was transported to 201 Poplar after he was taken to Regional Medical Center because he tried to eat Xanax bars.

Civilian Witness Cody Jones advised that he and his girlfriend Lauren Cole arrived to their home and police were in their driveway. He stated the neighbors called the police on Therman McCoy, Cole's brother. Jones advised Cole got out of the vehicle while he stayed inside the vehicle because he did not want to get involved in the incident. According to Jones, Officer Freeman pushed Cole off the porch and McCoy punched Freeman in the face. Freeman broke the glass with his police ASP baton. Jones exited the vehicle and he said Officers Freeman and Beard pulled their weapons and pointed them at him. Jones did not speak to any officers on the scene. Jones said Cole did not complain of any injuries. He said he did not observe McCoy being taken into custody.

Principal Employee Christopher Freeman advised that on January 4, 2021, he worked as a two-man unit with his partner, Officer Chasidy Beard. Officer Freeman advised they responded to a call at [REDACTED] Thrift. Upon making the scene he spoke with the complainant, who advised his neighbor, Mr. Therman McCoy, struck his vehicle with a shovel. Officer Beard knocked on the door in an attempt to speak with Mr. McCoy. Officers were met by Ms. Lauren Cole. She advised she was the homeowner and the sister of Mr. McCoy. Officer Freeman told Ms. Cole that he just wanted to speak with Mr. McCoy regarding the complaint. Ms. Cole advised that Mr. McCoy was probably drunk or high and out of his mind. Ms. Cole attempted to unlock the door, but was having trouble and she was screaming at Mr. McCoy. The door opened, and Officer Freeman could see Mr. McCoy attempting to pull Ms. Cole into the home. Ms. Cole began pushing back trying not to be pulled inside the home. Mr. McCoy appeared to be in a crisis, so Freeman attempted to assess the situation. As Freeman walked up to the door Ms. Cole stretched her arm out to block the door entry. Officer Freeman put his hand on Ms. Cole's back and pushed her away from the door, at which time Mr. McCoy opened the door, struck Freeman in the face, and closed the door. Officer Freeman tried to gain entry inside the home to arrest Mr. McCoy for the assault. Officer Freeman kicked the door and deployed his taser twice, however, neither deployment connected with Mr. McCoy.

Lieutenant Taylor made the scene, after which Ms. Cole gave verbal consent for the officers to go inside her home to search for Mr. McCoy. Officer Freeman, Lieutenant Taylor, and Officer Joyner went inside the home to attempt to locate Mr. McCoy. While searching the home there was a locked door, and Officer Joyner kicked the door in an attempt to gain entry to the room. They were unable to locate Mr. McCoy inside the home.

Another officer spotted Mr. McCoy running on foot nearby based on the description given over the radio. Officer Freeman ran to help officers and observed Mr. McCoy resisting. Officer Stanley Dickerson grabbed Officer Freeman as he was running to help take Mr. McCoy into custody. Officer Freeman was unsure why Dickerson grabbed him because he was not acting in an aggressive manner. Officer Freeman used force by striking Mr. McCoy five or six times in attempt to get him to comply. The strikes were effective and assisted in taking Mr. McCoy into custody. Officer Freeman observed Officer Robinson using closed fist strikes while taking Mr. McCoy into custody. Officer Freeman did not observe any injuries to Mr. McCoy.

Principal Employee Chasidy Beard advised she and her partner Officer Christopher Freeman worked Austin Peay Station, Charlie shift, on January 4, 2021. They received an armed party call which turned into a vandalism at [REDACTED] Thrift. Upon their arrival they spoke with the complainant who advised the next door neighbor (Therman McCoy) hit the complainant's vehicle with a shovel. Officer Beard knocked on the next door neighbor's door and Mr. McCoy did not answer. Officers were met by Mr. McCoy's sister, Ms. Lauren Cole, who inquired the reason officers were at her home. Officer Beard informed Ms. Cole, and asked her if officers could speak with Mr. McCoy. Ms. Cole attempted to unlock the door, however, she was unsuccessful. Mr. McCoy opened the door and tried to pull Ms. Cole inside. Ms. Cole was resisting and she pulled away from Mr. McCoy. Mr. McCoy appeared to be frantic and was belligerent. Officer Beard and Officer Freeman approached the door, and Ms. Cole stood in front of the door stating "no you can't get in the house." Officer Freeman moved Ms. Cole away from the door, and Mr. McCoy opened the door and punched Officer Freeman in the mouth. Officer Freeman attempted to open the door, and Officer Beard stated she asked for additional units.

Officer Beard stated Ms. Cole was screaming and yelling. Officer Beard gave Ms. Cole verbal commands to move back. Officer Beard did not physically touch Ms. Cole, because she complied with the verbal commands. Ms. Cole went inside the home and advised Mr. McCoy was not inside. Lieutenant Taylor and Officers Freeman and Joyner went inside to check the house. Officer Beard stood at the back of the house to secure the door.

Officer Beard said that McCoy had left the house and was seen by another officer on another street. Officer Beard got into the car in an attempt to locate Mr. McCoy and her car got stuck in a ditch. When she made the scene where officers had Mr. McCoy subdued, they were attempting to place him in handcuffs. Officer Beard did not observe any officer strike, kick, hit, punch, or use any physical force with Mr. McCoy. Officer Beard did not use any physical force with Mr. McCoy. Officer McCloud and Officer Dickerson transported Mr. McCoy to jail and then he was taken to the Med for taking pills. Officer Beard and Officer Freeman made the scene at the Med to obtain the pills to tag in the property and evidence room. Officer Beard did not complete a response to resistance because she did not use physical force with Mr. McCoy or Ms. Cole.

Witness Employee Lieutenant Israel Taylor stated that on January 4, 2021, he worked as a lieutenant for Austin Peay Charlie shift. Lieutenant Taylor heard a call at [REDACTED] Thrift. Officers Freeman and Beard were on the scene, so he pulled over to assist. The officers were handling the call, so he left the scene. Lieutenant Taylor later heard Officer Freeman on the radio in a frantic state calling for additional units to make the scene.

Lieutenant Taylor made the scene a second time and Officer Freeman was in the driveway outside of the residence. He was bleeding from his mouth. Officer Freeman said he had been assaulted by a person inside of the residence. Lieutenant Taylor said, "Officer Freeman was in heightened state and the female, Ms. Lauren Cole was also in an elevated state." Lieutenant Taylor requested additional cars. Ms. Cole gave verbal consent for officers to go inside the home. Lieutenant Taylor, Officers Freeman, and Joyner went inside the home to check for Mr. McCoy. They cleared the rooms, but one of the bedrooms had to be forced opened by Officer Joyner because the door was locked. They were unable to locate Mr. McCoy inside the home, so Lieutenant Taylor went back outside to gather information. He heard Officer Freeman running and some officers on the radio in a brief foot chase. Lieutenant Taylor went to the end of the street and he observed a group of officers taking someone into custody. Lieutenant Taylor ran up the street, and when he made it to the officers he did not observe any officers strike, kick, hit, punch, or use physical force on Mr. McCoy. Mr. McCoy would not give officers his hand, but Officer Rodgers was able to get Mr. McCoy in handcuffs. Lieutenant Taylor observed Officer Freeman punching Mr. McCoy after reviewing body-worn-camera footage later.

Lieutenant Taylor advised Ms. Cole complained of injuries from Officer Freeman pushing her. Mr. McCoy had no observable injuries and he did not complain of any injuries. Several MFD members made the scene to assess Mr. McCoy and Officer Freeman. Lieutenant Taylor gave Ms. Cole the number to City Claims for the damage to her property and completed an incident report and OJI form for Officer Freeman.

Witness Employee Marcus Joyner advised that on January 4, 2021, he worked Austin Peay Station as a one-man unit. During the shift Officer Freeman got on the radio and stated he had been assaulted, and it was a possible barricade situation. When he arrived, Lieutenant Taylor, Officer Freeman, and Officer Beard were on the east side of the house. Officer Freeman was bleeding from his mouth. Ms. Lauren Cole stated that officers could go inside her home. Lieutenant Taylor gave instructions to go inside the home and clear the home to ensure Mr. Therman McCoy was not inside the home. As he was clearing the rooms, he discovered a locked bedroom door. Officer Joyner stated that he kicked the door in causing damage to the door jam, in an attempt to locate Mr. McCoy.

They were unable to locate Mr. McCoy inside the home. Officer Joyner stayed on the scene to wait for crime scene because Officer Freeman's taser was lying on the east side of the house by the door. Officer Joyner stated Officer Freeman's taser had been deployed, but Officer Joyner was not on the scene when it was deployed. Officer Joyner was the reporting officer and was not on the scene when Mr. McCoy was taken into

custody. He spoke with both Ms. Cole and Mr. McCoy and neither complained of injuries.

Witness Employee Niesha Robinson advised that on January 4, 2021, she and her partner Officer Adams worked Austin Peay Station, Charlie shift. She heard over the radio an officer had been assaulted and needed assistance. The suspect was running in the area of Thrift Street, and other patrol cars had spotted the suspect. She and Officer Adams got in the area and observed suspect Therman McCoy fighting officers. Officer Robinson stated as she was getting out of the car she said "Let Officer Freeman beat his ass." She said she was speaking her thoughts out loud, but did not really mean it. She stated she was angry that Mr. McCoy had hit an officer in his facial area.

Officer Robinson and Officer Adams ran to help approximately six other officers on the scene subdue Mr. McCoy. Officer Robinson was thrown to the ground as she attempted to help officers. Once she made contact with Mr. McCoy, he was resisting and kicking. Mr. McCoy kicked Officer Robinson and she kicked him back. Officer Robinson used hard hand techniques to take Mr. McCoy into custody that consisted of one or two punches. She did not give Mr. McCoy verbal commands because other officers had already given commands. Mr. McCoy was still fighting and kicking officers, while they attempted to handcuff him. Officer Robinson said "bitch ass nigga, hoe" because Mr. McCoy's actions were someone who was a coward.

Officer Robinson stated Officer Yancey grabbed her and pulled her away from Mr. McCoy. She does not know why Officer Yancey pulled her off Mr. McCoy, because she was not on Mr. McCoy at the time he pulled her away. Officer Robinson told Officer Yancey "get the fuck off me," because he was pulling her hair.

Once Mr. McCoy was in custody, Adams and Rodgers placed Mr. McCoy inside the squad car. Officer Robinson did not observe any injuries to Mr. McCoy. She went back to [REDACTED] Thrift to wait for Crime Scene. Officer Freeman was punched in the facial area, and Lieutenant Taylor made the scene. Officer Robinson completed a Response to Resistance form.

Witness Employee Darrell Adams advised that he and Officer Niesha Robinson worked Austin Peay Station, Charlie Shift on January 4, 2021. He responded to [REDACTED] Thrift Street because an officer had been assaulted and the suspect fled the scene. He and Officer Robinson searched the area for the suspect. He observed approximately three or four officers were attempting to place suspect Therman McCoy into custody. Commands were given for Mr. McCoy to place his hands behind his back. Adams had to strike Mr. McCoy two or three times with hard hand techniques in the inner body torso because Mr. McCoy was resisting. Officer Adams was able to pull both of Mr. McCoy's arms together and place him into custody. Officer Adams' glasses fell off in the midst of the incident and he could not see or recall other officers on the scene. He could not recall if any other officer struck, kicked, punched, or hit Mr. McCoy. Officer Adams and Officer Rodgers placed Mr. McCoy into the patrol car. Officer Adams did not observe any injuries to Mr. McCoy, however, MFD made the scene to examine Mr. McCoy. Officer Freeman had

injuries to his nose and mouth. Lieutenant Taylor made the scene and Officer Adams completed a Response to Resistance entry.

Witness Employee Cartrellus Yancey advised that he worked Austin Peay Station, Charlie Shift as a two-man unit, on January 4, 2021. Officer Yancey heard over the radio an officer was assaulted at [REDACTED] Thrift. He and Officer Rodgers observed suspect, Therman McCoy in the area of Gregory and Ashland. Officer Yancey was on foot attempting to capture McCoy. Once Officer Yancey made contact with McCoy, McCoy began fighting and resisting. McCoy would not place his hands behind his back to allow officers to handcuff him. Officer Rodgers gave Mr. McCoy verbal commands. Officer Yancey observed officers use physical force to get Mr. McCoy in handcuffs. Officer Yancey could only recall Officer Robinson and Officer Freeman using force while attempting to handcuff the suspect. Officer Yancey grabbed Officer Robinson off of Mr. McCoy because there were enough officers already restraining Mr. McCoy. Officer Yancey did not know if Mr. McCoy was handcuffed, so he pulled Officer Robinson away. That is one of the reasons he did not go hands on with Mr. McCoy because there were enough officers already attempting to subdue Mr. McCoy. Officer Yancey stated that Officer Robinson was irate, but her actions were necessary because Mr. McCoy was resisting. Officer Rodgers placed Mr. McCoy into handcuffs. Officer Yancey did not use any physical force with Mr. McCoy. Officers Dickerson and McCloud transported Mr. McCoy to 201 Poplar and then to Med.

Witness Employee Carlos Rodgers advised that on January 4, 2021, he worked Austin Peay Station, Charlie Shift as a two-man unit. He and his partner, Officer Catrellus Yancey, were dispatched to an auto-theft. While en-route to the call, he heard an officer had been assaulted over the radio. Officer Rodgers disregarded his previous call and went to the area of [REDACTED] Thrift. Once in the area, they observed a male fitting the description of the suspect who had assaulted the officer. Officer Rodgers told Officer Yancey to get out of the car in an attempt to subdue the suspect. Officer Rodgers stated he drove around to the other street and got out of the car.

Officer Rodgers stated as he was running he observed the suspect, Therman McCoy, on the ground and other officers were attempting to handcuff McCoy. McCoy was resisting because he would not place his hands behind his back, although Officer Rodgers gave him commands to do so. Officer Adams grabbed McCoy's arm and placed handcuffs on him. Officer Rodgers did not strike, kick, hit, or punch McCoy. Officer Rodgers advised as he was taking the suspect to the squad car, McCoy ran. Officer Rodgers tackled McCoy, and placed him in the back of the squad car.

Officer Rodgers did not observe any injuries to Mr. McCoy. Mr. McCoy advised his handcuffs were too tight and Officers Dickerson and McCloud loosened his handcuffs. Officer Rodgers did not complete a Response to Resistance. He did not use extensive force, and he asked Lieutenant Taylor, who told him he did not have to complete a Response to Resistance form.

Witness Employee Darren McCloud advised that he worked Austin Peay Station on January 4, 2021, as a two-man unit with his partner, Officer Stanley Dickerson. An officer called for assistance because he had been assaulted. Officer McCloud arrived in the area of [REDACTED] Thrift and observed officers running and suspect (Therman McCoy) was running towards him. Officer McCloud pointed his pistol and gave Mr. McCoy verbal commands to get his hands out of his pockets. Officers Adams, Robinson, and Freeman were on the scene attempting to take Mr. McCoy into custody. Officer McCloud observed officers strike, hit, kick, punch, and slap Mr. McCoy to take him into custody. He could not recall the officers who used physical force and how they actually used the force. Officers used physical force because Mr. McCoy was kicking and not placing his hands behind his back. He restrained Mr. McCoy's legs and pushed them to the ground to assist with placing handcuffs on Mr. McCoy. Officer McCloud slapped Mr. McCoy due to him resisting.

Officer McCloud observed Officer Dickerson restrain Officer Freeman because Officer Freeman was upset due to him being punched in the nose and mouth. Officer McCloud did not complete a Response to Resistance form. Officer McCloud and Officer Dickerson transported Mr. McCoy to jail. Mr. McCoy was medically cleared and was taken inside the jail Mr. McCoy pulled out what appeared to be Xanax pills and took the pills. Officer McCloud stated he and Officer Dickerson transported Mr. McCoy to the Med. They stayed with him until they were relieved by Officer Bissong.

Witness Employee Stanley Dickerson advised that on January 4, 2021, he worked Austin Peay Station, Charlie Shift as a two-man unit. He and his partner, Officer Dareen McCloud heard via radio that an officer had been assaulted, and the suspect was on foot. He and Officer McCloud got in the area of [REDACTED] Thrift and observed the suspect running towards their direction. Officer Dickerson made initial contact with suspect, Therman McCoy, and gave him verbal commands. Mr. McCoy was resisting by kicking, however no force was needed. He was able to place one handcuff on Mr. McCoy's hand, and it was a struggle to place the second cuff because Mr. McCoy would not give up his hand. Officer Dickerson observed Officer Freeman running in an aggressive manner, so he diverted his attention from Mr. McCoy to Officer Freeman. Officer Dickerson grabbed Officer Freeman and observed blood dripping from his face. Officer Dickerson held Officer Freeman to gain composure and calm Officer Freeman. They tussled for a second time and Officer Dickerson fell to the ground, while trying to calm Officer Freeman.

Officer Dickerson was unsure, which officers took Mr. McCoy into custody. Officer Dickerson did observe officers punch Mr. McCoy, but he could not recall which officers punched him. Officer Dickerson said he did not strike, hit, kick, punch or use any physical force on Mr. McCoy. Officer Rodgers and Yancey placed Mr. McCoy into the back seat of his squad car. Mr. McCoy complained that his handcuffs were too tight, and Officer McCloud loosened the cuffs. An ambulance made the scene to assess Mr. McCoy and Lieutenant Taylor also made the scene.

Officer Dickerson and his partner transported Mr. McCoy to 201 Poplar. While inside the Sally Port, Mr. McCoy placed a controlled substance in his mouth. Officers Dickerson and McCloud transported Mr. McCoy to Regional One hospital to be medically assessed. Officer Dickerson and his partner were relieved by another officer.

Witness Employee Jerome Johnson advised that he worked Austin Peay Station, Charlie Shift as a two-man unit on January 4, 2021. Officer Johnson and his partner, Officer Tarvares Wynn, heard a call dispatched from MPD Communications that an officer had been assaulted. Officer Johnson made the area of [REDACTED] Thrift. He and Officer Wynn began looking for a suspect that had assaulted the officer. Officer Johnson participated in a foot pursuit, after he observed the suspect. Officers McCloud and Officer Dickerson caught the suspect and handcuffed him.

Officer Johnson stated while getting the suspect into custody, the suspect was resisting. Officer Johnson observed officers punch the suspect, but he was not certain on how many punches or what officers were using physical force with the suspect. Officer Johnson told officers, "That's enough. That's enough." Officer Johnson was letting the officers know that once handcuffs were on, the suspect is in custody. There were four to six officers who took the suspect into custody, but he could not recall any names. Officer Johnson did not make any physical contact or struggle with the suspect. The suspect was transported by Officer McCloud and Officer Dickerson. Officer Johnson did not observe any injuries to the suspect nor did the suspect complain to him of any injuries. Lieutenant Taylor made scene. He and his partner left the scene and headed to a call on Gregory Street.

Witness Employee Tarvares Wynn advised that he worked Austin Peay Station, Charlie Shift as a two-man unit on January 4, 2021. Officer Wynn and his partner, Officer Jermon Johnson, were dispatched to a call one street over from [REDACTED] Thrift by MPD Communications. Officer Wynn heard a call via radio, regarding an officer who had been assaulted. He and his partner made the area and observed the suspect Mr. Therman McCoy running eastbound on Thrift. There were several officers on the scene. Officer Wynn could only recall himself, his partner, Officer Johnson, and Officer Freeman. Officer Wynn remembered Officer Freeman because Officer Freeman was the officer who was assaulted. When Officer Wynn made contact with Mr. McCoy, he observed officers handling Mr. McCoy in an aggressive manner. McCoy would not place his hands behind his back. Officer Wynn grabbed Officer Freeman to hold him because Officer Freeman was running and he was upset. Officer Wynn could not recall the officers that took Mr. McCoy into custody. Officer Wynn did not have any physical contact with Mr. McCoy. Officer Wynn did not recall Mr. McCoy complaining of any injuries. Lieutenant Taylor made the scene.

Witness Employee Shawn Johnson advised that on January 4, 2021, he worked Austin Peay Station, Charlie Shift, as a one-man unit. Officer Johnson responded to [REDACTED] Thrift, regarding an armed party call. When he arrived on the scene other cars were already there and Mr. Therman McCoy was already inside the back of a squad car. Johnson stated he did not observe or speak with McCoy. Johnson observed Officer Freeman

bleeding from the mouth, but was not on the scene when he sustained injuries. Johnson pulled over to assist officers, and Lieutenant Taylor told him he could return to service and he cleared the scene.

Witness Employee Trevor Jenkins advised that on January 4, 2021, he worked Austin Peay Station, Charlie Shift, as a one-man unit. Officer Jenkins was working a scene involving a search warrant. He heard over the radio that an officer had been assaulted. He made the scene at [REDACTED] Thrift after he finished his previous call. Upon his arrival Mr. Therman McCoy was already inside the backseat of a squad car. Jenkins never made contact with McCoy. He only spoke with Ms. Lauren Cole because she requested to speak with him. Jenkins is familiar with McCoy from previous incidents, and he was just on the scene to assist. Jenkins observed Officer Freeman with blood on his mask. Lieutenant Taylor made the scene.

B) Physical Evidence:

N/A

C) Forensic Evidence:

N/A

D) Recorded Evidence:

1. C.D. of Civilian and Officer Statement
2. C.D.s of Officers Body Worn Camera/In Car Video
3. Log Sheets
4. Photo Log/Photos
5. Printed Communications Event Chronology P2100411395
6. Roll Calls
7. Typed and Signed Civilian Witness Statements
8. Typed and Signed Officer Statements

E) Miscellaneous Evidence:

N/A

VII) AG Review:

The completed case file will be submitted to the Shelby County District Attorney General's office for review pending any disciplinary or corrective action administered for Excessive or Unnecessary Force at the conclusion of all internal disciplinary hearings.

VIII) Analysis:

The primary issue related to this investigation centers upon the actions of the officers and whether their actions transcend the standards of the Memphis Police Department. These standards are established in the Memphis Police Department's DR-301 Excessive force/unnecessary force, which 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 misconduct.

The three standards applied in **Graham v. Connor** were used to determine the reasonableness of the use of force applied by officers

1. The crime at issue in this investigation are ***assault and vandalism, which are a misdemeanors in the state of Tennessee.***
2. The suspect ***Therman McCoy*** posed an immediate threat to the safety of the officers when he assaulted a police officer.
3. Per the video and Officer statements, ***Therman McCoy*** was actively resisting arrest by kicking and not willing to be handcuffed, and attempted to evade arrest once handcuffed.

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.

During the course of this investigation into alleged excessive force / unnecessary force, Officer Freeman used unnecessary force while engaging with Ms. Lauren Cole. According to Officer Freeman’s BWC (6:54), Ms. Cole was standing in front of her door telling Freeman he needed a warrant and no crime had been committed and he could not arrest anyone. Freeman forcefully pushed Ms. Cole away from the entrance of her door as he yelled “Get the fuck out the way!” Officer Freeman stated to ISB investigators that Ms. Cole was interfering with him speaking to McCoy. The push was unnecessary and Ms. Cole complained of two bruises on her arm.

According to Officer Freeman’s BWC (16:30) Freeman ran in an aggressive manner towards McCoy when McCoy was located. There were approximately four other officers who were already attempting to subdue Mr. McCoy prior to Officer Freeman engaging with Mr. McCoy. According to Officer Freeman, he punched Mr. McCoy five or six times because Mr. McCoy was resisting by not allowing officers to place him into handcuffs. According to Officer Freeman’s BWC (16:42), Freeman stated, “Hit this motherfucker,” while the officers were attempting to secure McCoy. According to Officer McCloud’s ICV from P1160, Officers Dickerson, McCloud, Johnson, and Wynn had to divert their attention away from Mr. McCoy and hold Freeman back from contacting Mr. McCoy. Even as they held him back, Freeman kicked McCoy (9:01). According to Dickerson’s BWC and McCloud’s ICV, once those officers’ attention turned back to securing McCoy, Officer Freeman inflicted a series of punches to Mr. McCoy’s face and head, but he used no direct tactics to secure McCoy in handcuffs. Officer Dickerson is then seen pulling Freeman away from McCoy again and holding him back. Due to these facts, Officer Freeman is in violation of DR – 301 Excessive Force / Unnecessary Force (2 counts).

According to Officer Beard’s BWC, Officer Beard did not make physical contact with Ms. Cole. Officer Beard extended her hand in an outward motion to stop Ms. Cole from interfering with Officer Freeman making contact with Mr. McCoy. Officer Beard never

made physical contact with McCoy. Therefore, Officer Beard is not in violation of DR-301 Excessive Force / Unnecessary Force.

Officer Robinson used excessive force while taking Mr. McCoy into custody. During an interview with ISB investigators, Officer Robinson stated she kicked and punched Mr. McCoy. According to Officer McCloud's ICV, Officer Robinson ran to McCoy's location and ran into other officers, knocking them over and causing her to fall over McCoy. Robinson began punching McCoy around the head while other officers were attempting to secure him in handcuffs. Officer Yancey pulled Officer Robinson away from McCoy and restrained her due to her actions. As Yancey pulled her back, Robinson kicked McCoy. Although McCoy was resisting, Robinson's punches and kicks simply inflicted pain and were not contributive in placing McCoy into custody. Therefore, Officers Robinson is in violation of DR-301 Excessive Force / Unnecessary Force.

Other officers on the scene used force to subdue Mr. McCoy while he was actively resisting. During an interview with ISB investigators Officer Adams advised he punched Mr. McCoy in the torso to take him into custody because McCoy was kicking. During an interview with ISB investigators Officer McCloud stated he slapped Mr. McCoy because he was resisting and kicking. According to BWC, these officers were using these tactics while actively attempting to secure McCoy in handcuffs. No force was used after McCoy was secured. Therefore, these officers are not in violation of DR-301 Excessive Force / Unnecessary Force.

The second issue related to this investigation centers upon the actions of officers and whether their actions transcend the standards of the Memphis Police Department. These standards are established in the Memphis Police Department's DR - 101 Compliance with Regulations to wit: Body Worn Camera which states in part:

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.

1. **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.
2. 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.

3. 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").
4. 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.
5. ***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.

During the course of this investigation Officers Freeman, Dickerson, McCloud, Yancey, Robinson, and Adams made the scene of the incident. They did not keep their body worn camera activated throughout the entirety of the incident and provided no reasonable explanation which is allowed by policy. Therefore Officers Freeman, Dickerson, McCloud, Yancey, Robinson, and Adams are in violation of DR – 101 Compliance with Regulation: to wit Body-Worn Camera.

The third issue related to this investigation centers upon the actions of officers and whether their actions transcend the standards of the Memphis Police Department. These standards are established in the Memphis Police Department's 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 Law Enforcement Code of Ethics (stated in part):

Effective law enforcement depends upon a high degree of cooperation between the Department and the public it serves. The practice of courtesy in all public contacts encourages understanding and appreciation; discourtesy breeds contempt and resistance. The majority of the public are law-abiding citizens who rightfully expect fair and courteous treatment by members of the Department. While the urgency of a given situation would demand firm action, discourtesy or disrespect shown toward any citizen is indefensible. The practice of courteous and respectful conduct by a member is not a manifestation of weakness; it is, on the contrary, entirely consistent with the firmness and impartiality that characterizes a professional police officer.

According to Officer Freeman's BWC, he used profanity toward Ms. Cole several times beginning when he pushed her off her porch and told her to "get the fuck out the way (6:54)." He told Ms. Cole numerous times, to "Shut the Fuck up." Freeman left the house on Thrift to go to the location where McCoy was located. When Freeman arrived at that location, he ran down the street yelling at the officers to "Hold on." Officer Dickerson observed Officer Freeman running towards Mr. McCoy in an aggressive manner which caused Dickerson to take his focus off McCoy in order to restrain Freeman. According to Officer Freeman's BWC (16:34), Officer Freeman pushed Officer Dickerson and stated, "Get the fuck off of me." While being restrained, Officer Freeman stated, "Bitch ass nigga you got me fucked up out here." Officer Dickerson stated to ISB investigators, he attempted to restrain Officer Freeman because Freeman was upset. Officer Freeman told Officer Dickerson not to step in front of him again. Officer Freeman used unnecessary force when he encountered Ms. Cole and Mr. McCoy. Officer Freeman pushed his fellow officers who were trying to restrain him, which was unprofessional. Officer Freeman's actions occurred in a neighborhood where he was easily viewed by the public and his actions were discourteous, disrespectful, and he lacked self-control. Officer Freeman's actions reflected negatively on the Memphis Police Department and its members. Therefore, Officer Freeman is in violation of DR – 104 Personal Conduct.

According to Officer Robinson's BWC (10:10), as she was exited the car and ran down the street to approach McCoy, she yelled, "Let Officer Freeman beat his ass." Officer Robinson stated to ISB investigators that she was speaking out her thoughts but did not really mean "Let Officer Freeman beat his ass." Officer Robinson told Officer Yancey "Get the fuck off me," when he was restraining her. According to Officer Yancey's BWC (8:55), Officer Robinson punched and kicked Mr. McCoy while stating "bitch ass nigga, hoe." Robinson stated to Mr. McCoy, "What the fuck wrong with you hoe?" She stated to ISB investigators that she took it personal because McCoy punched Freeman in the mouth. Officer Robinson used unnecessary force when she encountered McCoy. These actions occurred in a neighborhood and were easily viewed by the public. Officer Robinson's actions were unwarranted and degrading, causing embarrassment to the Memphis Police Department and its members. Therefore, Officer Robinson is in violation of DR-104 Personal Conduct.

The fourth issue related to this investigation centers upon the actions of officers and whether their actions transcend the standards of the Memphis Police Department. These standards are established in the Memphis Police Department's DR – 101 Compliance with Regulation to wit: Response to Resistance which states:

Response to Resistance Incidents

- A. It is the responsibility of the officer utilizing deadly force to complete a *Response to Resistance Form* on all incidents involving:
 - 6. The discharge of a firearm (with the exception of recreation or training purposes). (1.3.6a)
- B. It is the responsibility of the officer utilizing less than lethal force to complete a *Response to Resistance* incident in Blue Team on all incidents involving:

1. The use of any part of the officer's body to compel compliance. This would include uses of force that fall in level 5 (Empty Hands Control) of the response to resistance continuum. (1.3.6d)
 2. Chemical agent use. (1.3.6c)
 3. The discharge of a SL-6/IDS and CEW deployment event (1.3.6c)
 4. The use of an MPD canine to apprehend a suspect.
 5. The use of the Baton/Expandable Baton. (1.3.6c)
 6. Whenever a suspect is charged with **T.C.A. 39-16-602 Resisting Arrest**.
 7. Whenever there is a death, injury, or an alleged injury to an officer or suspect(s), as a result of police utilizing less than lethal force. (1.3.6b)
- C. The *Response to Resistance* incident in Blue Team need not be completed for:
1. The mere presence of police officers, the issuance of tactical commands; or
 2. Routine or procedural physical contacts, which are necessary to effectively accomplish a legitimate law enforcement objective. Examples include: guiding a subject into a police vehicle, holding the subject's arm while escorting, handcuffing a subject, and maneuvering or securing a subject for a frisk; or
 3. The pointing of a firearm, SL-6/IDS, or CEW at a subject. When these weapon types are pointed at a subject, a Pointed Weapon Incident in BlueTeam will be completed. This report will **NOT** be a Blue Team threshold indicator of the PEP program, however; it may prompt an intervention. After chain of command approval of the response to resistance incident, the Workstation Commander or his designee will forward the incident to the Inspectional Services Bureau. The Inspectional Service Bureau will forward copies of the response to resistance incident to the Training Academy Firearms.

The *Response to Resistance* incident will be submitted to the supervisor for approval prior to the end of the officer's shift. The Supervisor will ensure that the report has been completed, and will review the incident for any departmental concerns regarding policy and procedures, training, equipment and/or officer conduct. If the Supervisor recognizes that one of these areas needs to be reviewed and addressed by the Memphis Police Department, only then will he/she submit the concerns in a memo and forward the memo with a copy of the *Response to Resistance* incident to the Accreditation Office.

During the course of this investigation it was revealed that Officers McCloud and Rodgers failed to complete a Response to Resistance form entry into Blue Team. Officer McCloud pointed his weapon at and used physical force against Mr. McCoy. Officer Rodgers stated to ISB investigators that he only used minimum force when he tackled Mr. McCoy and did not think he needed to complete the form. This places Officers McCloud and Rodgers in violation of DR 101- Compliance with Regulation to wit: Response to Resistance

Officer Freeman did have his weapon out of the holster while on the scene, but according to body worn camera footage he only pointed the weapon at the house. He did not point the weapon at a subject. Officer Beard pointed her weapon at the back door while officers were inside the home searching for McCoy. Officer Beard did not point her

weapon at any subject. Therefore Officers Freeman and Beard are not in violation of DR 101- Compliance with Regulation to wit: Response to Resistance: *Pointed Weapon*

The fifth issue related to this investigation centers upon the actions of officers and whether their actions transcend the standards of the Memphis Police Department. These standards are established in the Memphis Police Department's DR 101- Compliance with Regulation to wit: Search and Seizure without a Warrant which states in part:

III Authority and Procedures

Officers have the authority to conduct searches and make seizures without a warrant under certain circumstances. These circumstances include, but are not limited to the following:

A. Exigent Circumstances

"Exigent Circumstances" are emergency conditions. A search is reasonable, and a search warrant is not required, if all of the circumstances known to the officer at the time, would cause a reasonable person to believe that entry or search was necessary to prevent physical harm to the officer or other persons; the destruction or concealment of evidence; the escape of a suspect; and if there was insufficient time to get a search warrant. [1.2.4.e]

B. Searches by Consent

Officers may conduct a search of a person or property by obtaining prior consent. The consent must be voluntarily given, and that voluntary consent must be shown to be unequivocal, specific, and intelligently given, uncontaminated by duress or coercion. The consent must be proven to be voluntarily given by a preponderance of the evidence and is never lightly inferred by the courts. The prior consent must be obtained from the person or persons with authority to give a valid consent. Officers should have the proper departmental consent forms, appropriate to the search circumstances, available for their use. If consent is written, consent forms must be signed prior to the search. [1.2.4.a]

According to Officer Beard's BWC, (9:23), Ms. Cole gave verbal consent for officers to go inside the home and check for Mr. McCoy. Lieutenant Taylor gave the order for officers to clear the house. Lieutenant Taylor and Officers Freeman and Joyner went inside in an attempt to locate Mr. McCoy. According to Officer Joyner's BWC (7:35), Officer Joyner forced entry into a locked bedroom by kicking in the door. Officers were unable to locate Mr. McCoy. According to Mr. Tom Henderson (MPD Law Instructor), officers should have asked Ms. Cole to unlock the bedroom or obtain a search warrant. Officers did not have consent to force entry into a locked bedroom. Therefore, this places Lieutenant Taylor and Officers Freeman and Joyner in violation of DR – 101 Compliance with Regulation to wit: Search and Seizure

IX) Conclusion

Based on the facts of the case, the preponderance of evidence shows that, Officer Beard #14107 **IS NOT** in violation of the stated allegation **DR-301 Excessive / Unnecessary Force**. Therefore, the allegation is **EXONERATED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Freeman #13031 **IS** in violation of the stated allegation **DR-301 Excessive / Unnecessary Force**. Therefore, the allegation is **SUSTAINED (2 Counts)**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Freeman #13031 **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 Freeman #13031 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: In-Car Video/Body Worn Camera**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Freeman #13031 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: Search and Seizure**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Robinson #13886 **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 Robinson #13886 **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 Robinson #13886 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: In-Car Video/Body Worn Camera**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer McCloud #13464 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: In-Car Video/Body Worn Camera**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer McCloud #13464 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: Response to Resistance**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Adams #13310 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: In-Car Video/Body Worn Camera**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Dickerson 11666# **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: In-Car Video/Body Worn Camera**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Yancey #13796 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: In-Car Video/Body Worn Camera**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Rodgers #13704 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: Response to Resistance**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Officer Joyner #13457 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: Search and Seizure**. Therefore, the allegation is **SUSTAINED**.

Based on the facts of the case, the preponderance of evidence shows that, Lieutenant Taylor #8863 **IS** in violation of the stated allegation, **DR-101 Compliance with Regulations to wit: Search and Seizure**. Therefore, the allegation is **SUSTAINED**.

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

Case # I2021-002 Statement of Charges

Officer's Name: Freeman, Christopher

IBM # 13031

Rank: POLICE OFFICER II

Assignment: Austin Peay, Charlie

Date: February 1, 2021

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

DR 301 Excessive/Unnecessary Force (2 counts) *(6) SIX DAYS SUSPENSION*
DR 101 Compliance with Regulations to wit: Search and Seizure *(2) TWO DAYS SUSPENSION*
DR 101 Compliance with Regulations to wit: Body Worn Camera *(1) DAY SUSPENSION*
DR 104 Personal Conduct *(4) FOUR DAYS SUSPENSION*

Date of Occurrence: January 4, 2021

Statement of Particulars:

During the course of an investigation into case #I2021-002, an investigation into excessive force / unnecessary force, on January 4, 2021, you pushed a female white off her porch which was unwarranted. You assisted with taking a male white into custody. You stated to ISB investigators that you hit the male white five or six times. You stated you struck the male in the face. There were three or four officers subduing the male when you engaged. You were seen on body worn camera punching the male in the face rather than using other tactics that would directly assist in handcuffing the suspect. **Therefore, you are in violation of DR 301 EXCESSIVE FORCE / UNNECESSARY FORCE (2 counts), which 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

City of Memphis
Police Division
Internal Services Bureau

Case # 1200-003
Statement of Charges

Officer's name (for use in reports)
Rank POLICE OFFICER 1

Assignment Area - Police Station
Date of Assignment

Incident Number, Date, Time, Location, Description of Incident, and Name of Person(s) Involved

On 12/12/00, at 10:00 AM, Officer [Name] was assigned to the 1st Police Station. The incident occurred at the intersection of [Location]. The person(s) involved in the incident was/were [Name(s)]. The incident was a [Description of Incident]. The person(s) involved in the incident was/were [Name(s)]. The incident was a [Description of Incident]. The person(s) involved in the incident was/were [Name(s)].

During the incident, the person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)]. The person(s) involved in the incident was/were [Name(s)].

Officer [Name] was assigned to the 1st Police Station. The incident occurred at the intersection of [Location]. The person(s) involved in the incident was/were [Name(s)]. The incident was a [Description of Incident]. The person(s) involved in the incident was/were [Name(s)]. The incident was a [Description of Incident]. The person(s) involved in the incident was/were [Name(s)].

Officer [Name] was assigned to the 1st Police Station. The incident occurred at the intersection of [Location]. The person(s) involved in the incident was/were [Name(s)]. The incident was a [Description of Incident]. The person(s) involved in the incident was/were [Name(s)]. The incident was a [Description of Incident]. The person(s) involved in the incident was/were [Name(s)].

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 used profanity while speaking to a female white. You stated, "Shut the fuck up" multiple times. You had to be restrained by other officers on the scene. Your actions occurred in a neighborhood easily viewed by the public and your actions were captured on your assigned body worn camera. Your actions were unprofessional and a negative reflection upon the City of Memphis and its members. **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.

During the course of an investigation into case #I2021-002, an investigation into excessive force / unnecessary force, on January 4, 2021, you unlawfully entered a locked bedroom without obtaining consent or a search warrant. **Therefore, you are in violation of Memphis Police Department's DR 101 Compliance with Regulations to wit: Search and Seizure which states in part:**

III Authority and Procedures

Officers have the authority to conduct searches and make seizures without a warrant under certain circumstances. These circumstances include, but are not limited to the following:

A. Exigent Circumstances

"Exigent Circumstances" are emergency conditions. A search is reasonable, and a search warrant is not required, if all of the circumstances known to the officer at the time, would cause a reasonable person to believe that entry or search was necessary to prevent physical harm to the officer or other persons; the destruction or concealment of evidence; the escape of a suspect; and if there was insufficient time to get a search

warrant. [1.2.4.e]

B. Searches by Consent

Officers may conduct a search of a person or property by obtaining prior consent. The consent must be voluntarily given, and that voluntary consent must be shown to be unequivocal, specific, and intelligently given, uncontaminated by duress or coercion. The consent must be proven to be voluntarily given by a preponderance of the evidence and is never lightly inferred by the courts. The prior consent must be obtained from the person or persons with authority to give a valid consent. Officers should have the proper departmental consent forms, appropriate to the search circumstances, available for their use. If consent is written, Consent forms must be signed prior to the search. [1.2.4.a]

During the course of an investigation into case #I2021-002, an investigation into excessive force / unnecessary, on January 4, 2021, you had seven body-worn-camera entries for one incident. You stated to ISB investigators that you turned your camera off to cool down. An audit showed that you stopped your camera during an encounter with a male white. You did not record the event in its entirety. **Therefore, you are in violation of Memphis Police Department's DR 101 Compliance with Regulations to wit: Body Worn Camera.**

PROCEDURES – BODY WORN CAMERA

B. Use of BWC During the Shift

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.

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.

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.

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").

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.

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.

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

Lt. Michael Good 1703
Issuing Officer

Det. Jessica Ryke 12507
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.

[Signature] 13031
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 [Signature] # 9511
Major/Lt. Colonel/Colonel

D/le Paul Wright

Uniform Patrol
District II

City of Memphis
Police Division
Inspectional Services Bureau

SUSTAINED TOTAL (11) DAYS SUSPENSION

Case # I2021-002 Statement of Charges

Officer's Name: Robinson, Niesha

IBM # 13886

Rank: POLICE OFFICER II

Assignment: Austin Peay, Charlie

Date: February 1, 2021

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

DR 301 Excessive/Unnecessary Force

6 DAYS SUSPENSION SUSTAINED

DR 104 Personal Conduct

4 DAYS SUSPENSION SUSTAINED

DR 101 Compliance with Regulation to wit: Body Worn Camera

1 DAY SUSPENSION SUSTAINED

Date of Occurrence: January 4, 2021

Statement of Particulars:

During the course of an investigation into case #I2021-002, an investigation into excessive force / unnecessary force, on January 4, 2021, you assisted with taking a male white into custody. You stated to ISB investigators there were five or six officers who were trying to subdue the male to place him in handcuffs. You were seen on body worn camera kicking and punching the male. Your actions inflicted pain and your tactics did not assist with taking the male into custody. **Therefore, you are in violation of DR 301 EXCESSIVE FORCE/UNNECESSARY FORCE, which 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.

You used profanity while punching a male white. You stated, "Bitch ass nigga, hoe what the fuck wrong with you." You yelled, "Let Officer Freeman beat his ass," as you were running down the street in a neighborhood. Your actions were captured on your assigned body worn camera. Your actions were unprofessional and a negative reflection upon the City of Memphis and its members. **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.

During the course of an investigation into case #I2021-002, an investigation into excessive force / unnecessary, on January 4, 2021, you had three body-worn-camera entries for one incident. An audit showed that you stopped your camera during an encounter with a male white. You did not record the event in its entirety or give a reason allowed by policy. **Therefore, you are in violation of Memphis Police Department's DR 101 Compliance with Regulations to wit: Body Worn Camera.**

PROCEDURES – BODY WORN CAMERA

B. Use of BWC During the Shift

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.

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.

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.

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").

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.

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.

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

x L.T. P. Dotson 6861

Issuing Officer

Det. [Signature] 12507

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.

x [Signature] 13886

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

~~Major/Lt. Colonel/Colonel~~

Dle Paul Wright

DISTRICT II
Uniform Patrol Division I