



# Chattanooga Police Department

**Captain Susan Blaine**  
**Internal Affairs Division**



June 5 2012

Richard McPeek  
[REDACTED]

Dear Mr. McPeek,

This letter acknowledges the receipt of your complaint concerning Officer Sean C. Emmer #921.

The complaint information has been forwarded to Investigator Vincent Holoman for investigation. You will be notified in writing of the outcome upon the completion of the inquiry and administrative review.

Should you have any questions about this process, please contact me at (423)425-7300.

Sincerely,

Captain Susan Blaine  
Office of Internal Affairs

cc: Internal Affairs Division Case File # 2012-36



# Chattanooga Police Department

**Captain Susan Blaine**  
**Internal Affairs Division**



To: Sean C. Emmer #921  
From: Captain Susan Blaine  
Date: June 5 2012  
Subject: Internal Affairs Case # 2012-36

This is notification that an Internal Affairs investigation of-Excessive Use of Force: has been filed against you. The complaint has been forwarded to Investigator Vincent Holoman for investigation. As an employee of the City of Chattanooga and the Chattanooga Police Department, you have the following responsibilities and rights during an Internal Affairs Investigation.

## Responsibilities (also refer to Manual Order ADM-1-Internal Affairs)

1. You must answer all questions put to you by the Investigator of the complaint. If you refuse to answer any questions put to you by the investigator of the complaint, you may be subject to disciplinary action up to and including termination from employment.
2. You must answer each question truthfully. If you do not answer each question truthfully, you will be subject to disciplinary action up to and including termination from employment.

## Rights (also refer to Manual Order ADM-1-Internal Affairs)

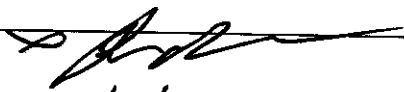
1. The statements that you make in response to the Investigator's questions can never be used against you in any criminal proceeding; except for perjury or false swearing in a subsequent court case, according to U.S. Supreme Court Case-Garrity vs. New Jersey, 385 U.S. 493.
2. Any evidence discovered as a result of the statements that you make in response to the Investigator's questions can never be used against you in any criminal proceedings.

cc: Internal Affairs Division Case File #2012-36

Complainant: Richard McPeck

Complainant was leaving the Southern Comfort Bar at 500 Broad St. at around 0245 hrs. Complainant was waiting on a cab when Officer Emmer told him to move on. Complainant said he told the officer he was waiting on a cab. He said the officer told him to wait somewhere else and he moved down about a block. Complainant said that within a few minutes ~~later~~ ~~later~~ later he was talking to a police officer and another officer came up behind him and hit him in the head and choked him. Complainant said when he was hit and didn't know anything after that. Complainant said the officer he was talking to before he was hit was telling him to move on.

Complainant was arrested for Public Intoxication. Complainant was treated at Erlanger for his injuries. Complainant suffered ~~the~~ scrapes on his face and chest and his right arm is injured/stained. Complainant says he also bit through his tongue.



6/4/2012

## Greer Regina

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**From:** Tucker Eric  
**Sent:** Wednesday, June 06, 2012 8:50 AM  
**To:** Greer Regina  
**Subject:** Richard McPeek

This is the narrative of a D-2 written by Officer Taylor.

This Date received a call from a Pamela Whitman of Physicians Care in Franklin Tn, (615) 681-8950 who stated a Richard McPeek was getting treatment and told them City of Chattanooga was paying the bill.

On 060212 at approx. 1647hrs, police responded to Erlanger Hospital to see a Mr. Mcpeek party concerning his arrest from the previous night. Upon arrival, Mr. Richard Mcpeek stated that he was arrested after leaving the Southern Comfort night club on the previous night and that he wished to make a complaint about the forced used by his arresting officer. Mr. Mcpeek conceded that he was intoxicated and remained on scene even after having been given multiple orders by police to leave the area. He advised that the officer, who is unknown to him, singled him (Mcpeek) out because of his large size and confronted him in front of the Southern Comfort Club and arrested him. He later advised that he could not remember the details of the incident and that the event had been recounted to him by an unknown female party who was staying with him at a downtown hotel. Mr. Mcpeek stated that he was advised by the Hamilton County Magistrate to pursue a complaint against his arresting officer because he (magistrate) is tired of dealing with the officers working in the area of the Southern Comfort bar. Police advised Mr. Mcpeek on the procedures to make a formal complaint through the Chattanooga Police Dept.





# CHATTANOOGA POLICE DEPARTMENT



## ASSISTANT CHIEF RANDY W. DUNN UNIFORMED SERVICES

September 7, 2012

Ref: Internal Affairs Case 2012-36

**Allegations: Excessive Use of Force – Not sustained**

**Officer Involved: Officer Sean Emmer #921 / 63155**

I have reviewed the file and recommendation of the Internal Affairs Division. I concur with the allegation of Excessive Use of Force against Officer Emmer being NOT SUSTAINED.

Respectfully

\_\_A/C Randy W. Dunn #527\_\_\_\_\_

*Chattanooga Police Department  
A/C Randy W. Dunn #527  
Uniformed Services Commander  
3410 Annicola Hwy.  
Chattanooga, TN 37406  
Ph. 423-643-5211  
Fax 423-643-5138  
[dunn\\_r@mail.chattanooga.gov](mailto:dunn_r@mail.chattanooga.gov)*

## Response Detail

Number of Responses : 1

Sequence Number : CPD:2012:Jun:0743

Call Answered		Incident Created 06/02/2012 02:56:35		Incident Sequence Number 0160	
Created 06/02/2012 02:56:35		Dispatched* 06/02/2012 02:56:35 <small>Dispatch Time: 00:00:00</small>		Completed* 06/02/2012 06:56:41 <small>Handling Time: 04:00:05</small>	
				Disposed 06/02/2012 22:32:57 <small>Process Time: 19:36:21</small>	

Response Type : TRAFFIC-TRAFFIC STOP		Atom : 133	
Priority : PRI 2		Zone : B7	
Agency : CPD		ESN :	
State : TN		Alias :	
Agency Type : Police		Common Place :	
Primary Resource : B308			
Handling Resource : 1030CH, 701CH, B306, B307, B308, B309			
Workstation:* BCPosition1			
Agent* Rogers,Jean M.			
Primary Response ? True			
Response Origin : Quick Call		Last Modification Date : 06/02/2012 22:32:57 Defer Date :	
Dispatch Group: CPD			
Disposition Codes : D-09 ARREST			

<b>Incident Information</b>		Validated Address : True	
House Number :	500	City :	CHATTANOOGA
Street Name :	BROAD	State :	TN
Street Type :	ST		
Cross Streets :	5TH 6TH		

\* "First Value" else "Last Value"

### Case Number

Case	Agent	Case Type	Start Date	End Date
CPD:2012:053621	Smith,James Chip		06/02/2012 03:11:40	06/02/2012 03:11:40
CPD:2012:053624			06/02/2012 03:29:47	06/02/2012 03:29:47
CPD:2012:053625			06/02/2012 03:33:46	06/02/2012 03:33:46
CPD:2012:053626			06/02/2012 03:36:39	06/02/2012 03:36:39

### Statuses

Date/Time	Status	Agent / Workstation
06/02/2012 02:56:35:577	Req_Dispatch	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:35:793	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:35:857	S - On Scene	Rogers,Jean M. / BCPosition1
06/02/2012 03:03:24:383	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:05:17:193	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:58:09:477	TR to Erlanger	Hurst,Tequila / BCPosition4
06/02/2012 04:08:11:020	OS at Erlanger	Rogers,Jean M. / BCPosition1
06/02/2012 06:01:15:860	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 06:05:33:183	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 06:56:41:237	Terminated	Rogers,Jean M. / BCPosition1
06/02/2012 22:32:57:143	Disposed	Blake,Liana / BCPosition1 Husain,Waheed / BCPosition4

### Response Address Information

Date/Time	Value	Agent / Workstation
06/02/2012 02:56:35:590	500 MARKET ST, CHATTANOOGA (E 5TH ST/W 6TH ST) #[500-599]	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:45:153	500 broad	Rogers,Jean M. / BCPosition1

06/02/2012 02:56:47:717

500 BROAD ST, CHATTANOOGA (W 5TH ST/W 6TH ST) #[500-599]

Rogers,Jean M. / BCPosition1

**Notes**

<u>Date/Time</u>	<u>Note</u>	<u>Agent / Workstation</u>
06/02/2012 02:56:45:183	Address of CPD:2012:Jun:0743 has been modified from 500 MARKET ST, CHATTANOOGA (E 5TH ST/W 6TH ST) #[500-599] to 500 broad.	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:47:763	Address of CPD:2012:Jun:0743 has been modified from 500 broad to 500 BROAD ST, CHATTANOOGA (W 5TH ST/W 6TH ST) #[500-599].	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:47:870	15 DUPLICATE RESPONSE(S) FOUND	Rogers,Jean M. / BCPosition1
06/02/2012 03:34:18:437	B308 CN 53625	Rogers,Jean M. / BCPosition1
06/02/2012 03:34:31:013	701CH CN 53624 & 53621	Rogers,Jean M. / BCPosition1
06/02/2012 03:37:01:903	B307 CN 53626	Rogers,Jean M. / BCPosition1
06/02/2012 03:58:27:163	adv jail refusing party	Hurst,Tequila / BCPosition4

**Modifications**

<u>Date/Time</u>	<u>Event</u>	<u>Previous Value</u>	<u>Modification</u>	<u>Agent / Workstation</u>
06/02/2012 02:56:35:577	Priority		PRI 2	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:35:577	Response Type		TRAFFIC-TRAFFIC STOP	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:35:637	Zone		B7	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:35:877	Sequence Number		CPD:2012:Jun:0743	Rogers,Jean M. / BCPosition1
06/02/2012 04:09:44:177	Disposition Code		D-09 ARREST	Smith,James Chip

**Resources & Agents involved**

<u>Resource Name</u>	<u>Activation Time</u>	<u>Deactivation Time</u>	<u>Agent</u>
B306	06/02/2012 04:12:01:317	06/02/2012 07:31:21:820	Lupo,Sheridan
B307	06/02/2012 02:56:51:543	06/02/2012 05:24:50:197	Clay,Todd M.
B308	06/02/2012 03:27:07:240	06/02/2012 07:31:15:353	Emmer,Sean C.
B309	06/02/2012 02:56:35:777	06/02/2012 05:25:22:930	Smith,James Chip

**Resource Activities**

<u>Date/Time</u>	<u>Resource Name</u>	<u>Status</u>	<u>Agent / Workstation</u>
06/02/2012 02:56:35:747	B309	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:35:840	B309	S - On Scene	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:51:527	B307	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 02:56:53:747	B307	S - On Scene	Rogers,Jean M. / BCPosition1
06/02/2012 03:03:21:727	1030CH	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 03:03:24:367	1030CH	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:04:16:350	B307	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:05:17:177	1030CH	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:08:32:877	B307	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:12:52:970	B309	Terminated	Rogers,Jean M. / BCPosition1
06/02/2012 03:25:25:757	B307	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:27:07:223	B308	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 03:27:10:097	B308	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:27:11:240	B307	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:28:01:457	B308	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:29:56:300	701CH	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 03:29:58:753	701CH	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 03:58:09:460	B308	TR to Erlanger	Hurst,Tequila / BCPosition4
06/02/2012 04:08:10:990	B308	OS at Erlanger	Rogers,Jean M. / BCPosition1
06/02/2012 04:09:49:427	B307	Terminated	Rogers,Jean M. / BCPosition1
06/02/2012 04:12:01:283	B306	DP - Dispatched	Rogers,Jean M. / BCPosition1
06/02/2012 04:12:04:517	B306	OS at Erlanger	Rogers,Jean M. / BCPosition1
06/02/2012 04:12:17:173	701CH	Terminated	Rogers,Jean M. / BCPosition1
06/02/2012 04:22:30:790	B306	Terminated	Rogers,Jean M. / BCPosition1
06/02/2012 05:55:37:800	1030CH	Terminated	Rogers,Jean M. / BCPosition1
06/02/2012 06:01:15:843	B308	TR to HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 06:05:33:167	B308	OS at HC Jail	Rogers,Jean M. / BCPosition1
06/02/2012 06:56:41:207	B308	Terminated	Blake,Liana / BCPosition1

\*Indicates manual entry time

**Vehicles**

<u>Date/Time</u>	<u>Make</u>	<u>Model</u>	<u>Year</u>	<u>License #</u>	<u>Color</u>	<u>Color2</u>	<u>Involvement</u>
06/02/2012 02:56:35:933							



# Chattanooga Police Department

**CAPTAIN SUSAN BLAINE #545**

**INTERNAL AFFAIRS DIVISION**

Phone: (423) 425-7304

E-mail: [blaine\\_susan@mail.chattanooga.gov](mailto:blaine_susan@mail.chattanooga.gov)



Richard McPeck



08/22/12

Mr. McPeck,

I just wanted to update you on the status of your complaint to Internal Affairs alleging Officer Sean Emmer used excessive force when arresting you for public intoxication on 06/02/12. Investigator Holoman has completed his investigation and we are now waiting to present this IA case at the next Administrative Review Committee meeting that is scheduled for 09/12/12. After the ARC meeting, this case will be sent to the Chief of Police for review and a final disposition. You will be notified by letter of the final outcome of your complaint once it is finalized.

Sincerely,

Captain Susan Blaine # 545  
Internal Affairs Commander



Phone: (423) 643-5116

# Chattanooga Police Department

**Deputy Chief Tommy B. Kennedy**



3410 Amnicola Highway  
Chattanooga, Tennessee 37406  
E-mail: kennedy\_tom@mail.chattanooga.gov



FAX: (423) 643-5139

Bobby H. Dodd  
Chief of Police  
3410 Amnicola Highway  
Chattanooga, TN.,  
37406

September 10, 2012

IA Case 2012-36

Chief Dodd,

I have reviewed the investigation and concur with the recommendation of Assistant Chief Dunn.

Allegations: Excessive Use of Force – Not Sustained

Officers Involved: Officer Sean Emmer #921

Respectfully Submitted,

Tommy B. Kennedy  
Deputy Chief

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**CHATTANOOGA POLICE DEPARTMENT**  
INTERNAL AFFAIRS DIVISION  
**REPORT OF INVESTIGATION**

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<b>CASE NUMBER:</b> IA #2012-36	<b>TYPE OF REPORT:</b> Investigative Report
<b>SUBMITTED BY (Title &amp; Name)</b>  Investigator Vincent Holoman #787/43792	<b>SUBMITTED DATE</b>  August 22, 2012
Page 1 of 19 Pages	

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**INVOLVED OFFICER:** Officer Sean Emmer #921 / 63155

**ALLEGATION:** Excessive Use of Force

**COMPLAINT**

Complainant Richard McPeek states that he was arrested outside of the Southern Comfort Bar, 500 Broad St., for public intoxication. Mr. McPeek states that he was hit from behind by Officer Emmer after being told to move along. Mr. McPeek reports that he has abrasions on his face, bruises on his neck and chest and a lacerated tongue that required stitches. Mr. McPeek also stated that his right arm was very sore from the incident but doesn't know what happen to it. Mr. McPeek says that he doesn't know what happened after the initial strike.

**INVESTIGATION**

**INTERVIEW:** Complainant - Richard McPeek W/M, [REDACTED], phone #: [REDACTED]  
[REDACTED]

**DATE / TIME:** June 4, 2012 / 1522 hrs.

**LOCATION:** Office of Internal Affairs

**INTERVIEWED BY:** Sergeant Larry Guthrie #532 / 31537

On June 4, 2012, Sergeant Guthrie received a statement from Richard McPeek in reference to his complaint of Excessive Use of Force on Officer Sean Emmer #921 / 63155 that occurred on June 2, 2012. A summary of his recorded statement is as follows:

Photographs of Mr. McPeek's injuries were taken at the time of his interview and placed in this case file.

Mr. McPeek's medical records pertaining to this incident were obtained from Erlanger Hospital and placed in

this case file on 5 June 2012.

I asked Mr. McPeek to tell me what happened. Mr. McPeek said he lives in Nashville and was in Chattanooga for a wedding. He said he was staying at the Chattanooga and took a cab to the Southern Comfort Bar, 500 Broad St. He said he just told the cab driver to take him to the busiest bar there was. He said when it was time to leave the bar they were going to take a cab back to the hotel. He said there were four people in his party and two had already left. He said he walked out of the bar to get a cab and his other friend was still inside the bar. Mr. McPeek said he was standing right in front of the bar when an officer told him to clear the area. He said he had not called a cab but was trying to flag one down. Mr. McPeek said he told the officer he was waiting on a cab and the officer told him to go wait somewhere else. Mr. McPeek said he walked about a block away, maybe not that far. I asked him how many officers were out there. He said there were about five officers out in front of the bar just hanging out. I asked him if the officer that told him to move on is the same officer that arrested him. He said yes. I asked him if there was anything going on outside the bar (fights, disorders, etc). He said there were no fights. I asked him if there were a lot of people out there at that time. He said yes. He said the only fights were cops arguing with people.

Mr. McPeek said while he was standing out there he saw one man in the back of a police car handcuffed. He said the man was wiggling and a cop told him if he didn't quit he was going to drag him out and whip his ass. He said all of the cops were being real aggressive.

I asked Mr. McPeek how far he walked after he was told to leave the area. He said he walked to the next corner past the parking lot.

Mr. McPeek said he got to the bar at around 2330 hrs. I asked him if he was in the bar from 2330 to 0245. He said until 0245-0300 hrs. I asked him how much he had drunk. He said he couldn't tell me. He said "I wasn't sober". I asked him if he drank at the rehearsal dinner he had been to. He said no. I asked "so you didn't start drinking until 2330 hrs?" He said no, he had a drink before at the hotel.

I asked Mr. McPeek what happened after he walked down the street. He said the same officer came up to him again and said "I thought I told you to get to walking." He said he told the officer he was still trying to catch a cab; that was the only way he had to get back to the hotel. He said another officer came up and was also telling him to get walking. He said then everything went black; he felt something hit him and he hit the ground.

Mr. McPeek said there were a lot of officers out there and they were trying to get people to move on.

I asked Mr. McPeek if he remembers either officer's name that told him to move on. He said no; just that he was a big guy. I asked him if he was talking to the big officer when he got hit. He said he was talking to the smaller one. I asked him what that officer looked like. He said dark hair, a little grayish, and mustache. I asked him if



he could see both officers at that time. He said no. He said one officer walked up and told him "I thought I told you to get walking." Mr. McPeek said he turned back to the smaller officer and tried to explain to him that he was waiting on a cab. He said he then got whacked. I asked him if the officer that hit him was behind him. He said yes. He then said he didn't know if he was behind him or beside him because his left jaw is where he was hit. I asked him what he was hit with. He said he didn't know. I asked him if he saw the officer hit him. He said no then said he may have at the time but after getting hit he doesn't remember anything. He said he came to in the cop car with blood all over him.

I asked Mr. McPeek if there were any witness to this incident. He said there were plenty of people out there but he doesn't know anyone's name. I asked him if his friend that was with him saw anything. He said no, he was still inside the bar.

I asked Mr. McPeek if he knew the person who told him about the events which he wrote in his statement. He said it was some guy who was in the holding cell with him at the jail. He said one guy (in the jail cell with him) told him he was in handcuffs being choked with a knee on his chest and that more than one was on him. Mr. McPeek said the other guy in the cell with him told him he saw him get hit and go down and several officers jumped on him and handcuffed him. I asked him if these guys in the cell with him were arrested outside the Southern Comfort also. He said yes; he said these guys got maced. Mr. McPeek said that one of the bar managers told him that two of the bar employees also got maced that night.

I asked Mr. McPeek "so when you were hit you were either knocked unconscious or addled so that you didn't know what was going on, is that right?" He said yes. I asked him how he got the scrapes on his face. He said he didn't know. He said at one point he remembers getting hit but can't tell how that happened. I asked him how his right arm got injured. He said he didn't know but he said he had handcuff marks on his wrist and is assuming that is how it happened. I asked Mr. McPeek if he knows how he bit his tongue. He said he is assuming it happened when he first got hit. I asked him about the bruise on his neck and chest. He said he does not remember. He said he was told one officer had a knee on his chest while they were trying to get his hands behind his back. Mr. McPeek said he does not know the names of any of the guys who were telling him this information.

I asked Mr. McPeek if the arresting officer took him to the hospital. He said yes, about an hour and a half after he was arrested. I asked him if he went to jail first then to the hospital. He said no. I then asked him why it took an hour and a half to get to the hospital. He said he does not know; he was sitting in the police car after being arrested. Mr. McPeek said he had to have stitches in his tongue. Mr. McPeek said he went back to Erlanger hospital after being released from jail because he thought his jaw was broken by the way it was swelled. He said a cap was also knocked off one of his teeth and another one was chipped.

I asked Mr. McPeek if we could get a copy of his medical records pertaining to this incident. He said yes. Those medical records were obtained and placed in this case file.

I asked Mr. McPeek some questions from Officer Emmer's UOF report:

I asked Mr. McPeek if any of the officers asked him about getting him a ride home that night. He said no. He said he told them he was waiting on a cab and that seemed to anger them. I asked him why that would anger the officers. He said the only aggressors that night were the officers. He said the people coming out of the bar may have been annoying but they weren't arguing or fighting.

I asked Mr. McPeek if at any time he was trying to step in and interfere with the officers while they were trying to arrest someone else. He said no.

I asked him if he remembered everything that happened up to the time he got hit. He said yes. I said "and there were no disorders going on; were the officers trying to arrest anybody else?" He said no but he did see one guy that had already been arrested when he got out there. He did not see that guy get arrested.

I asked him if he saw the officers' mace anybody. He said no.

I asked him if he was angered with the officers for telling him to move on. He said no. I asked him about the second time they told him to move on. He said no, he tried to explain to them that he was waiting on a cab.

I asked him if the officers said anything to anybody else about taking him home. He said no.

I asked him again if he was trying to interfere with the officers or say something to them while they were trying to arrest someone else. He said no.

I asked him if he had a pocket knife on him that night. He said yes. I asked him if they took it off him before he was arrested. He said he didn't know.

I asked him again if the officer that arrested him asked him about getting him a ride home before he arrested him he said no. I asked him if any officer said anything about getting him a ride home. He said no.

I asked Mr. McPeek if he took a fighting stance or clinched his fist while the officers were talking to him. He said no. I asked him if he ever had any intention of fighting. He said no. He said he has never thought about fighting a cop.

Mr. McPeek said he did get angry while he was being taken to jail and the officer made it sound like he was doing him a favor by only charging him with public intoxication when he could charge him with more. Mr. McPeek said he was sitting there bleeding like a stuck pig and it seemed ridiculous. He said as beat up as he was he would think he would be charged with resisting arrest. Mr. McPeek said there was no way he was resisting arrest.

End Interview at 1543 hrs.

### **Southern Comfort Security Video**

On 11 June 2012 I, Sgt. Guthrie, went to the Southern Comfort Bar and talked to Larry Chitwood. Mr. Chitwood provided me with two flash drives that contained security video from June 2<sup>nd</sup> and June 3<sup>rd</sup>, 2012. On 12 June 2012 I took the flash drive with the video from June 2, 2012, to Mark Hamilton and asked him if he could enhance or zoom in the video. Mark Hamilton was able to zoom in a little but the action is taking place a good distance from the camera, up around the intersection of W. 5<sup>th</sup> St and Broad St. Mr. McPeck can be seen walking from the bar toward W. 5<sup>th</sup> St but his arrest cannot be seen.

### **Review of Southern Comfort Security Video**

**02:45:07 Video begins;** Two deputies standing at front door; three police cars parked in street in front of bar; officers standing outside at their cars talking; people coming out of the bar.

**02:48:14** McPeck walks out turns and staggers then walks back inside.

**02:48:28** McPeck walks back inside.

**02:50:46** McPeck walks outside talking to a female; deputy is standing at door then walks off.

**02:51:03** McPeck walks back inside bar.

**02:51:10** deputy walks back to door; McPeck is pushed outside by a bouncer then turns around talking to the bouncer; deputy is standing there taking no action.

**02:51:20** Unknown B/M walks up to McPeck and leads him away, walking north toward 5<sup>th</sup> St.

**02:51:28** Deputy takes off toward 5<sup>th</sup> St.

**02:51:35** McPeck disappears in the crowd at the hotdog stand; police are seen in the distance wrestling someone to the ground; Can't tell who the officers are nor who the suspect is; action is taking place close to the intersection of W. 5<sup>th</sup> St.

**02:52:38** One suspect is escorted to the rear patrol car parked on Broad St by two police officers; can't tell who the suspect is nor who the officers are

**02:52:52** 2<sup>nd</sup> suspect is led down Broad St by an officer (later identified as Officer Robertson)

**INTERVIEW:** Officer Todd Clay #410 / 61843

**DATE / TIME:** June 19, 2012 / 0718 hrs

**LOCATION:** Office of Internal Affairs

**INTERVIEWED BY:** Investigator Vincent Holoman #787 / 43792

**EMPLOYEE RIGHTS AND RESPONSIBILITIES:** Acknowledged and Signed

On June 19, 2012, I, Investigator Holoman received a statement from Officer Todd Clay in reference to a complaint of Excessive Use of Force that occurred on June 2, 2012 involving Officer Sean Emmer #921 / 63155. Upon Officer Clay acknowledging and signing his Employee Rights and Responsibilities, I received a recorded statement. A summary of his statement is as follows:

I asked Officer Clay if he was familiar with the incident at the Southern Comfort bar on June 2<sup>nd</sup>. He said he was. Officer Clay said he was delayed in getting to Officer Emmer's location because he was in the 400 block of Broad Street and Officer Emmer was at 511 Broad Street which is Southern Comfort Bar. Officer Clay said they (officers) sit out in front of the bars when they close. Officer Clay said that Sergeant Turner got on the radio and called 412 (fight) at Southern Comfort. He said when he got on the scene the first thing he saw was two (2) Hamilton County officers putting someone in a city patrol car. He said people were running around everywhere. Officer Clay said that next door to Southern Comfort is Sugar's Ribs and next to Sugar's Ribs is a parking lot (on the north side) He said just on the other side (North) of W. 5th Street there is a gravel parking lot. He said in that parking lot there was two males, one black and one white and the black male was holding the white male back; pushing on his chest. Officer Clay said the white male appeared to be trying to get back to the parking lot of Sugar's Ribs. Officer Clay said he saw Officer Emmer and another officer walk toward the two males to see what was going on. Officer Clay said he heard Officer Emmer telling the black male to get a cab or whatever he had to do. He said the black male was still holding the white male back. Officer Clay said the black male turned to Officer Emmer and told him "look, I don't even know this guy; I'm just trying to keep him out of trouble". Officer Clay said that Officer Emmer told the black male to go ahead and leave and they would get him a ride. He said the black male then left going toward Chestnut Street.

Officer Clay said Officer Emmer was talking to the white male and the white male kept saying "that's fucked up what you did to my friend". He said Officer Emmer again told the white male to get a cab and go home. He said the white male again said "no, that's fucked up what you did to my friend". Officer Clay said he was standing about ten feet behind Officer Emmer at the time. He said he saw the white male take a step back and take a stance and then saw Officer Emmer hit the white male twice with straight punches. He said the white male came back toward Officer Emmer and the two locked up and they went to the ground. Officer Clay said he

went over and told Officer Emmer to give him some cuffs and he then helped get the male handcuffed.

I asked Officer Clay about the stance the white male took. He said initially he stood with his shoulders squared but he then took a step back with his right foot. Officer Clay said he could not see the male's whole body due to being behind Officer Emmer. He said Officer Emmer reacted quickly.

Officer Clay said after they got the male handcuffed they stood him up and the male again said "that's fucked up what you did to my friend". Officer Clay said they then took the male to his patrol car which was parked in front of Sugar's Ribs. Officer Clay said he saw that the male's mouth was bleeding and he asked him if he needed an ambulance. He said the male responded "no I'm good, I'm good". Officer Clay said he then transported the male to the jail. He said Officer Emmer came also because it was his arrest.

I showed Officer Clay a picture of the complainant, Richard McPeck, and he identified McPeck as the person who was arrested.

I asked Officer Clay if there was an officer standing behind Mr. McPeck while Officer Emmer was talking to him. He said he doesn't recall. I asked him if more than one officer struck Mr. McPeck. He said not that he saw. He said Mr. McPeck went to the ground pretty quickly.

I asked Officer Clay if he thought Officer Emmer could have handled this in a different way. He said Officer Emmer and Mr. McPeck were very close and if he was in that situation and someone made a move toward him he would have to do something quickly because he would not have time to transition to any other weapon. He said he may have reacted the same way if he perceived the same threat.

End Interview at 0731 hrs.

**INTERVIEW:** Officer Ben Johnson, Hamilton County Sheriff Department

**DATE / TIME:** June 28, 2012 / 1722 hrs.

**LOCATION:** HCSD Internal Affairs Office

**INTERVIEWED BY:** Sergeant Larry Guthrie #532 / 31537

On June 28, 2012, Sergeant Guthrie received a statement from Officer Ben Johnson of the Hamilton County Sheriff Department as a witness to the alleged complaint of Excessive Use of Force that occurred on June 2, 2012 involving Officer Sean Emmer #921 / 63155. A summary of his statement is as follows:

This interview was recorded (audio only).

I asked Deputy Johnson if he remembered the incident on June 2, 2012 at the Southern Comfort Bar. He said he did. I showed him a mug shot photo of Richard McPeek and asked him if he remembered him. He said he did. I showed Deputy Johnson the video from the Southern Comfort Bar and Deputy Johnson did recognize Mr. McPeek coming out of the bar. I asked Deputy Johnson what he observed about Mr. McPeek. He said Mr. McPeek was extremely intoxicated. He said Mr. McPeek had spoken to him several times during the night. The video showed Mr. McPeek walking back into the bar and Deputy Johnson said Mr. McPeek punched a window inside the bar and he (Johnson) told him (McPeek) that he needed to go home because he was intoxicated.

Deputy Johnson said later Deputy Adams got into a scuffle up the street and he went to help him. He said while there Mr. McPeek came up behind him and he turned and pushed Mr. McPeek away from him.

Back to the video, I told Deputy Johnson that it looks like a bouncer literally throws Mr. McPeek out the door. He said that was Terry Yates (bouncer) who had gotten onto Mr. McPeek telling him he needed to go on because he had been hitting things inside the bar. Deputy Johnson said after Mr. McPeek was thrown out an unknown black male took him away to keep him from going to jail. Deputy Johnson said shortly after that is when he saw Deputy Adams get into a scuffle up the street. I asked him when the next time he saw Mr. McPeek was. He said during the scuffle Mr. McPeek walked up behind him. I asked him if Mr. McPeek said anything to him at that point. He said Mr. McPeek said he was here to help. Deputy Johnson said he turned and pushed Mr. McPeek away. He said later he noticed that the unknown black male still had Mr. McPeek walking him around. Deputy Johnson said a lot of fights broke out around the same time and they were busy.

I asked Deputy Johnson if he saw Mr. McPeek have a confrontation with Officer Emmer. He said he didn't. He said the last time he saw Mr. McPeek was just before he left and he saw Mr. McPeek with the black male across the street (5<sup>th</sup> St.). I asked Deputy Johnson if he knows how Mr. McPeek got any of his injuries. He said no. He said as he was leaving he saw the officers putting Mr. McPeek in the patrol car.

In review I asked Deputy Johnson "your observation of Mr. McPeek was that he was very intoxicated and was causing trouble and that got him thrown out of the bar?" He said yes.

I asked Deputy Johnson if Mr. McPeek ever said anything to him about waiting on a cab or calling a cab. He said he didn't. He said he remembers that Mr. McPeek was there with a group of five or six people and he was from Nashville here for a wedding. He said they were staying at the Chattanooga and the other people in the group walked back to the hotel. I asked if they left Mr. McPeek and he said yes.

I asked Deputy Johnson if he ever saw Mr. McPeek walk out to the street to wave down a cab. He said no.

I asked Deputy Johnson if Mr. McPeek tried to interfere in the arrest he and Deputy Adams were trying to make. He said no, McPeek said he was trying to help. He said Mr. McPeek was just in the way and he pushed him

back. I asked him if the B/M took McPeek away then. He said yes.

I asked him if he knew what started all the fights that night. He said he didn't.

I asked Deputy Johnson if he heard Mr. McPeek say anything after his arrest. He said no.

End Interview at 1735 hrs.

**INTERVIEW:** Officer Sheridan Lupo #741 / 63868

**DATE / TIME:** July 6, 2012 / 0702 hrs.

**LOCATION:** Office of Internal Affairs

**INTERVIEWED BY:** Sergeant Larry Guthrie #532 / 31537

**EMPLOYEE RIGHTS AND RESPONSIBILITIES:** Acknowledged and Signed

On July 6, 2012, Sergeant Guthrie received a statement from Officer Sheridan Lupo in reference to a complaint of Excessive Use of Force that occurred on June 2, 2012 involving Officer Sean Emmer #921 / 63155. Upon Officer Lupo acknowledging and signing his Employee Rights and Responsibilities, a recorded statement was received. A summary of his statement is as follows:

I asked Officer Lupo if he remembered the incident of June 2, 2012, outside the Southern Comfort bar. He said he did. I showed him a mug shot of Mr. McPeek and asked him if he remembered Mr. McPeek. He said he did. I asked Officer Lupo if he was involved in the arrest of Mr. McPeek. He said he was. I asked him if he was one of the officers that were parked in front of the bar before the fights broke out. He said no, he came from 400 Market Street. He said he responded when Sergeant Turner put out a fight call on the radio.

I asked Officer Lupo to tell me about the arrest of Mr. McPeek. He said when he arrived on the scene there was a lot of disorders going on all the way from Southern Comfort up past Sugar's Ribs in the parking lot. He said several officers were dealing with several things including Officer Emmer. He said a lot of the people out there were part of a wedding party and the officers were telling them to get their buddies and get them out of here. He said there were already some people that had been arrested.

I asked Officer Lupo to tell me what he observed Mr. McPeek doing. He said when he first saw Mr. McPeek he was with several friends. He said that Mr. McPeek was being aggressive not only toward police officers but other people on the street. Officer Lupo said Mr. McPeek's friends got him and took him away. He said a short

while later he noticed Mr. McPeek again with friends that were trying to get him to leave. He said Mr. McPeek was still aggressive and yelling. Officer Lupo said he doesn't remember what Mr. McPeek was saying. He said they (officers) went over to deal with Mr. McPeek. He said he thought that Officer Emmer got to him first. He said there was a black male with Mr. McPeek trying to get Mr. McPeek to leave. He said eventually the black male left.

Officer Lupo said Mr. McPeek was saying something like he can't believe you did that to my friend. He said Mr. McPeek was extremely intoxicated. He said Officer Emmer said something to Mr. McPeek about getting a taxi. He said Officer Emmer took a pocket knife from Mr. McPeek. He said Mr. McPeek took a fighting stance and Officer Emmer told him that he was trying to get him a taxi; don't make the mistake of fighting with the police. Officer Lupo said to him it looked like Officer Emmer was reacting. He said he did not see what Mr. McPeek did because he was on the back side of him. He said the next thing he knew Mr. McPeek and Officer Emmer were locked up. Officer Lupo said he grabbed hold of Mr. McPeek and they struggled to get him on the ground. Officer Lupo said after they got Mr. McPeek in custody he calmed down and talked to them saying it was his fault.

I asked Officer Lupo if he saw Officer Emmer hit Mr. McPeek. He said yes. He said Mr. McPeek took an aggressive stance and Officer Emmer reacted. He said he thought Officer Emmer hit Mr. McPeek two times then they tied up and other officers grabbed him to wrestle him to the ground. I asked Officer Lupo if Mr. McPeek tried to pull his pocket knife on the officers. He said no. I asked Officer Lupo if the rest of the fight after Officer Emmer hit Mr. McPeek was just to get him handcuffed. He said yes.

Officer Lupo said he didn't know if Mr. McPeek had been involved in any other fights that night before he was arrested. I asked him if he knows how Mr. McPeek's tongue got split. He said no. Officer Lupo said it was a good struggle to get Mr. McPeek in custody.

Officer Lupo said this is a regular occurrence, dealing with people coming out of the bar that have been over served (intoxicated). He said he doesn't know what friends Mr. McPeek was talking about. He said the B/M left him.

Officer Lupo said he went to the hospital and Mr. McPeek had calmed down and was talking to him and was worried about what his wife was going to think.

End interview at 0718 hrs.

**INTERVIEW:** Officer Matthew Robertson

**DATE / TIME:** July 6, 2012 / 0721 hrs.



**LOCATION:** Office of Internal Affairs

**INTERVIEWED BY:** Sergeant Larry Guthrie #532 / 31537

**EMPLOYEE RIGHTS AND RESPONSIBILITIES:** Acknowledged and Signed

On July 6, 2012, Sergeant Guthrie received a statement from Officer Robertson in reference to a complaint of Excessive Use of Force that occurred on June 2, 2012 involving Officer Sean Emmer #921 / 63155. Upon Officer Robertson acknowledging and signing his Employee Rights and Responsibilities, a recorded statement was received. A summary of his statement is as follows:

I asked Officer Robertson if he remembered the incident on June 2, 2012, outside the Southern Comfort bar. He said he did. I asked him if he was involved in the arrest of Mr. McPeck. He said no. I asked him if he remembers seeing Mr. McPeck that night. He said he saw him at the jail. I asked him if he saw Mr. McPeck at Southern Comfort. He said if he did see him he did not stand out.

I asked Officer Robertson when he got involved in the incident at Southern Comfort. He said there were a lot of people out there and the crowd had moved down to the parking lot past Sugar's Ribs and there were a lot of disorders happening. He said the police were trying to clear the parking lot and he heard someone yell "F the police". He said he did not see Mr. McPeck in the parking lot and that he did make an arrest on another party. Officer Robertson said there were a lot of angry people out there and as soon as he got his suspect in custody and up off the ground he took him to his patrol car and took him to jail.

Officer Robertson said he did not see anything concerning Mr. McPeck. I asked him if he saw the officers fighting with Mr. McPeck. He said no.

End Interview at 0723 hrs.

**INTERVIEW:** Officer Sean Emmer #921 / 63155

**DATE / TIME:** July 31, 2012 / 1409 hrs.

**LOCATION:** Office of Internal Affairs

**INTERVIEWED BY:** Investigator Vincent Holoman #787 / 43792

**EMPLOYEE RIGHTS AND RESPONSIBILITIES:** Acknowledged and Signed

On July 31, 2012, I, Investigator Holoman received a statement from Officer Sean Emmer #921 / 63155 in reference to a Use of Force complaint that occurred on June 2, 2012 at the Southern Comfort Bar, 500 Broad Street. Upon Officer Emmer acknowledging and signing his Employee Rights and Responsibilities, I received a recorded statement. A summary of his statement is as follows:

Officer Sean Emmer has been with the Chattanooga Police Department for four (4) years. He is currently assigned to midnight Shift Bravo Team.

Officer Emmer recalled the incident that occurred on June 2, 2012. Officer Emmer stated Bravo Team officers sit outside the bars / clubs as they are letting out. That morning they were sitting in front of the Sugar Ribs. As the bar was letting out, someone in the crowd yelled “fuck the police”, directing it to the two (2) Hamilton County Sheriff Officers (Deputy Ben Johnson and Sergeant Sharpie Adams) working at the club as an extra job. Officer Rankhorn went over to put that party in custody. Officer Emmer stated he also arrested a party during this exchange. Officer Emmer stated while he was assisting Officer Rankhorn with his arrest, he notices Mr. McPeek beginning to charge at police while friends are holding him back. Officer Emmer tells one of Mr. McPeek's friends to get him out of the area. Officer Emmer stated after placing the arrested party in his patrol car, he went back to assist with the crowd. He then notices Mr. McPeek standing in the parking lot with another party. Officer Emmer advised the friend to get Mr. McPeek out of the area. The friend advised he didn't know McPeek and he was just trying to keep him from crossing the street towards police. Officer Emmer told the unknown party to leave.

While reasoning with McPeek, Officer Emmer observes that Mr. McPeek is intoxicated and notices a pocketknife. Officer Emmer stated he removed the pocketknife from McPeek. Officer Emmer stated other officers were with him during this confrontation with Mr. McPeek. Officer Emmer stated he asked Mr. McPeek if he wanted a cab. Mr. McPeek then clinched his fist and took a defensive stance towards Officer Emmer. Officer Emmer stated he told Mr. McPeek, “Don't make the mistake of fighting with police.” Officer Emmer stated he was in an FI position while he was talking to Mr. McPeek. Officer Emmer stated as Mr. McPeek started to bring his hands up, he struck Mr. McPeek in the lower chin with his right fist in a motion to create distance. Officer Emmer stated he was told he hit Mr. McPeek twice but doesn't remember the second punch. He believes he may have hit him in the jaw. Both punches were straight punches. Officer Emmer stated he then grabbed Mr. McPeek by the back of the neck and took him to the ground. As Mr. McPeek continued to struggle on his stomach, other officers assisted placing Mr. McPeek in custody. Mr. McPeek was then transported to the jail by Officer Clay. Officer Emmer stated while at the jail, he noticed that Mr. McPeek's tongue was split open and he was spitting blood. Officer Emmer saw that Mr. McPeek's tongue was bleeding and transported him to Erlanger Hospital for treatment.

Officer Emmer stated Mr. McPeek went back to the hospital the next day and called police to file a complaint on him. Mr. McPeek told the officers that the chief magistrate told him to file a complaint on Officer Emmer. Officer Emmer expressed his concern about this magistrate having something against him. Officer Emmer stated he was called anonymously by a court clerk advising him that this magistrate is advising people to complain on him.

Officer Emmer stated he only charged Mr. McPeek with Public Intoxication because he felt his actions were a result of his intoxicated state.

This investigator asked Officer Emmer why he only charged Mr. McPeek with Public Intoxication. He should have also been charged with disorderly conduct, resisting arrest and assault on police. Officer Emmer stated he was trying to give Mr. McPeek a break.

I advised Officer Emmer that Mr. McPeek has no recollection of the incident and was told by parties that were arrested with him of the police actions. I advised Officer Emmer that Mr. McPeek was told that police officers were choking him with their knee on his chest while they were placing him in custody. Officer Emmer stated Mr. McPeek was on his stomach while being placed in custody. Officer Emmer stated the other parties that were in custody, were handcuffed in police vehicles waiting to be transported to jail. He was not sure how they could have seen what was going on.

This investigator asked Officer Emmer why he didn't use his tazer on Mr. McPeek. Officer Emmer stated he didn't have time. Officer Emmer stated he perceived Mr. McPeek's actions as a threat and reacted by punching Mr. McPeek in the face to create distance.

I asked Officer Emmer was there another police officer behind Mr. McPeek that could have hit him from behind. Officer Emmer stated no. He was the only one who hit Mr. McPeek.

I asked Officer Emmer if Mr. McPeek went to the hospital prior to going to the jail, as Mr. McPeek stated in his interview. Officer Emmer stated he took Mr. McPeek to the hospital after going to the jail once he noticed he was bleeding.

Officer Emmer stated if he had to do it differently, he would have immediately placed Mr. McPeek in custody upon his initial contact while taking the pocketknife. Officer Emmer stated he was trying to avoid a physical confrontation at the time but ended up getting into one anyway.

This concluded Officer Emmer's interview.

**INTERVIEW:** Officer James Smith #702 / 63835

**DATE / TIME:** August 13, 2012 / 0841hrs.

**LOCATION:** Office of Internal Affairs

**INTERVIEWED BY:** Investigator Vincent Holoman #787 / 43792

**EMPLOYEE RIGHTS AND RESPONSIBILITIES:** Acknowledged and Signed

On August 13, 2012, I, Investigator Holoman received a statement from Officer James Smith #702 / 63835 in reference to a Use of Force complaint on Officer Emmer that occurred on June 2, 2012 at the Southern Comfort Bar, 500 Broad Street. Upon Officer Smith acknowledging and signing his Employee Rights and Responsibilities, I received a recorded statement. A summary of his statement is as follows:

Officer James Smith has been with the Chattanooga Police Department for four (4) years. He is currently assigned to midnight Bravo Team.

Officer Smith recalled the incident that occurred at 500 Broad Street (Southern Comfort) involving Officer Emmer and Richard McPeek. Officer Smith stated he responded to a fight call in the parking lot of Sugar Ribs. There were other officers on the scene when he arrived and they had 2 – 3 people in custody. Officer Smith recalls seeing Mr. McPeek with another gentleman who was trying to pull him away from the officers. Officer Smith advised he believes Officer Emmer told him to get his friend out of here. Mr. McPeek then walks across 5<sup>th</sup> Street that was approximately a ½ block from The Southern Comfort. A short time later, Officer Smith stated he and Officer Emmer see Mr. McPeek again. This time he was sitting on the sidewalk. Officer Emmer walks up to Mr. McPeek and asked him if he need a ride or a cab. When Mr. McPeek stands up, Officer Emmer notices a pocketknife in Mr. McPeek's pocket and grabs it out. Officer Smith stated it was obvious that Mr. McPeek was intoxicated and upset. Officer Smith stated he was on Mr. McPeek's right side and Officer Emmer was on his right side, facing Mr. McPeek. Mr. McPeek then says to Officer Emmer, "That was messed up what you did to my friends." Officer Smith stated Mr. McPeek squared off with Officer Emmer, taking a fighting stance with a clinched fist. Officer Smith stated he saw Mr. McPeek step towards Officer Emmer. This was when Officer Emmer struck Mr. McPeek in the chin with a left jab. Officer Emmer hit Mr. McPeek again with his right hand but Officer Smith is not aware where the second punch may have landed. Officer Emmer then pulled Mr. McPeek forward and to the ground. While on the ground Mr. McPeek was kicking while officers (Clay, Lupo and Emmer) tried to handcuff him.

This investigator asked Officer Smith if there was an officer standing behind Mr. McPeek during the altercation.

Officer Smith advised no.

This investigator asked Officer Smith if he or another officer struck Mr. McPeek from behind during this altercation. Officer Smith stated no. Officer Smith stated the only officer to hit Mr. McPeek was Officer Emmer.

This investigator asked Officer Smith in his opinion did he think Officer Emmer could have handle this confrontation differently. Officer Smith stated he believes Officer Emmer would have gotten hit by Mr. McPeek if he had let it go on any further.

In closing Officer Smith stated he doesn't feel the force used on Mr. McPeek was overly excessive. It would have taken a lot more to effect an arrest if Officer Emmer allowed the incident to continue.

This concluded Officer James Smith's interview.

**INTERVIEW:** Hamilton County Sheriff Department, Sergeant Wendell "Sharpie" Adams #1211

**DATE / TIME:** August 21, 2012 / 1045 hrs.

**LOCATION:** Hamilton County Sheriff Department, 8395 Hickory Valley Road

**INTERVIEWED BY:** Investigator Vincent Holoman #787 / 43792

On August 21, 2012, I, Investigator Holoman received a statement from Hamilton County Sheriff Department (HCSD), Sergeant Wendell "Sharpie" Adams in reference to a Use of Force complaint on Officer Sean Emmer that occurred on June 2, 2012 at the Southern Comfort Bar, 500 Broad Street. Also sitting in on this interview was Debra Morrison with the Hamilton County Internal Affairs Division. A summary of his statement is as follows:

Sergeant Adams has been with the HCSD for twenty-five (25) years. He is currently in the patrol division. Sergeant Adams was working an extra job at the Southern Comfort Bar on June 2, 2012 with Deputy Ben Johnson. After I reviewed surveillance video with Sergeant Adams and showed him a jail card photo of the complainant, Richard McPeek, Sergeant Adams recalled the events of that morning but could not identify Mr. McPeek and having contact with him.

Sergeant Adams stated he recalls assisting Chattanooga Police Officers with a fight and getting a party in custody. Sergeant Adams also recalled escorting the arrested party to a patrol officer's car. The arrested party was not Mr. McPeek.

I explained Mr. McPeek's complaint of excessive force. Sergeant Adams had no knowledge of Officer Emmer confrontation with Mr. McPeek. Sergeant Adams stated there were several fights that morning where intoxicated people went to jail for disorderly conduct, but he does not recall or witness Mr. McPeek's incident.

This investigator asked Sergeant Adams if there had been a problem with Chattanooga Police Officers parked in the street outside the bar. Sergeant Adams stated almost every weekend Chattanooga officers would sit out in front of the bar and walk the sidewalks.

This concluded the interview with HCSO Sergeant Wendell "Sharpie" Adams.

### **SUMMARY**

On June 2, 2012 Richard McPeek was arrested for public intoxication by Officer Sean Emmer #921 / 63155 after leaving the Southern Comfort Bar, 500 Broad Street. Mr. McPeek is complaining of excessive use of force by Officer Emmer during his arrest. Mr. McPeek advised he was hit from behind by police causing him to black out. He also suffered scrapes to his face, chest and right arm. Mr. McPeek also bit through his tongue and had to receive several stitches.

Mr. McPeek stated on June 2, 2012 he was in town for a wedding and staying at the Chattanooga Hotel. He and a few members of the wedding party went to the Southern Comfort Bar for drinks. Mr. McPeek stated he left the bar between 2:45 – 3:00am.

Security video from the bar shows two Hamilton County Sheriff Deputies, Ben Johnson and Sergeant Wendell "Sharpie" Adams working outside the bar. Security video shows Mr. McPeek leaving and reentering the bar three (3) times. The video shows Mr. McPeek staggering outside the bar.

Mr. McPeek stated he walked outside to the front of the bar to flag a cab and was told to clear the area by an officer. Mr. McPeek stated Officer Emmer told him to move on and wait elsewhere for a cab. Mr. McPeek stated there were approximately five (5) officers hanging out in front of the bar.

Security video (2:51:10) shows the only two officers in front of the bar were HCSD deputies Johnson and Adams. Officer Emmer was not in the video. According to the security video, after Mr. McPeek walks back into the bar a third time, he is pushed outside the bar by bouncer Terry Yates. Deputy Johnson stated Mr. McPeek was hitting things inside the bar. An unknown black male walks up to Mr. McPeek and leads him away walking North on Broad Street towards 5<sup>th</sup> Street.

Officer Emmer stated as he was assisting another officer during a fight call, he observes Mr. McPeek being held

back by friends. Officer Emmer tells the friends to get Mr. McPeek out of the area. After Officer Emmer placed a party in custody that was involved in the fight, he returns to the area to assist with crowd control. Officers Todd Clay #410 / 61843, Sheridan Lupo #741 / 63868 and James Smith #702 / 63835 respond to the area to assist. Officer Emmer sees Mr. McPeek again in the parking lot area on 5<sup>th</sup> Street, approximately a ½ half block away from the Southern Comfort Bar. Officer Emmer and Officer Smith approach Mr. McPeek as Officer Clay is approaching the group. Mr. McPeek is being held back by the unknown black male. The unknown black male explains to the officers that he doesn't know Mr. McPeek but he was trying to keep him out of trouble. Officer Emmer then asked the black male to leave. As Officer Emmer begins talking with Mr. McPeek he notices that Mr. McPeek is extremely intoxicated. Officer Emmer notices a pocketknife in Mr. McPeek's front pocket and takes it out of his pocket for officer safety. Officer Emmer then asked Mr. McPeek if he needed a ride home. Mr. McPeek then commented to Officer Emmer, "That was messed up what you did to my friends" clinching his jaws and fist and then taking a fighting stance with Officer Emmer. Officer Smith was standing next to Officer Emmer and Mr. McPeek. Officer Lupo was standing behind Mr. McPeek. Officer Clay was standing behind Officer Emmer. Officer Emmer stated he saw Mr. McPeek start to bring his hand up. This is when Officer Emmer struck Mr. McPeek in his lower jaw with a right fist. Officer Emmer stated the punch was to create distance between him and Mr. McPeek. Officers Smith, Lupo and Clay observed Officer Emmer strike Mr. McPeek a second time in an unknown area. Officer Emmer then took Mr. McPeek to the ground and officers Clay, Smith and Lupo assisted Officer Emmer with placing Mr. McPeek into custody. All officer interviewed explained it was a struggle to get Mr. McPeek into custody because of his large size and strength.

Mr. McPeek has no recollection of the altercation. Mr. McPeek stated everything went black after he felt something hit him and he hit the ground. Mr. McPeek didn't recall or failed to mention his encounter with the Southern Comfort bouncer, Terry Yates. Mr. McPeek didn't recall or failed to mention the unknown black male that led him from the bar and tried to pull him away from his encounter with the police. Mr. McPeek stated during his interview that he "wasn't sober", indicating he was intoxicated during his encounter with police.

According to officer's statements, Mr. McPeek was noncompliant to verbal commands in his intoxicated state. Officer Emmer's reaction to create distance between him and McPeek by hitting him, resulted from Mr. McPeek's threatening body language. Officer Emmer felt he didn't have time to transition to his mace or intermediate weapons. Officers Clay and Smith articulated during their interview if Officer Emmer had not reacted in the manner he did, the situation may have escalated. Officer Emmer's immediate response was needed to neutralize the threat. No other officers hit Mr. McPeek during the altercation.

It's evident that Mr. McPeek's injuries to his arm, chest and face are a result of him actively resisting the officers as they were trying to place him in custody while he was on the ground. It was not clarified how Mr. McPeek

injured his tongue.

Officer Emmer's Use of Force Report summary does not coincide with his Arrest Report narrative. It was advised that Mr. McPeck should have been charged with several other offenses in addition to public intoxication. Officer Emmer stated he was trying to give Mr. McPeck a break by only charging him with public intoxication. Officer Emmer stated he felt Mr. McPeck's actions were a result of his intoxicated state. Officer Emmer also stated Mr. McPeck was influenced by Magistrate Larry Ables to file a complaint.

Mr. McPeck had his case bound over to the Grand Jury on July 12, 2012.

**\*\*\*NOTE:** DVD's of In-Car Video from Officers Robertson and Officer Lupo will be in the Hard Case File. DVD and Flash Drive of the Southern Comfort Security Video will also be in the Hard Case file.

## **POLICY**

### **ADM-5 – USE OF FORCE**

#### **PURPOSE**

The purpose of this general order is to establish proper procedures in the use of force for all officers of the Chattanooga Police Department.

#### **I. DEFINITIONS**

D. Empty Hand Control - The level of force employed by officers without the aid of any equipment or weapons. Included in empty hand control are "soft empty hand techniques" and "hard empty hand techniques."

E. Hard Empty Hand Techniques - The subcategory of "empty hand control" that includes kicks, punches or other striking techniques such as a brachial stun or other strikes to key motor points.

L. Use of Force Continuum - A progression of force based on the concept of increasing the police officer's level of control in response to the level of resistance offered by a suspect. As the suspect increases his level of resistance or threat to the officer or others, or a lower level of force has failed, the officer is justified in increasing his level of control while still using the minimum amount of force necessary. As suspect resistance decreases, the level of force used by the officer shall diminish until suspect resistance ceases and the suspect is securely in custody.

M. Use of Force Report - A department report of the specific actions of a suspect which resulted in the use of force by the officer or officers; the report will include an accurate documentation of the officer's actions used to overcome the resistance of the suspect, to effect the arrest and/or to protect life or prevent injury.

N. Verbal Control - The level of force in the Use of Force Continuum that includes instruction or direction from an officer in the form of verbal statements or commands.

#### **II. USE OF FORCE**

A. Officers of the Chattanooga Police Department shall use only the minimum level of force necessary to conduct lawful public safety activities and accomplish the mission of the department. The level of force used by a police officer in any given situation is dependent on the level of resistance presented by the person with whom the officer is dealing. An officer shall only use the minimal amount of physical force reasonably necessary to (1) protect persons and property and (2) overcome any physical resistance offered by a person with whom the officer is dealing. Under no circumstances shall the force used be greater than necessary to achieve lawful objectives. Deadly force shall not be used unless an officer reasonably believes it is necessary to protect the officer or another person from imminent danger of death or serious physical injury. **[1.3.1, 1.3.2]**



B. Officers are authorized to use only the minimal amount of force which is reasonably necessary to (1) protect themselves or others, (2) effect an arrest, or (3) maintain control of an arrested person. Officers must always use the minimum amount of force necessary to accomplish these objectives. Any officer who uses force against any person must be able to articulate the specific reason(s) for using the force and must be able to articulate specific reasons for employing the amount of force used.

#### C. Use of Non-Deadly Force

1. Non-deadly force may be used in instances where a police officer reasonably believes it is immediately necessary to take physical action to: **[1.3.4]**

- a. Preserve the peace;
- b. Prevent the commission of an offense;
- c. Make a lawful arrest; and/or
- d. Prevent suicide, serious physical injury or death.

2. Officers shall use only the minimal amount of force that is reasonably necessary to accomplish their lawful purpose. **[1.3.1]**

3. An officer shall, except in exigent circumstances, use only equipment and/or techniques for which he or she is trained and certified by the department. **[1.3.4, 1.3.10]**

4. In non-deadly force situations, the use of force shall generally begin with officer presence and may progress up the use of force continuum to the use of impact weapons. However, officers may immediately use any authorized option or level when necessary for officer safety or the safety of others, provided that only the minimal amount of force necessary shall be used. Officers shall deescalate the level of force employed as the suspect/violator renders compliance to the officer's directions or instructions.

5. In any situation in which an officer has used physical force by any means upon any person, the officer shall, as soon as possible, (1) render appropriate medical aid if needed and (2) request Emergency Medical Service (EMS) if needed. **[1.3.4, 1.3.5]**

6. Officers shall document the use of non-deadly force by completing a Use of Force Report. Officers are not required to complete a Use of Force Report for instances where verbal control or officer presence are the only levels of force used. Incidents of the use of verbal control or officer presence shall be detailed in the incident or miscellaneous report. An exception to this rule would be by orders from a supervisor. **[1.3.6d]**

#### D. Use of Force Continuum

1. Whenever possible, police officers shall employ a progression of force commonly referred to as the "use of force continuum." The continuum is based on the concept of increasing the police officer's level of control in response to the level of resistance of the suspect or violator. If a suspect or violator increases his level of resistance or threat to the officer, the officer is justified in increasing his level of control. As the suspect's resistance decreases, the officer's use of force shall decrease proportionally until the suspect is safely secured, usually by handcuffing.

2. Due to the varying circumstances of different incidents, it is not always possible for an officer to start at the beginning of the use of force continuum and increase the level of force through each level of control.

3. Officers may be required and may be fully justified in using force that falls at any point on the continuum based on the circumstances. Allowances must be made for the fact that officers are often forced to make split-second decisions about the amount of force that is necessary in a particular situation or circumstances that are tense, uncertain and rapidly evolving. Circumstances impacting the officer's decision may include, but are not limited to, the following:

- a. The nature of the offense;
- b. The behavior of the subject against whom force is to be used (i.e. verbal dialogue, physical actions);
- c. Physical size and conditioning,
- d. The feasibility or availability of alternative actions;
- e. Location;
- f. The availability of additional officers.

4. The chart below is based on the concept of increasing and decreasing the police officer's level of control in response to the

level of resistance offered by the suspect or violator and depicts the escalation/deescalation of an officer's responses to the suspect's or violator's compliance or non-compliance to the officer's presence, directions or actions:

<b><u>Individual's Actions</u></b>	<b><u>Officer's Responses</u></b>
Psychological Intimidation	Officer Presence
Verbal Non-Compliance	Verbal Direction *
Passive Resistance	Soft Empty Hand Control *
Active Resistance	Hard Empty Hand Control *
Active Resistance	Intermediate Weapons * (includes Canine)
Aggravated Active Resistance	Deadly Force (*) OC/Electronic weapon

HAMILTON COUNTY  
SHERIFF'S OFFICE  
MUGSHOT PROFILE**FOR LAW ENFORCEMENT USE ONLY**NAME: **MCPEEK,RICHARD PAUL**

DOB: [REDACTED]

SPN: **516105**SSN: **495960140**DL# **084373389**ARREST DATE: **06-02-2012**COMMITAL DATE: **06-02-2012**ARRESTING OFFICER: **EMMER, SEAN #921****SCARS/MARKS/TATTOOS/DEFORMITIES**Type Location**ALIASES**Last First**CONTACT INFORMATION**

STREET ADDRESS: [REDACTED]

CITY, STATE ZIP: [REDACTED]

PHONE #: [REDACTED]

EMPLOYER: **SELF EMPLOYEED**OCCUPATION: **REMODEL**

NEAREST RELATIVE: [REDACTED]

RELATIONSHIP: **Wife**STREET ADDRESS: **SAME AS DEF**

CITY, STATE ZIP: [REDACTED]

PHONE #: [REDACTED]

SEX: **Male**  
RACE: **WHITE**  
HEIGHT: **511**  
WEIGHT: **245 lbs.**  
HAIR COLOR: **BROWN**  
EYE COLOR: **GREEN**  
ARRESTING AGENCY: **Chattanooga**DescriptionMiddle<https://remote.hcsheeriff.gov:981/+CSCO+d0756767633A2F2F7A6874667562672E7570667...> 6/4/2012

**From:** Irvin Jason  
**Sent:** Tuesday, June 05, 2012 11:20 AM  
**To:** Guthrie Larry  
**Subject:** Fwd:

Sent from my iPhone

Begin forwarded message:

**From:** "Jason Irvin" <[irvin897@gmail.com](mailto:irvin897@gmail.com)>  
**To:** "Jason Irvin" <[irvin\\_j@chattanooga.gov](mailto:irvin_j@chattanooga.gov)>



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Sent from my iPhone

**From:** Irvin Jason  
**Sent:** Tuesday, June 05, 2012 11:19 AM  
**To:** Guthrie Larry  
**Subject:** Fwd:

Sent from my iPhone

Begin forwarded message:

**From:** "Jason Irvin" <[irvin897@gmail.com](mailto:irvin897@gmail.com)>  
**To:** "Jason Irvin" <[irvin\\_j@chattanooga.gov](mailto:irvin_j@chattanooga.gov)>



Sent from my iPhone



City Responses to Request for Production  
000839

ARREST REPORT - AFFIDAVIT OF COMPLAINT													
SPN 516105	Date Arrested 6/2/2012	Time Arrested 3:34 AM	Arrestee # 1	Sector / District Zone 7	Warrant Sioned By <input checked="" type="checkbox"/> Officer <input type="checkbox"/> Victim <input type="checkbox"/> Both <input type="checkbox"/> Warrant Service								
Location Of Arrest 500 BROAD ST.			Location Of Incident (If different from arrest) 500 BROAD ST.				CPD Number						
ARRESTING AGENCY	Arresting Agency Name Chattanooga Police Dept.		Arresting ORI TN 0330100	Arresting Agency ID Num 2		Jail/Arrest Number		Arresting Complaint Number 12-053625					
REPORTING AGENCY	Reporting Agency Name Chattanooga Police Dept.		Reporting ORI TN 0330100	Reporting Agency ID 2		T.B.I. Document#		Reporting Complaint Num					
ARRESTEE	(OfficeOnly) Last Name MCPEEK, RICHARD PAUL		First Name		Middle Name		Alias/Maiden/Nickname						
Last name		First Name		Middle Name		Age 33	Sex M	Race W	Date Of Birth	Ethnicity N	Resident Status Non_Resident	Under Age 18	
MCPEEK, RICHARD PAUL													
Height 511	Weight 245	Hair BRO	Eyes GRN	Marks, Scars, Tatoos, Physical Defects				Social Security Number		Driver License/ID Number		State TN	
Home Address		City		State		Zip		Business Name/Address		City		State	
Home Phone		Place Of Birth TENNESSEE		F.B.I. or S.I.D. Number		Business Phone		Type Of Arrest T		Multiple Clearance M		Cleared Y	
Armed with: Describe weapon (serial#				Make		Model		Caliber)		Armed with: Describe weapon (serial#			
Code: auto										Code: auto			
Offense			TIBRS	Status	Def Used	Location	Criminal Activity	Bias	Gang: Activity Type Name				
									1.				
									2.				
									IF MARIJUANA COMPLETE THE FOLLOWING				
									<input type="checkbox"/> Indoor <input type="checkbox"/> Outdoor <input type="checkbox"/> Both				
									Num Of Plots Latitude longitude				
Property Or Evidence Description:										Receipt Number			
CODE: C-Complaint V-Victim W-Witness P-Parent G-Guardian ***Obtain information from warrant if available***													
Code	Last Name		First Name		Mid	DOB	Age	Sex	Race	Home or Business Address		Phone Number	
VEHICLE: YR		Make		Model		Style		Color(s)		License		State	
												TN	
VIN				<input type="checkbox"/> Parked and Locked <input type="checkbox"/> Towed				Vehicle can be located at:					

**AFFIDAVIT OF COMPLAINT** In the General Sessions Court of Hamilton State of Tennessee vs. MCPEEK, RICHARD PAUL

The undersigned affiant, after being duly sworn according to the law, MCPEEK, RICHARD PAUL whose name is otherwise unknown to the affiant, committed the offense of PUBLIC INTOXICATION in the above county at (Location) 500 BROAD ST. on or about 6/2/2012 Further, affiant makes oath that the essential facts constituting said offense, the sources of affiant's information, and the reasons why his/her information is believable concerning said facts are as follows:

POLICE WERE TRYING TO DISPERSE A LARGE DISORDERLY GROUP AT 500 BROAD ST. WHILE TRYING TO DISPERSE THE DISORDERLY GROUP, SEVERAL PARTIES WERE TAKEN INTO CUSTODY. POLICE ADVISED THE DEF. WHO WAS A PART OF THE DISORDER TO LEAVE THE AREA SEVERAL TIMES. THE DEF. THEN WALKED ABOUT 50FT AND CONTINUED TO JUST STAND. POLICE AGAIN ADVISED THE DEF. TO LEAVE THE AREA AGAIN IN ORDER TO REESTABLISH ORDER WITH THE CROWD. THE DEF. REFUSED TO COMPLY AND SMELLED VERY STRONGLY OF AN INTOXICANT. THE DEF. WAS THEN ARRESTED FOR PUBLIC INTOXICATION.

**CO-Defendants:**

Signature Arresting Officer/Affiant	Badge/ID
Signature Approving Supervisor	Badge/ID
NCIC/TIES Entries/Clear MadeBy:	Date

Sworn to before me this \_\_\_\_\_

Judge-Court Of General Sessions  
GWEN TIDWELL, Clerk, Criminal Div.  
General Sessions Court

By: \_\_\_\_\_

Arresting Officer: EMMER, S 921

Court Clerk/Deputy Clerk



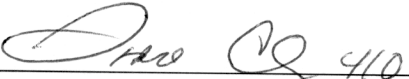
**CITY OF CHATTANOOGA  
INTERNAL AFFAIRS INTERVIEW  
EMPLOYEE RIGHTS AND RESPONSIBILITIES**

- I. You are being questioned as part of an Internal Affairs investigation for the Chattanooga Police Department and the City of Chattanooga.
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- III. You must answer each question truthfully in the course of the Internal Affairs investigation. Your failure to truthfully answer each question put to you by any Internal Affairs investigator in the course of such investigation will result in disciplinary action against you up to and including termination of your employment.
- IV. The answers that you give in the Internal Affairs investigation in response to any Internal Affairs investigator's questions can never be used against you in any criminal proceedings.

Case No: IA #2012- 36

Date and Time of Interview: 06-19-12 / 0718 hrs

Location of Interview: Office of Internal Affairs

Employee's Name: 

Interviewer's Name: Investigator Vincent Holoman #787 / 43792

Witness: \_\_\_\_\_

Revised 2-22-06

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INTERNAL AFFAIRS INTERVIEW  
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Case No: IA #2012- 36

Date and Time of Interview: 07-31-12 / 0208pm

Location of Interview: Office of Internal Affairs

Employee's Name: Sean Emmer 921 / 63155

Interviewer's Name: Investigator Vincent Holoman #787 / 43792

Witness: \_\_\_\_\_

Revised 2-22-06

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INTERNAL AFFAIRS INTERVIEW  
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Case No: IA #2012- 36

Date and Time of Interview: 08-13-12 / 0841 hrs

Location of Interview: Office of Internal Affairs

Employee's Name: James H Smith 702 / 63835

Interviewer's Name: Investigator Vincent Holoman #787 / 43792

Witness: \_\_\_\_\_

Revised 2-22-06

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INTERNAL AFFAIRS INTERVIEW  
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IAD Case No: 2012-36

Date and Time of Interview: 7-6-12 0702

Location of Interview: IA Office

Employee's Name: Shirley E. Lupo

Interviewer's Name: Sgt. O'Connell 532

Witness: \_\_\_\_\_

Revised 2-22-06

**CITY OF CHATTANOOGA  
INTERNAL AFFAIRS INTERVIEW  
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IAD Case No: 2012-36

Date and Time of Interview: 7-6-12 0721

Location of Interview: IA office

Employee's Name: Matthew Robertson # 652 / 62212

Interviewer's Name: Sgt. Keith Hines

Witness: \_\_\_\_\_

Revised 2-22-06

## Patrol Activity Log

### COURAGE, PROFESSIONALISM, DUTY

**Name & Badge:** S. Emmer 921 **Date:** 06-01-2012 **Checked Mail** XXXXXXXXXX

**District:** Bravo 8 **Shift:** 3rd **Time In:** 2330 **Time Out:** 0730 **Checked** [REDACTED]

**Mileage on:** 1390 **Mileage off:** 1431 **P#** 2791 **Vehicle Searched** [REDACTED] **Taser test** [REDACTED]

Camera test NONE

Time Received	Time In-service	Call Type	Location	District	Complaint /Citation Number	D - Code
0251	0259	404	400 Broad St.	B7	E91OOJ tn	8
0300	0640	412	500 Broad St.	B7	053625	9
TOTAL CALLS						2

**(Citations): Moving \_\_\_\_\_ Warning \_\_\_\_\_ Parking \_\_\_\_\_ Accidents: \_\_\_\_\_**

(Arrests): Initiated 1 Misdemeanor 1 Felony      DUI     

**(Vehicles/Property): Recovered Auto** \_\_\_\_\_ **\$** \_\_\_\_\_ **Arrest Warrants:** \_\_\_\_\_ **Search Warrants:** \_\_\_\_\_

**FI's:** \_\_\_\_\_ **Other Activities:** \_\_\_\_\_

# Patrol Activity Log

## COURAGE, PROFESSIONALISM, DUTY

Name & Badge: Officer Lupo #741 Date: 06/01/2012 Checked Mail ☐

District: Bravo 6 Shift: 3rd Time In: 2330 Time Out: 0730 Checked Subpoenas ☐

Mileage on: \_\_\_\_\_ Mileage off: \_\_\_\_\_ P# 6941 Vehicle Searched ☐ Taser test ☐

Camera test ☐

Time Received	Time In-service	Call Type	Location	District	Complaint /Citation Number	D - Code
2345	2355	492	511 Broad St	B7	53567	D2
0048	0100	433	1108 Grove St Apt. A	B6	53587	D2
0250	0330	412	500 Broad St	B7	53625	B8
0343	0415	492	35 Patton Pkwy	B7	53628	D2
0544	0600	479	749 W Main St Ct	B6	53648	B6A
TOTAL CALLS						5

(Citations): Moving \_\_\_\_\_ Warning \_\_\_\_\_ Parking \_\_\_\_\_ Accidents: \_\_\_\_\_

(Arrests): Initiated \_\_\_\_\_ Misdemeanor \_\_\_\_\_ Felony \_\_\_\_\_ DUI \_\_\_\_\_

(Vehicles/Property): Recovered Auto \_\_\_\_\_ \$ \_\_\_\_\_ Arrest Warrants: \_\_\_\_\_ Search Warrants: \_\_\_\_\_

FI's: \_\_\_\_\_ Other Activities: \_\_\_\_\_

# Patrol Activity Log

## COURAGE, PROFESSIONALISM, DUTY

Name & Badge: J.H. Smith #702 Date: 06/01/2012 Checked Mail ☐

District: Bravo 9 Shift: 3rd Time In: 2330 Time Out: 0730 Checked Subpoenas ☐

Mileage on: \_\_\_\_\_ Mileage off: \_\_\_\_\_ P# 1329 Vehicle Searched ☐ Taser test ☐

Camera test ☐

Time Received	Time In-service	Call Type	Location	District	Complaint /Citation Number	D - Code
0009	0022	446	740 E 12 St	B9	12-053574	B8a
0046	0105	433	1108 Grove St Apt A	B6	12-053587	B6
0250	0330	412	500 Broad St	B7	12-053625	B7
0343	0400	438	35 Patten Pkwy	B7	12-053628	B6
0446	0450	446	423 Market St	B7	12-053635	B7
0212	0220	404	200 E 4 <sup>th</sup> St	B7	-----	D-8
<b>TOTAL CALLS</b>						<b>6</b>

(Citations): Moving \_\_\_\_\_ Warning 1 Parking \_\_\_\_\_ Accidents: \_\_\_\_\_

(Arrests): Initiated \_\_\_\_\_ Misdemeanor \_\_\_\_\_ Felony \_\_\_\_\_ DUI \_\_\_\_\_

(Vehicles/Property): Recovered Auto \_\_\_\_\_ \$ \_\_\_\_\_ Arrest Warrants: \_\_\_\_\_ Search Warrants: \_\_\_\_\_

FI's: \_\_\_\_\_ Other Activities: \_\_\_\_\_



<b>Name &amp; Badge:</b>	M.Robertson #652			<b>Date:</b>	6/1/2012	<b>Checked Mail?</b>	<b>Yes</b>
<b>District:</b>	B-6a	<b>Shift:</b>	3rd	<b>Time In:</b>	2330	<b>Time Out:</b>	730
						<b>Checked Subpoenas?</b>	<b>Yes</b>
<b>Mileage On:</b>	1,944	<b>Milage Off:</b>	1,989	<b>P#:</b>	6960.00	<b>Vehicle searched before/after shift and after each arrest?</b>	<b>Yes</b>
						<b>Taser Tested?</b>	<b>Yes</b>
						<b>Camera Tested?</b>	<b>Yes</b>

[illegible]

City Responses to Request for Production  
000849

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**CHATTANOOGA POLICE DEPARTMENT**  
INTERNAL AFFAIRS DIVISION  
**REPORT OF INVESTIGATION**

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<b>CASE NUMBER:</b> 2012-36	<b>TYPE OF REPORT:</b> Internal Affairs Commander's Recommendation	
<b>SUBMITTED BY (Tile &amp; Name)</b>  Capt. Susan Blaine #545	<b>SUBMITTED DATE</b>  08/31/12	  Page 1 of 2

**Allegations: Excessive Use of Force – Not sustained**

**Officer Involved: Officer Sean Emmer #921 / 63155**

I have reviewed the IA investigation conducted by Inv. Vinnie Holoman on an excessive force complaint made on Officer Sean Emmer and recommend the allegation of Excessive Use of Force be Not Sustained. Due to the fact that there is no video or outside witnesses to this incident and Mr. McPeek's recollection of the events were very vague due to his very intoxicated condition, I do not feel there is sufficient evidence to either prove or disprove whether excessive force was used during Mr. McPeek's arrest.

Richard McPeek was arrested for Public Intoxication by Officer Emmer on 06/02/12 after leaving the Southern Comfort Bar @ 500 Broad Street. Mr. McPeek alleges excessive force was used during his arrest causing Mr. McPeek to bite through his tongue which required several stitches. Mr. McPeek also had scrapes to his face, chest and right arm.

Officer Emmer stated in his IA interview and also in his Use of Force report that Mr. McPeek took an aggressive stance, clinched his jaw and cinched his hands into a fist when he stopped him. Officer Emmer stated he struck Mr. McPeek to create distance between them because he felt Mr. McPeek was getting ready to hit him. Officer Emmer only remembered hitting Mr. McPeek once in the face, but witness officers stated Officer Emmer hit Mr. McPeek twice. Officers Clay and Smith stated during their IA interview that the situation may have escalated if Officer Emmer had not reacted in the manner he did. Officer Emmer did a Use of Force report documenting the force used during this arrest, but Officer Emmer's Use of Force Report does not coincide with his Arrest Report narrative. Mr. McPeek's arrest report only documents that Mr. McPeek was intoxicated and refused to leave the area. Mr. McPeek was only charged with Public Intoxication.

While Officer Emmer and the witness officers all stated that they felt Officer Emmer's actions were justified, it is difficult to understand why it was necessary to hit Mr. McPeek twice in the face when the only charges on Mr. McPeek are Public Intoxication. I also find it questionable as to why Officer Emmer felt he had to immediately punch Mr. McPeek twice in the face when there were three other officers right there with him. It seems four officers should have been able to arrest one extremely intoxicated individual without Officer Emmer having to immediately resort to punching Mr. McPeek in the face.

I scheduled a meeting for 08/29/12 with Use of Force Instructor Phillip McClain & Lt. Danna Vaughn of the Training Division and included Officer Emmer's supervisors, Lt. Eric Tucker & Capt. Jeff Francis, to discuss concerns I had with recent Use of Force incidents involving Officer Emmer.

**Summary of Incident:**

Mr. McPeek stated he was in town on 06/02/12 for a wedding when a few members of the wedding party went to the Southern Comfort Bar for drinks. Mr. McPeek stated he left the bar between 0245 – 0300. Mr. McPeek

admitted he was intoxicated when he was arrested and had very little recollection of the altercation with Officer Emmer. Security video from the bar shows two Hamilton County Sheriff Deputies, Ben Johnson and Sergeant Wendell "Sharpie" Adams working outside the bar. Security video shows Mr. McPeek leaving and reentering the bar three (3) times. The video shows Mr. McPeek staggering outside the bar. Mr. McPeek stated he walked outside to the front of the bar to flag a cab and was told to clear the area by an officer. Mr. McPeek stated Officer Emmer told him to move on and wait elsewhere for a cab. According to the security video, after Mr. McPeek walks back into the bar a third time, he is pushed outside the bar by bouncer Terry Yates. An unknown black male walks up to Mr. McPeek and leads him away walking North on Broad Street towards 5<sup>th</sup> Street.

Officer Emmer stated as he was assisting another officer during a fight call, he observes Mr. McPeek and tells him to leave the area. After Officer Emmer placed a party in custody that was involved in the fight, he returns to the area to assist with crowd control. Officers Todd Clay, Sheridan Lupo and James Smith respond to the area to assist. Officer Emmer sees Mr. McPeek again in the parking lot area on 5<sup>th</sup> Street, approximately a ½ half block away from the Southern Comfort Bar and approaches him with Officer Smith and Officer Clay. As Officer Emmer begins talking with Mr. McPeek he notices that Mr. McPeek is extremely intoxicated. Officer Emmer notices a pocketknife in Mr. McPeek's front pocket and takes it out of his pocket for officer safety. Officer Emmer then asked Mr. McPeek if he needed a ride home. Mr. McPeek then commented to Officer Emmer, "That was messed up what you did to my friends" clinching his jaws and fist and then taking a fighting stance with Officer Emmer. Officer Smith was standing next to Officer Emmer and Mr. McPeek. Officer Lupo was standing behind Mr. McPeek. Officer Clay was standing behind Officer Emmer. Officer Emmer stated he saw Mr. McPeek start to bring his hand up. This is when Officer Emmer struck Mr. McPeek in his lower jaw with a right fist. Officer Emmer stated the punch was to create distance between him and Mr. McPeek. Officers Smith, Lupo and Clay observed Officer Emmer strike Mr. McPeek a second time in an unknown area. Officer Emmer then took Mr. McPeek to the ground and officers Clay, Smith and Lupo assisted Officer Emmer with placing Mr. McPeek into custody. All officer interviewed explained it was a struggle to get Mr. McPeek into custody because of his large size and strength.

According to officers' statements, Mr. McPeek was noncompliant to verbal commands in his intoxicated state. Officer Emmer's reaction to create distance between him and McPeek by hitting him, resulted from Mr. McPeek's threatening body language. Officer Emmer felt he didn't have time to transition to his mace or intermediate weapons. Officers Clay and Smith articulated during their interview if Officer Emmer had not reacted in the manner he did, the situation may have escalated. No other officers hit Mr. McPeek during the altercation.

Officer Emmer's Use of Force Report summary does not coincide with his Arrest Report narrative. Officer Emmer stated he was trying to give Mr. McPeek a break by only charging him with public intoxication. Officer Emmer stated he felt Mr. McPeek's actions were a result of his intoxicated state. Mr. McPeek had his case bound over to the Grand Jury on July 12, 2012.



# Chattanooga Police Department

CAPTAIN SUSAN BLAINE  
Internal Affairs Division  
423-425-7300



June 5 2012

Assistant Chief Randy Dunn

The Internal Affairs Division has received a complaint on the below listed officer under your command:

Officer

Sean C. Emmer 921

Type of Complaint

Excessive Use of Force:

Assigned To

Investigator Vincent Holoman

IAD Case #

2012-36

**FINAL DISPOSITION**

Internal Affairs Division

FILE: 2012-36

OFFICER(S):

Sean Emmer #921

*Bravo*

NATURE OF COMPLAINT(S):

Excessive use of Force - Not Sustained

DISPOSITION: *EXCESSIVE USE OF FORCE - Not Sustained*

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*B. H. Dodd*  
CHIEF OF POLICE

*9-12-12*  
DATE



# Chattanooga Police Department

**Captain Susan Blaine**  
**Internal Affairs Division**



September 17, 2012

Richard McPeck  
[REDACTED]

Dear Mr. McPeck,

The investigation into your complaint against Officer Sean C. Emmer #921 is completed. The ruling is listed below:

Excessive Use of Force: Not Sustained September 12 2012

Information about your complaint was forwarded to Investigator Vincent Holoman for investigation. After review of his investigation, it was determined that the investigation could not develop sufficient evidence to support the allegation against Officer Emmer.

The Chief of Police reviewed the findings of the investigation. No disciplinary action was taken against Officer Sean C. Emmer in regards to the allegation.

Should you have any questions concerning this investigation, please feel free to contact me at (423) 425-7300.

Sincerely,

Captain Susan Blaine  
Internal Affairs Division

cc: Internal Affairs Case File # 2012-36

100 E. 11<sup>th</sup> St. Suite 302.

Chattanooga, Tennessee 37402  
(423) 757-2020

Phone: (423) 425.7300

FAX:



# Chattanooga Police Department

**Bobby H. Dodd**  
Chief of Police

**Captain Susan Blaine**  
**Internal Affairs Division**



To: Officer Sean C. Emmer # 921

From: Captain Susan Blaine

Date: September 17 2012

Subject: Final Disposition of Internal Affairs Case# 2012-36

This is to inform you that the investigation and administrative review of the complaint filed by Richard Mcpeek is complete. The allegation(s) has been ruled as followed:

Excessive Use of Force: Not Sustained 09/12/2012

Should you have any questions concerning the case findings, please contact me at 425-7300.

Cc: IAD Case File # 2012-36

CHATTANOOGA POLICE DEPARTMENT  
INITIAL REPORT OF COMPLAINT

Person Completing Report:

Date Complaint Received: 06/04/12

Assigned Inv.:

Complaint Number (if applicable):

Telephone ☐ Visit to Internal Affairs Office ☒ Letter ☐ Supervisor Contact ☐

Communications contact ☐ Other ( )

Complainant(s)

Relationship to Case: Complainant ☒ Victim ☐ Juvenile ☐ Witness ☐

Name: Richard McPeck

Address:

Business Address:

Home Phone:

self employed

Work Phone: N/A

Other:

Sex: M Race: W D.O.B.: Department Employee: Yes ☐ No ☐

Injuries: None: ☐ Minor: ☒ Serious: ☐ Life Threatening: ☐ Fatal: ☐

Medical Treatment: No ☐ Yes ☒ Where (if known) Erlanger

Arrested: Felony: ☐ Misdemeanor ☒ No: ☐

Public Drunk

Officer(s)/Employee(s)

Name: Emner # 921

Badge Number:

Name:

Badge Number:

Name:

Badge Number:

Name:

Badge Number:

Name:

Badge Number:



I.A.D. Complaint #:

Informational

Location of Event: *Southern Comfort*

Sector: *1*

Date of Event: *06/02/12*      Time of Event: ~~*0230*~~ *0245-0330*

Nature of Response:      Self-Initiated: ☐      Dispatched: ☐      N/A: ☐

Duty Status:      On-Duty: ☒      Off-Duty: ☐      Extra-Duty Employment: ☐

Allegation

Details:

*See written statement*

Witness(s)

Name:

Phone Number(s):

Address:

Name:

Phone Number(s):

Address:

Name:

Phone Number(s):

Address: