



Chattanooga Police Department



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Bobby H. Dodd
Chief of Police
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August 6, 2012

IA Case 2012-23 (Captain Edwin McPherson#752)

Chief Dodd,

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

Allegations:

Untruthfulness.....Sustained

Respectfully Submitted,

Tommy B. Kennedy
Deputy Chief

CHATTANOOGA POLICE DEPARTMENT
INTERNAL AFFAIRS DIVISION
REPORT OF INVESTIGATION

CASE NUMBER: 2012-23	TYPE OF REPORT: Investigative Report
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SUBMITTED BY (Title & Name) Sergeant Larry Guthrie 532/31537	SUBMITTED DATE 25 June 2012	Page 1 of 20
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Captain Edwin McPherson 752/42762

Allegation: Fact Finding

Complaint

There is an allegation that on April 2, 2012, Captain McPherson committed perjury in Criminal Court while testifying in a motion to dismiss hearing.

Report of Investigation

Interview with: Inv. Michael Wenger

Date/Time: 13 April 2012 1125 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Inv. Wenger read and signed the Employee rights and responsibilities form. This interview was recorded.

I asked Inv. Wenger about the cell phone that was evidence in the murder case of Bernard Hughes. Inv. Wenger said it was not determined whether the cell phone was evidence or not. He said the cell phone did belong to the suspect, Harold Butler Jr. He said the cell phone was an iphone and they have had success getting GPS coordinates from iphones; also text messages and pictures. I asked Inv. Wenger if the phone could have put the suspect at the scene of the crime. He said it could have. Inv. Wenger said he did have evidence that Harold Butler Jr. did plan the robbery that resulted in a murder with one other suspect. He said he had reason to believe there were phone calls or text messages relating to the murder on this phone.

Inv. Wenger said that about two weeks later that Inv. Crider found the cell phone. He said fugitive detectives and U.S. Marshalls had been tracking other suspects in this case. He said he got a call from Inv. Crider who told him he had found the phone at 2004 Curtis St. along with a .45 caliber pistol. He said the murder was committed with a .45 caliber pistol. Inv. Wenger said he told Inv. Crider that he was enroute to get the cell phone and the gun. Inv. Wenger said when he arrived at 2004 Curtis St. Inv. Crider, Inv. Rowe and Inv. Pickard were there. I asked him if Capt McPherson was there. He said yes. He said Capt McPherson met him as soon as he got out of the car and told him "do not talk to anyone and don't take that phone". Inv. Wenger said he asked Capt McPherson why and Capt McPherson told him the Marshall's needed it. Inv. Wenger said that Warren Smith with ATF, Jim Robinson with the Marshalls and Jason Ladd with the Marshalls were also on the scene on Curtis St. Inv. Wenger said he was talking to these agents and told them he was not going to take the phone. He said the agents told him that he needed the phone and to take it. He said he told them he did want to take the phone but had been ordered by Lt. McPherson to not take it. Inv. Wenger said he then received a call from his supervisor, Sgt. Bill Phillips, who told him that the cell phone issue has went up the chain of command and told

him to not take the phone.

Inv. Wenger said that the Marshalls said they would talk to Capt McPherson and find out about the phone. Inv. Wenger said Capt McPherson came over to him after that and told him he could talk to the people who had the phone but don't take to the phone. Inv. Wenger said he interviewed Antonio Watkins who was in possession of the phone. He said Watkins allowed him to look through the phone and he saw some pictures of the suspect but he was not able to examine everything in it. He said Watkins told him he bought the phone from the suspect. Inv. Wenger said he then left the scene and did not take the phone.

I asked Inv. Wenger "if the Marshalls said they didn't need the phone and didn't mind you taking it why did Capt McPherson not want you to take it?" He said he did not know. I asked him "now this phone has turned out to be a point of contention in this case?" He said yes. Inv. Wenger said he documented in his report that he was ordered to not take the phone. He said there are four defendants in this murder and all four have filed motions to dismiss based on the cell phone saying that the police department either lost or destroyed evidence.

I asked Inv. Wenger "there is no doubt that Capt McPherson told you to not take the cell phone, do you know who he called in your chain of command?" He said he heard he called Chief Carroll but he doesn't know for sure. He said Chief Eidson called Sgt. Phillips who called him (Inv. Wenger).

I asked Inv. Wenger about another incident involving Capt McPherson that happened on the back lot of the PSC. He said it happened on March 30th when he was talking to Inv. Narramore. He said Capt McPherson walked up and brought up the suppression hearing regarding the cell phone. Inv. Wenger said Capt McPherson told them "the reason I didn't want ya'll to take that phone was that it belonged to Antonio Watkins who had bought it from Harold Butler and I didn't think we had a legal standing to take the phone". He said Inv. Narramore then said "all we can do is tell the truth". He said Capt McPherson then said "well I made a decision and I will have to tell them that". Inv. Wenger also said that Capt McPherson told them that Inv. Pickard and those MF's down there have amnesia. Inv. Wenger said he didn't know what Capt McPherson was referring to. Inv. Wenger said he has heard that Inv. Pickard was approached by someone in his chain of command about the phone.

Inv. Wenger said Chief Eidson walked up at that time but did not hear any of the conversation about the phone.

I asked Inv. Wenger if he has talked to Inv. Crider or Inv. Pickard about what Capt McPherson told him that night. He said he had. I asked him if they witnessed Capt McPherson telling him to not take the phone. He said that Inv. Crider said he remembered something about the phone but doesn't remember the details of the conversation. He said Inv. Pickard said about the same thing. Inv. Wenger said when Capt McPherson approached him the first time he was alone. He said when Capt McPherson came up to him the second time he thinks that Warren Smith, Jason Ladd and Jim Robinson were there and heard the conversation. He said this was the conversation where Capt McPherson told him he could talk to the subjects but he could not take the phone.

I asked Inv. Wenger how Inv. Crider identified the cell phone as the one he was looking for. He said by the phone number.

I asked Inv. Wenger if he was in the suppression hearing where Capt McPherson testified. He said he was. I asked him what Capt McPherson's testimony about the phone was. He said basically he didn't know anything about the phone. He said he didn't know anything about the phone, didn't remember anything about the phone, didn't remember talking about the phone, he didn't remember calling anybody about the phone. I asked Inv. Wenger if Capt McPherson remembered telling him to not take the phone. He said according to his testimony he didn't. He said Capt McPherson didn't remember anything about the phone. He said Capt McPherson testified that he was working an extra job at the time the phone was found and came over but was just an observer. He also said that Capt McPherson testified that he was not in Inv. Wenger's chain of command and couldn't have given him that order and would not have given that order. Inv. Wenger said Capt McPherson was told that Inv. Wenger has documented this in his report and he and Sgt. Phillips have testified to it. He said Capt McPherson was then asked if they are lying. Capt McPherson then responded that he was not saying they were lying just that he didn't remember it and that was something he would not do.

Inv. Wenger said he and Sgt. Phillips rode to the hearing together and Sgt Phillips mentioned that Capt

McPherson didn't remember anything about the phone. Inv. Wenger said he then told Sgt. Phillips that Capt McPherson did remember now because he talked to him on Friday and he told Sgt. Phillips what Capt McPherson had told him and Inv. Narramore.

I asked Inv. Wenger "prior to this conversation did Capt McPherson say he didn't remember anything about the phone?" He said when they found out about the suppression hearings, about a month prior to the hearings, Capt McPherson asked him about the phone and said he didn't remember anything about it. Inv. Wenger said he told Capt McPherson the details about the phone being found at 2004 Curtis St and Capt McPherson told him he didn't remember anything about it. Inv. Wenger said a month later on the back lot Capt McPherson told him he did remember about the phone then two days later in the hearing he said he didn't remember it.

I asked Inv. Wenger if there was some issue about someone kinned to Capt. McPherson being involved in this murder. He said yes, Myra Collier is Capt McPherson's niece. He said on the night of the murder Collier called Capt McPherson. He said this was on her phone records. He said almost immediately after he (Wenger) was notified about the murder Capt McPherson called him and told him who the suspects were. Inv. Wenger said he BOLO'd the suspects on the radio and Capt McPherson called him back and got on to him saying he should not have BOLO's the suspects. He said he explained to Capt McPherson that he did it for officer safety. He said Capt McPherson told him to "give them a fucking chance to catch them". I asked him if he reported this to Sgt. Phillips. He said he did.

Inv. Wenger said he didn't know at that time that Myra Collier was Capt McPherson's niece. He said he thinks Capt McPherson got the information on the suspects from Collier. He said Capt McPherson did make arrangements for Collier to meet with him about the murder. I asked him if Collier was a suspect in the murder. He said he considers her a suspect but doesn't have proof. He said he thinks that Collier set up the robbery but he doesn't have proof. I asked him if Collier was the girlfriend of one of the suspects. He said Collier did date Stephen Ballou for a while. He said Ballou is a defendant in the murder.

I asked Inv. Wenger if he has any evidence that Capt McPherson was trying to protect his niece by doing what he didn't. He said he had no evidence of that. He said he has phone records where they spoke the night of the murder and he said Capt McPherson did call him with the suspect information. Inv. Wenger said he also does not have any proof that anything in that cell phone would have incriminated Collier. Inv. Wenger said he has no evidence or proof that Capt McPherson was trying to cover anything up.

To sum up, I told Inv. Wenger that Capt McPherson at first didn't remember anything about the cell phone then in their conversation on the back lot Capt McPherson said he did remember the phone and said he made a decision and would have to tell them that then in the hearing Capt McPherson testified that he did not remember anything about the phone. Inv. Wenger said that was correct.

I asked Inv. Wenger if there was some animosity between Capt McPherson and the homicide division. He said there was no animosity between divisions, homicide and fugitive. He said he does believe there is animosity between Capt McPherson and some of his people in fugitive and between Capt McPherson and maybe the homicide supervisors. He said he has heard that Capt McPherson has kept information from homicide intentionally in the past. He said he has heard that Capt McPherson has ordered his guys (fugitive officers) to not give homicide some information despite a memo from Chief Dodd that any investigator who gets information is to relay it to the lead investigator within an hour. I asked him if he was certain that Capt McPherson has ordered his investigators to withhold information. He said he has not seen it in writing but understands there was a memo that went up the chain of command about it maybe a year ago that list specific incidents. I asked him who sent this memo. He said Sgt. Phillips sent the memo. Inv. Wenger said as far as the investigators in homicide and the investigators in fugitive and crime suppression they all work well together.

End Interview at 1150 hrs.

Interview with: Sgt. Bill Phillips

Date/Time: 10 April 2012 1406 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532 and Inv. Mercado

This interview was recorded.

I asked Sgt. Phillips to give me the details he has about this complaint. He said this begins with a homicide that occurred on 29 June 2010 at 4417 Oakwood Dr Apt 1610. He said this was a home invasion murder where Bernard Hughes was killed. Another person, Timothy Westfield was also shot. Inv. Wenger was assigned as the lead investigator. Sgt. Phillips said that they had been working the case for a couple of weeks and on 13 July 2010 he (Phillips) received a call at home from then Lt. Eidson. He said he was awakened by the call. He said Lt. Eidson said something about the phone that Inv. Wenger was out with and told him to call Inv. Wenger and tell him to leave that phone alone. Sgt. Phillips said he thought that was strange because he usually doesn't get phone calls like that. He said he did call Inv. Wenger and told him to leave the phone alone. He said Inv. Wenger told him that he was with some Marshalls and they were interested in the phone and he had talked to them and had everything worked out.

Sgt. Phillips said he didn't think any more about this until several weeks later when he was approving Inv. Wenger's initial report where Inv. Wenger detailed the circumstances with the phone. He said there was four suspects in this case who have been indicted. He said this phone was believed to belong to one of the suspects. Sgt. Phillips said he told Inv. Wenger to document everything about the phone because it could become an issue in court.

Sgt. Phillips said there was a female at the scene of the murder who was the niece of then Lt. McPherson. He said they were 95% sure that this female had something to do with setting up the robbery that resulted in the murder. He said they had obtained the female's phone records and had found out that she had made several phone calls to Lt. McPherson the night of the murder (before the murder, during the time of the murder and after the murder). I asked Sgt. Phillips if this phone that he called Inv. Wenger about is the same phone that this female is using. He said it was not.

Sgt. Phillips said that Officer Crider found the phone that Inv. Wenger was looking for in the possession of Antonio Watkins. He said Officer Crider called Inv. Wenger and told him he thinks he has the phone he is looking for. He said Inv. Wenger responded to Officer Crider's location and when he arrived he is met by Lt. McPherson who tells Inv. Wenger that he doesn't want him fooling with that phone and doesn't want him talking to anyone associated with that phone. He said the story was that the Marshalls were following that phone trying to find someone. Sgt. Phillips said that should not have mattered; if the phone was evidence in a homicide then the Marshalls could have found another way to find their suspect.

I asked Sgt. Phillips if Lt. McPherson was getting his instructions about the phone from the Marshalls. He said that was what he was leading Inv. Wenger to believe. He said Lt. McPherson told Inv. Wenger that he didn't want him touching the phone. He said Inv. Wenger later told him that the Marshalls told him they did not need the phone. Sgt. Phillips and Inv. Wenger discussed this incident with the DA's office.

Sgt. Phillips said that around the first of March 2012 one of the defense attorneys filed a motion to dismiss his client's case. He said then the other three attorneys filed the same motion for their clients. Sgt. Phillips said all defendants are charged with felony murder and their motions to dismiss are based on this cell phone.

Sgt. Phillips said when he was notified by Neil Pinkston of the DA's office that motions had been filed he talked to Lt. Eidson. He said Lt. Eidson didn't remember the incident. Sgt. Phillips said that that was reasonable

because Lt. Eidson obviously had been awakened that night and was just telling him (Phillips) what someone had told him to tell. I asked Sgt. Phillips if Lt. McPherson had called Lt. Eidson. He said he does not know if Lt. McPherson called Lt. Eidson and Lt. Eidson doesn't remember the call.

Sgt. Phillips said that between the time of the notice of the hearing and the date of the hearing he heard from A/C Eidson that Capt. McPherson does not remember anything about the phone.

Sgt. Phillips said on the day of the hearing he and Inv. Wenger were riding together to the hearing and were talking. He said that Inv. Wenger told him that last Friday he had a conversation with Capt. McPherson and Capt. McPherson told him he did remember the phone. He said Inv. Wenger told him that Capt. McPherson told him that the reason he gave the order to not take the phone was because Antonio Watkins had the phone and that left us without standing to take the phone. Sgt. Phillips said that didn't matter; we would have taken the phone regardless. Sgt. Phillips said they had someone giving orders on a homicide case that doesn't know how to work homicides.

Sgt. Phillips said at the hearing the rule was called and he, Inv. Wenger and Capt. McPherson were outside the courtroom. He said Inv. Wenger testified first then he (Phillips) testified. He said then Capt. McPherson testified. Sgt. Phillips said he walked to the DA's office after testifying and while there he received a text from Inv. Wenger telling him he need to hear this. He said he went back to the courtroom and saw Capt. McPherson leaving. He said he went inside and sat down beside Inv. Wenger and one of the defense attorneys began his argument to the judge on why his client's case should be dismissed. He said the attorney stated that Inv. Wenger testified that the phone was important to his case and he would like to have confiscated the phone. He said the attorney then told the judge that obviously Capt McPherson is not being truthful in his testimony. He said the attorney said Capt. McPherson testified that he can't remember giving an order about the phone.

Sgt. Phillips said ADA Neil Pinkston leaned back and told him that Capt. McPherson didn't do so well. He said he asked Pinkston if Capt. McPherson testified that he didn't remember any of this and Pinkston told him yes. Sgt. Phillips said he asked Pinkston for a copy of the transcript of the hearing. I asked Sgt. Phillips to make a copy for me also. The transcript has been placed in this case file.

Sgt. Phillips said he asked Inv. Wenger to send him an email detailing his conversation with Capt. McPherson about the cell phone. I asked for a copy of the email and it has been placed in this case file. Sgt. Phillips said in the email Inv. Wenger said that Inv. Narramore was also present when Capt. McPherson told him about the phone. Sgt. Phillips said he called Inv. Narramore and Inv Narramore confirmed the information. He said he asked Inv. Narramore to send him an email about the conversation also. This email had also been placed in this case file.

Sgt. Phillips said that Inv. Narramore called him later that same day and told him that Capt. McPherson made the statement during the conversation that Officer Pickard had amnesia. Sgt. Phillips also said that he had heard that Sgt. Jonathon Bryant had went to Officer Pickard about how he needed to go to the hearing and tell how he was the one who wanted the phone and he was the one who told them to not get the phone. He said this occurred on Wednesday before the hearing. I asked him if Officer Pickard was there the night they found the phone. He said he doesn't know; the only one he knows for sure that was there was Officer Crider. Sgt. Phillips said he knew that Officer Pickard would not be the one to call a lieutenant and tell him to tell his investigators to not take the phone.

Sgt. Phillips said he asked A/C Eidson to come to his office the next day after the hearing and told him that the judge has taken this case under advisement. He told A/C Eidson what Capt. McPherson had testified to and that he had information from two officers that was contrary to what Capt. McPherson had testified to.

Sgt. Phillips said what they have is an order to not take a piece of evidence in a murder. I asked him if Capt. McPherson has said who he called to get that order. He said he has not talked to Capt. McPherson. I asked him if he had talked to A/C Carroll and asked him if he remember this incident. He said he did talk to A/C Carroll but he didn't say he remembered any of this.

I asked Sgt. Phillips if the Marshalls came out to the scene the night the phone was found. He said he believed

they did. He also said he believed Inv. Wenger talked to the Marshalls and they had concluded their involvement with the phone. Sgt. Phillips said that it would not have mattered if the Marshalls did have an interest in the phone they would still take the phone if it was evidence in a murder. I told Sgt. Phillips that if the Marshalls had concluded their need for the phone then there would be no need for an order to not take the phone. Sgt. Phillips agreed. He said that Inv. Wenger explained that to Capt. McPherson and eventually Capt. McPherson told Inv. Wenger that he could look at the phone and he could talk to the people that had it but you can't take the phone. I asked Sgt. Phillips "so the justification that Capt. McPherson used to give the order to not take the phone was that the Marshalls were using it to track a fugitive?" He said that was the assumption. Sgt. Phillips said that the person who they were looking for as a suspect (Harold Butler) supposedly was the boyfriend of the female who is suspected to have set up the robbery and is Capt. McPherson's niece. He said Capt. McPherson's niece has not been charged in the case.

End Interview at 1438 hrs.

Interview with: Officer Phillip Narramore

Date/Time: 23 April 2012 1100 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Officer Narramore read and signed the Employee rights and Responsibilities form. This interview was recorded.

I told Officer Narramore that I wanted to talk to him about a conversation he, Inv. Wenger and Capt. McPherson had on the back lot of the PSC on March 30, 2012, in reference to the Bernard Hughes murder and a cell phone. Officer Narramore said he was talking with Inv. Wenger when Capt. McPherson came up and began talking to Inv. Wenger. Officer Narramore said Capt. McPherson stated to Inv. Wenger that the reason why they didn't take or ordered that they not take the cell phone was because it was in the possession of Antonio Watkins and he didn't feel like they had a legal standing to take the phone. Officer Narramore said Capt. McPherson went on to say that "I made that decision so I guess I'll have to go down there and tell them that" referring to the court hearing coming up on the following Monday.

I asked Officer Narramore "Capt McPherson did know what he was talking about; he did know about the cell phone and didn't deny knowing anything about the cell phone did he?" Officer Narramore said Capt McPherson did know about the cell phone and did not deny knowing anything about the phone.

Officer Narramore said it was a short conversation and that Capt. McPherson said something about Officer Pickard having amnesia. He said he didn't know what Capt. McPherson was referring to.

Interview with: Officer Tim Pickard

Date/Time: 8 May 2012 1503 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Officer Pickard read and signed the Employee rights and Responsibilities form. This interview was recorded.

I gave Officer Pickard some background on this case and asked if he remembered it. He said he did and that he was with Officer Crider when the phone was found. Officer Pickard said that he was the officer who patted

down Antonio Watkins and found the phone in his back pocket. He said several other fugitive officers were also there; Davenport and Rowe. He said also that Jim Robinson and Jason Ladd from the U. S. Marshalls and an ATF agent were there. Officer Pickard said he wasn't sure if someone called Capt. McPherson or how he came to be there.

Officer Pickard said when they found the phone he remembers that they gave it to the Marshalls and told them that it was the phone they were looking for. Officer Pickard said he didn't know anything about the conversation about the phone that took place between Inv. Wenger and Capt. McPherson. He said they were dealing with a lot of people and they had also found a gun inside the house and they were trying to find out if the suspect they were looking for had been there. He said he didn't find out about the conversation until Sgt. Bryant came to him and asked him about it a few weeks before the hearing. Officer Pickard said he was the officer who did the investigation and paperwork on this case. He said Sgt. Bryant asked him what he remembered about the phone and if he remembered Capt. McPherson telling Inv. Wenger to not take the phone. Officer Pickard said that was the first he had heard about that. He said no one came to him on the scene that night and asked him about it.

I asked Officer Pickard if he was looking for the phone. He said yes. He said they were there because they knew the phone was connected to one of the suspects in the murder. He said the phone was found on Antonio Watkins (not the suspect). He said once they found that the phone was not on the suspect they were looking for he said there wasn't any anything else he needed to do with the phone.

I asked Officer Pickard if he knows why the Marshalls were looking for the phone also. He said the Marshalls were helping the CPD track the phone. He said he had gotten a court order to track the phone. He said they thought they would find the suspect there but they found the phone in the possession of Antonio Watkins. Officer Pickard said that once the phone is located they notify the Marshalls and turn the phone over to the lead investigator.

I asked Officer Pickard to tell me about a conversation he had with Sgt. Jonathan Bryant concerning the cell phone. He said that Sgt. Bryant, his immediate supervisor, called him and asked him what he knew about the phone and did he know about Capt. McPherson telling Inv. Wenger to not take the phone or did he tell Inv. Wenger to not take the phone. Officer Pickard said that was the first he had heard anything about the phone not being taken. I asked him when this conversation took place. He said it was close to the time of the hearing; he did not know the exact date. Officer Pickard said Sgt. Bryant called him again a day or two later and asked him again about the phone. He said Sgt. Bryant asked him if he was sure he didn't remember how that happened. Officer Pickard said he was there but he was not a part of that conversation (between Wenger and McPherson) and he did not remember anything like that. Officer Pickard said "how am I going to tell Wenger to do something like that; Wenger and I are the same rank".

I asked Officer Pickard if he knew that night that the phone was not taken. He said he had no idea that it was not taken. I asked him what he did remember about the phone from that night. He said he thought that Antonio Watkins was going to be taken to the PSC to be interviewed. He said he was surprised to find out that the phone was not taken and that Watkins was not transported. He said if they are tracking a phone and it is found it would be turned over to the lead investigator.

I asked Officer Pickard, "So Sgt. Bryant called you and just asked if you remembered it?" He said yes. I told Officer Pickard that I had been told that Sgt. Bryant had tried to pressure him into saying something. Officer Pickard said it wasn't pressure, it was like "you were out there; it was your case, how do you not know anything about this phone, how did you not know anything until this happened?" Officer Pickard said he felt like Sgt. Bryant was telling him that he should know these things. I asked him "so Sgt. Bryant was not trying to pressure you into saying something you could not testify to?" He said no, he didn't think that. He said Sgt. Bryant told him to go talk to the ADA. He said he asked Sgt. Bryant "you want me to go tell them that I don't know anything about this phone?" He said he told Sgt. Bryant "if I wasn't a part of that conversation I don't know what happened what can I tell him?" He said Sgt. Bryant told him "OK, I understand." Officer Pickard said he did not have to go to talk to the ADA. He said it was never brought up after that.

I asked Officer Pickard what he did with the cell phone after he found it. He said they brought Mr. Watkins out

to the street and they emptied his pockets. He said the phone was taken out of his pocket. I asked him "you were there at that location because that phone had been tracked to that location, right?" He said yes. He said when the phone was found he told the Marshalls that the phone had been found. I asked him how he identified the phone as the one he was tracking. He said one of the investigators on the scene, maybe one of the Marshalls, asked Watkins if that was his phone. He said Watkins told them it was his phone now but he had bought it from Harold Butler ("BAM" who is the suspect) for some weed. Officer Pickard said he turned the phone over to the Marshalls so they could discontinue the tracking of the phone. He said from there he doesn't know where the phone went.

I asked Officer Pickard what is the procedure in a case like this where it is a CPD homicide case but also a Marshall's case due to our request to track the phone. I asked him who he would turn the phone over to. He said it would be Inv. Wenger or whoever the case agent was. He said once they found that the phone wasn't with the suspect there was nothing else they could do with the phone. He said the normal procedure would be to turn it over to the homicide investigator. I asked him if he took the phone to property division. He said no.

I asked Officer Pickard if his report that night documented what he did with the phone. He said no. He said this incident happened in 2010 and until now it has been a non-issue. He said he didn't know anything about this until this hearing came about. He said in hindsight, they found the phone, it wasn't in the possession of the suspect, Inv. Wenger was on the scene and the normal procedure would have been for Inv. Wenger to take Watkins to question him and if he wanted the phone he would have taken it and put it into evidence. He said they (fugitive) were there, they didn't find what they were looking for, Wenger is there, and our job here is finished. I asked him if he left the scene before Inv. Wenger and Capt. McPherson. He said he thinks he did but is not sure. I asked him when did he find out they did not take the phone. He said just recently, when the hearing came up. I asked him if he thought they had taken the phone. He said yes. He said he assumed that the phone was taken and that Watkins was taken or at least questioned there. He said at that point it was Inv. Wenger's deal.

I asked Officer Pickard if Capt. McPherson or Sgt. Bryant had given him any instructions as to what to do with this phone once it was found. He said no. I asked him if Capt. McPherson and Sgt. Bryant knew he was looking for the phone or if they knew he had gotten a court order to track it. He said they work their own cases but he can't remember if he specifically told either of them about the court order. I asked him if he does a supplement report when he gets a court order. He said no. He said he goes to the Marshalls and has them type up the order then he takes it to a Criminal Court judge to be signed then returns it to the Marshalls and they keep a copy of it.

I asked Officer Pickard in review "so on the scene on July 13th, 2010, you found the phone but you didn't know that they didn't take it at that point and you didn't know anything about the conversation between Inv. Wenger and Capt. McPherson about not taking the phone?" He said no, he didn't find out about all of this until recently when the hearing came about. I asked him "and the conversation you had with Sgt. Bryant recently about that phone was what you knew about it?" He said yes. He said Sgt. Bryant was inquiring as to what he knew about it. I asked him "and you didn't know what he thought you should know?" He said "exactly". He said Sgt. Bryant may have thought he was a part of the conversation between Wenger and Capt. McPherson.

I asked Officer Pickard if Capt. McPherson ever said anything to him about what to do or not to do with the phone. He said no.

I asked Officer Pickard again if he thought Sgt. Bryant was trying to influence him to say something that was not true. He said no. He again said it was a supervisor to a subordinate saying this is your case, you were out there and you don't remember any of this happening? It is your case you should know what is happening out there.

End Interview at 1540 hrs.

Inv. Wenger's Supplement

On 16 May 2012 I obtained a copy of Inv. Wenger's supplement (dated 16 Aug 2010) for the homicide case (comp#10-060900) and placed it in this case file. Refer to the last page of the report to see where Inv. Wenger documented that "once at the residence I was approached by Lt. McPherson who told me he did not want me to take Harold Butler's cell phone and told me not to question anyone regarding the phone".

Interview with: Capt. Edwin McPherson

Date/Time: 16 May 2012 0947 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532 and Capt. Susan Blaine 545

Capt. McPherson read and signed the Employee Rights and Responsibilities form. This interview was recorded.

I asked Capt McPherson if he knew what this investigation was about. He said he knew bits and pieces and knew it was about a cell phone and his court testimony. I told him it begins back in June of 2010 with the murder of Bernard Hughes. Capt. McPherson said he was familiar with that case. I told him that on July 13, 2010, a cell phone was found that belonged to one of the suspects in the murder. I asked Capt McPherson if he responded to the murder. He said his unit is a support unit for incidents like that. He said his unit responded to the murder scene and that was also the night he was involved in a police involved shooting on Graysville Rd.

I asked Capt. McPherson if he received information about the murder that he relayed to Inv. Wenger. He said he did. He said they do not investigate but if they receive information they pass it along. I asked him if the information he received was from someone at the murder scene. He said he received information from several people, some which are confidential informants. I asked him if one of the informants was his niece. He said yes.

I told Capt McPherson that Inv. Wenger had developed information about a cell phone belonging to one of the suspects, Harold Butler, Jr., and they were tracking that cell phone. Capt. McPherson said he was not notified about this until two years after the incident. He said he was not directly involved. He said he was told there was an issue with the cell phone and was told he may have to testify. He said of all his years in investigations he has never not set down with others involved and prepared for a court case. He said in this case no information was given to him; no documents were shown to him. He said he arrived at the DA's office and met with ADA Neil Pinkston and was told they were going to put him on the stand. Capt. McPherson said he told them then that he did not remember telling Inv. Wenger to not take the cell phone. Capt. McPherson said if he makes a decision he will stand by it.

I told Capt McPherson that Inv. Wenger had documented that they didn't take the cell phone. He said he told them then and he is telling me that he doesn't remember telling Inv. Wenger that. He said they told him there was documentation. He said the only time he saw the documentation was when the defense attorney showed it to him. Capt. McPherson said "how can I prepare; I've been involved in hundreds of cases". I asked him if no one spoke to him about this case before hand. He said he and Inv. Wenger spoke about it on the back lot and he spoke with A/C Eidson about it. He said he asked A/C Eidson what was the issue with the cell phone and A/C Eidson told him there was something about the defense attorney. Capt McPherson said no one seemed too familiar with it. Capt. McPherson said anytime there is a case like this the case is prepared. He said you prepare before a suppression hearing or a trial.

Capt. McPherson said he had four investigators on the scene and the phone was being pinged. He said he can't give verification of something if he is not familiar with it. He said Officer Pickard was the officer pinging the phone through the U.S. Marshalls. He said these are details he doesn't get involved with. He said if they were

following protocol he would have called Officer Pickard to the table to tell what they had done and why. Capt. McPherson said he asked Officers Pickard, Crider, Rowe and Davenport if they asked him to not take a phone. He said they told him no. He said he told them if he did tell them that he needed to know. Capt. McPherson said if they ping a phone it is a lead to a body and they have pinged other phones and the phones have never been an issue and has never been taken. He asked "why is it an issue now and why is it coming up two years later?" Capt. McPherson said he would not have just come out and told them to not take the phone. He said there would have to be a reason.

I asked Capt. McPherson if he was saying that he still does not remember telling Inv. Wenger to not take that cell phone on July 13, 2010. He said he does not remember ever telling him that. Capt. McPherson said he told them that before he got on the stand. He said he told Inv. Wenger that and told A/C Eidson that.

I asked Capt. McPherson if he remembers having a conversation on the back lot with Inv. Wenger and Inv. Narramore. He said they were standing on the back lot and that is when he talked to Inv. Wenger. I asked him if he told Inv. Wenger he did remember the cell phone issue and that he told Inv. Wenger to not take the phone. Capt. McPherson said he did not tell him that. He asked me if Inv. Wenger was saying that he said that. I told him yes. I told him that both Inv. Wenger and Inv. Narramore heard the conversation where he told them that he did remember the phone and that he made the decision and would have to stand by it. Capt. McPherson said "I swear to God that I did not tell them that". Capt. McPherson said it would not benefit him one bit to lie. He said it would not benefit him if they took the phone or didn't take it. Capt. McPherson said if he had told them to not take the phone he would tell us that. Capt. McPherson said he asked Inv. Wenger what is the deal with the phone. He said he asked Inv. Wenger if they were going to set down and talk about this case. He said they never sat down in a formal setting and prepared the case like they normally would.

I asked Capt. McPherson if he remembered any of the conversation with Inv. Wenger on July 13, 2010. He said his memory was very vague from that day. He said he just showed up out there and he talked to Tony Bologna's (Antonio Watkins) mother and he remembers that Chad Rowe found a gun and that the Crime Scene unit came and got it. I asked Capt. McPherson if he did a report that night. He said no. He said his investigators do a synopsis.

I asked Capt. McPherson if he was working an extra job the night of July 13, 2010. He said he was. I asked him if there was a particular reason he showed up at the scene where the phone was found. He said if he hears someone get out with something he will jump a call.

I asked Capt. McPherson if he made a phone call to someone in the homicide chain of command and requested that that cell phone not be taken. He said he has no documentation of something that happened two years ago. He said he asked A/C Eidson if he called him about a cell phone. He said A/C Eidson said he wasn't sure; it was vague to him. I told Capt. McPherson that A/C Eidson doesn't remember who called him but A/C Eidson definitely called Sgt. Phillips who then called Inv. Wenger to relay the information. Capt. McPherson said he does not remember calling A/C Eidson. Capt. McPherson said he is not going to make a decision unless it is a joint decision with that side of the house. He said they do not work for him. I asked him "so you would not take it upon yourself to give a homicide investigator an instruction like that?" Capt. McPherson said he would not do that because he does not work for him. He said if he had done that there would have been some issues with him and then Lt. Eidson. I asked Capt. McPherson if he did call A/C Eidson and asked him something like this would A/C Eidson do it. He said if he asked him he probably would but he would want to know why. Capt. McPherson said that if one of his officers asked him to do something like this he would also want to know why. I asked him if he remembers any of his officers asking him to not take the cell phone. He said no.

I asked Capt. McPherson if he remembers talking to any of the Marshalls about the phone that night. He said he doesn't remember talking to any of them.

Again, Capt. McPherson said if he had instructed that the phone not be taken it would have been because one of his officers asked him. I asked if he remembers any of his officers asking him that. He said no.

I told Capt. McPherson that something was said about him giving the order because the Marshalls were

interested in the phone. He said the Marshall's interest in the phone is the same as Officer Pickard's. He said they helped Officer Pickard get the order for the phone. Capt. McPherson said that the phone is a lead and if the phone doesn't take them to the suspect then it is a false lead. Again he said that in the past they haven't taken phones and it has never been an issue. I asked him if anything was ever said to him about the phone being evidence. He said not to his knowledge. He asked how it would be evidence. I told him that there is a lot of information that can be obtained from a cell phone: GPS coordinates and pictures, texts, etc. I asked Capt. McPherson if he was familiar with this case and what all Officer Pickard was doing before he went to the scene that night. He said he was aware they were working this case and had several leads on it. He said Sgt. Bryant would keep him up to date. I asked him if he was aware they were tracking this phone. He said he became aware after the fact. He said after the hearing he called a meeting and asked Officer Pickard if they were tracking this phone. He said Officer Pickard told him they had gotten an order to track the phone. I asked him again if he had prior knowledge this phone was being tracked before he went to the scene that night. He said he did not. I asked Capt. McPherson again if he remembered Inv. Wenger saying something to him on the scene that night about the phone. He said no. He said no one said anything to him about the phone being evidence that night.

Capt. McPherson said this is the issue with this, he said he has never lied in an internal affairs investigation and has never lied in court. He said his career and his integrity mean more to him and he told the facts as he knew them. He went on to say that Inv. Wenger has had issues with evidence in several of his cases. He said Inv. Wenger recently wanted to leave homicide because he was the red headed stepchild over evidence that wasn't sent off. He said to this day he has not seen the supplements that Inv. Wenger and Sgt. Phillips have written. Capt. McPherson said no one has told him who has the issue with the phone; is it the DA or the defense or who. Capt. McPherson said this case has not gone according to normal protocol. I asked him if normal protocol would have been for him to set down with the DA and the investigator and go over the case before court. He said yes. He said he is being made out to be the bad guy or like he is being deceptive but this is not normal protocol.

I asked Capt McPherson if someone individually talked to him about the cell phone before the hearing. He said Inv. Wenger mentioned it to him and he asked A/C Eidson about it. I asked him what Inv. Wenger said to him. He said Wenger told him the hearing was coming up about the cell phone in the Bernard Hughes case. Capt. McPherson said he was not familiar with the details of the case due to not sitting down and going over it. I asked him if the only notification he had was when Inv. Wenger told him the case was coming up. He said yes. Capt McPherson asked why he is being left out of the loop. (Capt McPherson was subpoenaed on March 23, 2012, and received an email from ADA Neal Pinkston on 14 March 2012. The email contained a copy of the motion to dismiss which contained a statement that "Detective Wenger states in his report that he was instructed by both Lt. McPherson and Sergeant Phillips to refrain from recovering the cell phone of Harold Butler from Antonio Watkins.") This email has been placed in this case file.

Capt. McPherson said he has to go on his memory when they have documentation. I asked him if he talked to the DA before the hearing. He said he talked briefly to ADA Neil Pinkston in his office and was told that the defense wants to ask him about the cell phone. Capt. McPherson said he told ADA Pinkston that he did not remember telling him (Wenger) that.

Capt McPherson said if he had given Inv. Wenger an order he would have signed off on it. He said Inv. Wenger said he gave him an order but Sgt. Phillips signed off on the report. He asked when was this documentation written and why has he not been given a copy of it. I told him that Inv. Wenger talked to Sgt. Phillips (his supervisor) back in 2010 and Sgt. Phillips told him to document it. I told him that they didn't know who called A/C Eidson but the call definitely came from A/C Eidson to Sgt. Phillips then to Inv. Wenger.

Capt McPherson said his unit collects a lot of evidence for homicide. He says he makes his officers call the crime scene unit for everything just like they did the gun that night (July 13th). He again said if he gave an order to not take the cell phone someone, one of his officers, would have requested that he do it. I asked him if he remembers anybody asking him to do that. He said no. I asked him if he remembers anybody talking to him about the phone that night. He said he remembers talking to Tony Bologna's mother and that they found a gun

and he looked at the gun but he was not as heavily involved in the case as he is being made out to be.

I asked Capt McPherson again "so you would not have given an order to not take that phone unless one of your officers or someone else had requested it?" He said it would have been one of his investigators. I asked him "and it would have had to be a real good reason, right?" He said yes.

I told Capt McPherson that Inv Wenger said that he approached him as soon as he got out of the car and told him to not take the phone. Capt McPherson said he did not remember that. Capt McPherson asked if Inv. Wenger documented why he did not want him to take the phone. I told him that one thing that was said was that the Marshalls wanted it. He said the Marshalls got the phone for Officer Pickard and they worked with us. I asked him if after the phone was found and it was not on the suspect then the Marshalls would have no more interest in the phone. He said no, the interest would be with his officers because they were the ones tracking the suspect. I asked him if the phone was found then the interest in the phone would have gone to Inv. Wenger then because his officers would have had no more interest in it. He said yes. He said for the fugitive officers it was a dead lead.

I asked Capt McPherson if he has ever seen a cell phone taken as evidence by homicide. He said he hasn't.

I asked Capt McPherson if he talked to Inv. Wenger that night about not talking to the person who had the phone, Antonio Watkins. He said "no; why would I tell him not to talk to him?" He said if he had done that Inv. Wenger would have no use in being there. I told Capt McPherson that Inv. Wenger said that he (McPherson) came back after talking to the Marshalls and told him that he could talk to Watkins but still couldn't take the phone. Capt. McPherson said "this is the craziest thing he has ever heard of; now I'm dictating who talks to whom on the scene". Capt McPherson said his unit is a support unit there to assist them. He said he has never been on the scene where he has told them to do anything. He said "for me to tell him not to talk to someone; this is getting more bizarre as it goes".

I asked Capt McPherson what ADA Neil Pinkston told him before the hearing. He said Pinkston told him the defense attorney was going to ask him about the phone. I asked him if he told Pinkston he didn't remember the phone. He said he told Pinkston that he didn't remember telling him (Inv. Wenger) not to take the phone. I asked him if that is what he testified to. He said yes.

I asked Capt McPherson again about the conversation with Inv. Wenger and Narramore about their conversation on the back lot. I asked him if he remembered telling them that he did remember the phone and that he gave the order and would just have to tell them that. He said they talked briefly but that is not what he said. Capt McPherson said he asked Inv. Wenger what was the deal with the cell phone. He said Wenger told him the defense attorney wanted to ask them about the phone. He said he asked Wenger if they were going to meet about this. He said Wenger told him what time they were meeting in the DA's office. Capt McPherson said he told Inv. Wenger and Narramore that he didn't remember about the phone. He said he told A/C Eidson that and he told Neil Pinkston that. Capt McPherson said he has to go to people to ask about this case instead of getting notification and having a meeting about the case. I asked Capt McPherson "so you are saying that your recollection is consistent; you didn't remember the phone before the hearing, you didn't remember the phone when you talked to Wenger and Narramore on the back lot and you testified that you didn't remember the phone in the hearing". He said he didn't remember the specifics of telling Wenger to not take the phone and why. Capt McPherson said "if this phone is an issue why is it just coming up a week or so before the trial and why am I just now being told about it". He also said he was not brought into the loop about what's been said or what he needs to prepare for.

I asked Capt McPherson to tell me everything he remembers about his conversation with Inv. Wenger and Inv. Narramore on the back lot. He said Wenger was standing and Narramore was sitting in his truck. He said it was not a long conversation. He said he asked Wenger "hey, what's the deal with this case?" He said Wenger told him, "Yeah, the defense attorney said something to the effect of that cell phone could exonerate their client". Capt McPherson said he asked Wenger if they were going to meet on this and Wenger told him they were meeting in the DA' office. I asked him if that meeting was just prior to the hearing. He said yes. Capt McPherson said he told Wenger and A/C Eidson and he told Neil Pinkston "I don't ever recall ever telling you

that". I asked Capt. McPherson "you don't remember telling him anything about the cell phone and you don't remember having any reason to tell him anything about the cell phone." He said that was correct. Capt McPherson again said if he had a reason it would have come from one of his officers.

Capt. Blaine asked Capt McPherson who usually sets up these meetings on cases. He said sometimes in the DA's office and sometimes homicide will have a meeting. She asked him if he knows if there was a meeting and if he was just not invited. He said he is sure somebody met on it.

I asked Capt McPherson if he did something significant at a scene would he have one of his officers include that in their report. He said yes.

End Interview at 1031 hrs.

Interview with: Officer Chad Rowe

Date/Time: 25 May 2012 0916 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Officer Rowe read and signed the Employee Rights and Responsibilities form. This interview was recorded.

I explained to Officer Rowe what this investigation was about and asked him if he remembered the incident on 13 July 2010 where a cell phone they were tracking in reference to a murder investigation was found. He said he did. I asked him to tell me what he knows or observed about the cell phone. He said Officer Pickard told him that they had found the cell phone. He said that is pretty much all he remembers because he found a .45 caliber pistol under a mattress and he stood guard there until the crime scene unit came to recover the gun. I asked Officer Rowe if he ever saw the cell phone. He said no. I asked him if he knows what they did with the phone after it was found. He said no. I asked him if he ever heard any conversation about the phone other than they had found it. He said no. I asked him if he ever heard Capt. McPherson say anything about the phone. Officer Rowe said there were a lot of officers there that night; fugitive, ATF and Marshalls and since he found the gun he was told to stand guard on it until the Crime Scene unit could get there. He said he did hear later after they had interviewed Antonio Watkins that he traded some dope for the phone. I asked him if he has been involved in any pre trial meetings regarding this case to prepare for court. He said no.

End Interview at 0920 hrs.

Interview with: Officer Robin Davenport

Date/Time: 25 May 2012 0922 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Officer Davenport read and signed the Employee Rights and Responsibilities form. This interview was recorded.

I asked Officer Davenport if he was familiar with the incident on July 13, 2010 where they were tracking a cell phone looking for a murder suspect. He said he did. I asked Officer Davenport what he remembers about the cell phone. He said he remembers that there was an order placed on the phone. He said the phone led them to that location and they found the phone but it was not on the person who they were looking for. I asked him if he

was the one who found the phone. He said no. I asked him if he ever saw the phone. He said he does not recall seeing it. I asked him if he knows what happened to the phone after they found it. He said no. I asked him if he heard any conversation about the phone. He said none at all.

I asked Officer Davenport what his job was that day. He said other fugitive officers and the Marshalls went inside the residence and brought out Antonio Watkins and another subject. He said he took possession of Watkins and stood at the back of a vehicle guarding him. He said that was the position he held pretty much the whole time. I asked him if that was before Watkins was searched and the phone found. He said he didn't know. I asked him if he searched Watkins. He said no. I asked him if he was there when they took the phone out of Watkins pocket. He said he was there but doesn't recall it happening. I asked him what he did with Watkins after he was searched. He said he stood with Watkins until they told him the next move. He said he doesn't know if Watkins was arrested that night. He said he was told to stand with Watkins while they processed a gun that was found inside.

I asked him if he remembers any conversation about the cell phone. He said none except that the suspect was not found with the phone. I asked him if anybody said anything to him about the phone being evidence. He said no. I asked him if he heard Capt. McPherson talking to Inv. Wenger or the Marshalls about the phone. He said no. He said all he knows about the phone is that they were looking for it because of the suspect. He said when the suspect was not found there was nothing else for him to do. He said he didn't have any further interest in the phone at that point.

I asked Officer Davenport if he remembers Officer Pickard talking to the Marshalls about cancelling the trace on the phone. He said no. I asked him if he talked to Inv. Wenger that night. He said maybe in passing but not about the case. I asked Officer Davenport if he has been involved in any pre trial conference about this case. He said no.

End Interview at 0927 hrs.

Interview with: Officer Scott Crider 852

Date/Time: 30 May 2012 1350

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Officer Crider read and signed the Employee Rights and Responsibilities form. This interview was recorded.

Officer Crider said he does remember the incident from July 13th, 2010. I asked him to tell me how he got involved. He said he and Officer Pickard are partners and he remembers that Officer Pickard was tracking a suspect possibly John Simpson. I told him that Simpson was one of the suspects but the suspect that Pickard was tracking was Harold Butler. He said they went to 2004 Curtis St. and he remembers that because Antonio Watkins lives there and he has dealt with Watkins a lot. He said when they got there they spoke to Watkins and possibly to his mother. He said he thinks Watkins' mother allowed them to search the house. He said they checked the house for people and didn't locate anyone but they did locate a firearm. Officer Crider said he or one of the other officers contacted Inv. Wenger and told him about the gun they had found.

Officer Crider said he didn't remember exactly why they were at 2004 Curtis St.; he didn't remember if they were tracking a cell phone or not. He said he did not remember how or why they ended up at that specific location.

I asked him if he remembers anything about a cell phone that was found on Antonio Watkins. He said he did not. He said he doesn't remember it being found and doesn't remember it being in his possession. He said he doesn't recall any conversation about the phone. He said he does not know who found the cell phone. He said his interaction with Watkins was about the gun found in the bedroom. Officer Crider said the cell phone was so

routine and mundane for what they do that there was nothing about the incident except for the firearm that stuck out for him.

I asked Officer Crider if he remembers having any conversation about the cell phone with anyone. He said he doesn't. I asked him if he remembers anyone else talking about the phone. He said no.

Officer Crider said Inv. Wenger showed up later and he believes it was because of the gun. He said he doesn't remember talking to Inv. Wenger about the cell phone. I asked him if he knows what happened to the cell phone after it was found. He said he didn't. I asked Officer Crider if he did a report for this incident. He said no; it was Officer Pickard's case and he would have done the report. He again said that the incident was so routine that nothing stands out about it.

End Interview at 1357 hrs.

Assistant Chief Kirk Eidson

I talked to A/C Kirk Eidson on 31 May 2012 by phone and told him that according to Capt. McPherson's phone records Capt. McPherson called A/C Eidson two times on 13 July 2010, once at 1837 hrs and once at 1845 hrs. A/C Eidson said that he vaguely remembers a call about a phone but doesn't remember any details about the call.

Capt. McPherson's Cell Phone Records

On 30 May 2012 I obtained Capt. McPherson's city cell phone records for 22 June-14 July, 2010. On page 331 of the statement it lists Capt. McPherson's calls for 13 July 2010. The phone record lists two calls from Capt. McPherson to A/C Eidson, one at 1837 hrs and one at 1845 hrs. It also lists three calls to Inv. Wenger, one at 1837 hrs, one at 1840 hrs and one at 1841 hrs.

Page 331 of the cell phone statement has been placed in this case file. I requested Capt. McPherson's statement only but was told I would have to request a statement that would include everyone's cell phone. The statement contains 1063 pages. Capt. McPherson's statement is listed from Page 315-332. Only page 331 is included in this case file.

Follow Up with Inv. Wenger

I talked to Inv. Wenger by phone on 31 May 2012 and told him I had Capt McPherson's phone records and told him that Capt McPherson call him three times on 13 July 2010. Inv. Wenger said he didn't remember Capt McPherson calling him but maybe it was Capt McPherson who called him to notify him instead of Inv. Crider. Inv. Wenger said he remembers being notified that they had found the cell phone and that they discussed on the phone that he would be enroute to get the phone. I asked him "so they knew you were coming to get the phone before you arrived? He said yes.

I also asked Inv. Wenger about his conversation with Capt McPherson on the back lot and asked him if there was any doubt that Capt McPherson told him that he did remember the cell phone. Inv. Wenger said there was no doubt.

Interview with: Assistant DA Neal Pinkston

Date/Time: 7 June 2012 0957 hrs.

Location: District Attorney's Office

Interviewed By: Sgt. Guthrie 532

This interview was recorded (audio only).

ADA Pinkston gave some background to begin with. He said they were prosecuting John Simpson who is charged with murder and the trial is coming up. He said there were three other defendants. He said the attorneys for the defendants have read the police reports and found out about the phone and all defendants have filed a motion to dismiss. ADA Pinkston said he scanned a copy of the motion to dismiss and mailed it to the chain of command at the Police Dept. including Capt McPherson. He said Capt McPherson did have notice of what the hearing was about. He said Capt McPherson did not respond to the email. He said he does remember having a phone conversation with Capt McPherson before the hearing where Capt McPherson did not recall the particular details of the phone in this homicide investigation. I asked him "so Capt McPherson didn't remember the cell phone and didn't remember giving the order to not take the phone?" ADA Pinkston said Capt McPherson didn't remember anything. ADA Pinkston said he met with Capt McPherson the day of the hearing at about 1300-1315 hrs in his office. He said Capt McPherson told him he is unaware of why he is needed in this hearing. ADA Pinkston said he told Capt McPherson that he is alleged to have given the order to not take the phone. ADA Pinkston said Capt McPherson told him that it would not have been his decision to collect the phone or not because he is not major crimes.

I asked ADA Pinkston if Capt McPherson told him during their meeting that he did remember the cell phone. He said that Capt McPherson was "familiar with what everybody was talking about". ADA Pinkston said they even showed Capt McPherson the report that had been written by Inv. Wenger where he documented that Capt McPherson had given him the order. He said Capt McPherson again told him that it would not have been his call to not collect that particular piece of evidence.

I asked ADA Pinkston if Capt McPherson told him he remembered giving that order to not take the phone. He said he doesn't remember asking him that question because they knew it was going to be asked in court. I asked him if Capt McPherson indicated to him how he was going to testify. He said no. He said he advised Capt McPherson like he advises everybody, just tell the truth. I asked ADA Pinkston if he had any indication that Capt McPherson was going to testify to something different than what he (Pinkston) thought. He said no. ADA Pinkston said he hasn't reviewed the transcript in a while but he remembers that Capt McPherson testified that he didn't recall or he wouldn't have done this and that he wouldn't have given that order. He said Capt McPherson testified that he would not have given that order, it was not part of his duty, and he was not a part of major crimes.

I asked ADA Pinkston "so Capt McPherson never clearly stated to you that he remembered the phone and remembered giving that order?" He said on the day of the hearing in their meeting there is no question that Capt McPherson remembers the situation that everybody is talking about. He said he remembers Capt McPherson saying that that would not have been his decision because he is not major crimes. I asked ADA Pinkston "so he is saying that he didn't give the order?" ADA Pinkston said "that is what I took from it".

ADA Pinkston said that one or two days after the hearing ADA Cameron Williams emailed all the defense attorney's to notify them of the conversation between Capt McPherson, Inv. Wenger and Inv. Narramore that took place on the back lot of the PSC. I asked him if he knew about this conversation before Capt McPherson testified. He said he is not sure, he thinks Sgt. Phillips and Inv. Wenger may have mentioned it after the hearing. He said Sgt. Phillips sent an email notification of the conversation to DA Bill Cox.

ADA Pinkston provided me with some emails and a copy of the motion to dismiss. They have been placed in this case file.

ADA Pinkston said that between the times he sent Capt McPherson the subpoena on March 14th, 2012, and the date of the suppression hearing Capt McPherson did not recall this incident. He said that on the day of the hearing Capt McPherson is obviously familiar with the phone situation because he said that would not have been his decision. ADA Pinkston said he showed Capt McPherson Inv. Wenger's report and he knows he was shown the report on the witness stand. I asked ADA Pinkston if Capt McPherson acted surprised when he saw Inv. Wenger's report. He said he recalls that Capt McPherson said he wished Inv. Wenger had not put that in his report because that is how the Marshalls track people. I asked him if Capt McPherson testified in the hearing that he didn't remember the phone nor did he remember giving the order to not take it. He said he has not

reviewed the transcript but that is what he remembers about his testimony.

ADA Pinkston said he would review the transcript if I wanted. I asked if we could review Capt McPherson's testimony. In the transcript Capt McPherson was asked "do you recall ordering Inv. Wenger to not recover a cell phone which he thought was evidence in this case". Capt McPherson responded "I don't recall ordering anybody to do anything of that nature". Capt McPherson was then asked "so your position is you don't remember telling Inv. Wenger to not recover a cell phone on July 13, 2010?" Capt McPherson responded "That is possible because there was so much going on on the scene out there but he doesn't work directly for me and my specific task, if I were to have been involved, is to locate bodies and any evidence would be referred to them." ADA Pinkston said Capt McPherson went from "I don't recall" to now "it is possible". ADA Pinkston said Capt McPherson was asked "And specifically you came to him (Wenger) and instructed him to not recover a cell phone." Capt McPherson responded "And that may be possible. Like I said, sir, I was not directly involved in that case. If that came up it would have come through one of my people requesting that." Capt McPherson was asked "If you were not directly involved in the case why would you approach an investigator who is directly involved and instruct him not to recover what he believed to be evidence in a case?" Capt McPherson responded "I would never instruct anyone not to recover what I believe is evidence in a case."

ADA Pinkston said the motion to dismiss this case was denied but the lawyers have filed a second motion to reconsider based on Capt McPherson's conversation with Inv. Wenger and Inv. Narramore on the back lot of the PSC. I asked him when this motion is set to be heard. He said June 25, 2012, Div 3, Judge Poole's courtroom.

End of Interview.

Transcript

A complete transcript of the motion to dismiss hearing was obtained and the portion containing Capt McPherson's testimony was added to this case file.

Motion to Dismiss Hearing

The motion to dismiss hearing was held on April 2, 2012. The judge denied the defense motion to dismiss.

When I interviewed ADA Neal Pinkston he said that after finding out about the conversation on the back lot between Capt McPherson, Inv. Wenger and Inv Narramore, they had to notify the defense attorneys. He said the defense has now filed a motion to reconsider based on the conversation on the back lot. That hearing is set for June 25, 2012.

Update: The hearing has been passed until July 16, 2012.

Interview with: Agent Warren Smith, ATF

Date/Time: 19 June 2012 1530 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

This interview was recorded (audio only).

I asked Agent Smith if he remembered the incident on July 13, 2010. He said he remembered the incident but not the date. I asked him what he remembered about the cell phone that they were tracking belonging to the murder suspect. He said he never heard Capt McPherson say anything about the cell phone. Agent Smith said he did have a conversation with Inv. Wenger and Jason Ladd with the Marshall's office about why Capt McPherson would order someone to not take the cell phone. Agent Smith said he was told about the order by Inv. Wenger. He said he did not hear Capt McPherson give the order. I asked Agent Smith if he was told by

Inv. Wenger that Capt McPherson had told him to not take the cell phone. He said yes. Agent Smith said they discussed the order and said it did not make any sense to any of them. I asked him if Inv. Wenger gave a reason why Capt McPherson gave him the order to not take the cell phone. He said no.

Interview #2 with: Capt. Edwin McPherson

Date/Time: 20 June 2012 1115 hrs.

Location: Internal Affairs Office

Interviewed By: Sgt. Guthrie 532

Capt. McPherson read and signed the Employee Rights and Responsibilities form (first interview). This interview was recorded (audio only).

I asked Capt McPherson if he remembered any more about the incident involving the cell phone on July 13, 2010. He said he didn't. He said this incident occurred about the time he was involved in a fatal shooting (IA 2010-33) and he had a lot of issues going on at that time.

Capt McPherson said he has been shut off from the documentation of what people have said in this case.

Capt McPherson said he has never wavered from what he said; he said he doesn't remember ever telling them that (referring to Inv. Wenger and Inv Narramore's conversation on the back lot). He said if they say he said that then they are lying.

I told Capt McPherson that I had obtained his phone records for July 13th, 2010, and it shows that he did call A/C Eidson. Capt McPherson said he does not remember calling A/C Eidson on that date.

I told Capt McPherson that I had a copy of Inv. Wenger's initial supplement where he documented that he (McPherson) had given him the order to not take the phone.

Capt McPherson said he asked his investigators if there was any reason why they would not want to take the phone. Capt McPherson said this has been a mind boggling situation. He said they have never had a common practice of taking phones.

I asked Capt McPherson if he remembers having a conversation with Inv. Wenger during one of the phone calls he made to him or on the scene about him wanting to take the phone. He said he does not remember that.

I told Capt McPherson that I had also talked to the federal agents that were out there that night and they stated that they had a conversation with Inv Wenger where he told them that he (McPherson) had ordered him to not take the cell phone. Capt McPherson said he was at a loss for words. He said he has no reason to lie. He said he can only call it as he sees it and he understands that it will have to go to the chief for a final decision.

End Interview at 1120 hrs.

Summary

On 29 June 2010 a murder occurred at 4417 Oakwood Dr. Inv. Wenger of the homicide unit was assigned as the lead investigator. While on his way to the crime scene Inv. Wenger was called by Capt McPherson and given suspect information. During the investigation Inv. Wenger identified Harold Butler, Jr as a suspect. Inv. Pickard of the fugitive division was assigned to track down Harold Butler. Inv. Pickard obtained a court order to track Butler's cell phone. On 13 July 2010 Butler's cell phone was tracked to 2004 Curtis St. The fugitive division officer along with U. S. Marshalls and ATF agents responded to 2004 Curtis St but did not locate Harold Butler. They did find Butler's cell phone in the possession of Antonio Watkins. Watkins had obtained the cell phone from Butler in a trade for some marijuana. Capt McPherson was working an extra job at the housing authority

and heard the fugitive officers on the radio and responded to 2004 Curtis St. Inv. Wenger was notified that the phone had been found and he responded to 2004 Curtis St also.

Inv. Wenger had intended to confiscate the cell phone belonging to Harold Butler as evidence. Once on the scene at 2004 Curtis St. Capt McPherson approached Inv Wenger and told him that he could not take the cell phone. Inv. Wenger documented this in his initial supplement and verbally to his supervisor, Sgt. Bill Phillips. Capt McPherson called A/C Eidson also during this time. This is confirmed by Capt McPherson's cell phone records. A/C Eidson said he cannot remember the conversation. Sgt. Bill Phillips said he received a call from A/C Eidson instructing him to call Inv Wenger and tell him to leave that cell phone alone. Sgt Phillips did call Inv. Wenger and relayed the message to him. The homicide division had been very busy during this time and both Sgt. Phillips and A/C Eidson were asleep when called.

The only documentation of this event was in Inv. Wenger's initial supplement. Capt McPherson did not do a report documenting the incident. I interviewed all the fugitive investigators that were on the scene and none remember anything about the cell phone and none said they were part of any conversation about the cell phone. Inv. Pickard did not document anything about the cell phone in his report.

Four suspects were charged with murder in this case. In March, 2012, all defendants filed motions to dismiss based on an allegation that the police department lost and/or destroyed evidence (the cell phone). Capt McPherson had made statements after learning about the motion that he did not remember the cell phone and did not remember giving Inv. Wenger the order to not take the cell phone. However, on Friday, March 30, 2012, Capt McPherson approached Inv. Wenger and Inv. Narramore on the back lot of the PSC and began talking about the case. Both Inv. Wenger and Inv. Narramore state that Capt McPherson told them that he didn't feel like we could take the phone that evening because it had been bought by Antonio Watkins. They also stated that Capt McPherson told them "So I made a decision; I'm just going to have to tell them that." When asked about this in the IA interview Capt McPherson denied telling Inv. Wenger and Inv Narramore this.

When Capt McPherson met with ADA Neal Pinkston before the hearing on April 2, 2012, he told ADA Pinkston that he didn't remember giving the order to not take the cell phone and that it would not have been his decision to collect the phone or not because he is not major crimes.

During Capt McPherson's testimony in the hearing he was asked "Do you recall ordering Inv. Wenger to not recover a cell phone in which he believed was evidence in this case?" Capt McPherson responded "I don't recall ordering anybody to do anything of that nature." Later Capt McPherson was asked "so your position is you don't remember telling Inv. Wenger to not recover a cell phone on July 13, 2010?" Capt McPherson responded "That is possible, because there was so much going on on the scene out there, but he doesn't work directly for me, and my specific task if I were to have been involved is to locate bodies and any evidence would be referred to them". Then he said "I said I don't recall because I wasn't directly involved in the case, as far as investigating it, but it's possible," When Capt McPherson was asked "Do you recall having a conversation with then Lt. Eidson on July 13, 2010?" He responded "I can't say or deny that we have spoken, but at the time it was irrelevant to me."

During Capt McPherson's IA interview he stated that he does not remember giving Inv Wenger an order to not take the cell phone. I asked him if he made a phone call to someone in the homicide chain of command and requested that the cell phone not be taken. He said he has no documentation of something that happened two years ago. Capt McPherson stated that if he had instructed that the phone not be taken it would have been because one of his officers asked him to. I then asked him if he remembers any of his officers asking that. He said no. Neither of the fugitive officers said they made such a request to Capt McPherson.

On 19 June 2012 I interviewed Agent Warren Smith with the ATF. Agent Smith was on the scene at 2004 Curtis St on July 13, 2010. Agent Smith did not hear Capt McPherson give the order to not take the cell phone but he did have a conversation with Inv. Wenger on the scene where Inv. Wenger told him that Capt McPherson had ordered him to not take the cell phone.

In conclusion, there is creditable evidence that Capt McPherson did give Inv. Wenger an order to not take the

cell phone on July 13, 2010. Inv. Wenger reported this to his supervisor and documented it in his initial supplement report. Also, Inv. Wenger had a conversation with ATF agent Warren Smith on July 13, 2010, about the order given to him by Capt McPherson.

There is evidence that Capt McPherson made the phone call to A/C Eidson in the homicide chain of command to have Inv. Wenger not take the cell phone.

There are statements from Inv. Wenger and Inv Narramore that Capt McPherson made comments to them that he was familiar with the cell phone and that he did make the decision to not take it.

There is a statement from ADA Neal Pinkston where Capt McPherson told him he did not recall giving Inv. Wenger an order to not take the cell phone. And there is court testimony where Capt McPherson testified that he did not recall giving Inv. Wenger an order to not take the cell phone.

It should be noted that Capt McPherson was subpoenaed and received an email from ADA Neal Pinkston on 14 March 2012. The email contained a copy of the motion to dismiss which contained a statement that "Detective Wenger states in his report that he was instructed by both Lt. McPherson and Sergeant Phillips to refrain from recovering the cell phone of Harold Butler from Antonio Watkins." (This email has been placed in this case file.)

End Report.

CHATTANOOGA POLICE DEPARTMENT
INTERNAL AFFAIRS DIVISION
REPORT OF INVESTIGATION

CASE NUMBER: 2012-23	TYPE OF REPORT: Internal Affairs Commander's Recommendation	
SUBMITTED BY (Title & Name) Capt. Susan Blaine #545	SUBMITTED DATE 08/01/12	Page 1 of 3

Allegation: Fact Finding – Untruthfulness - Sustained

Officer Involved: Captain Edwin McPherson 752/42762

I have reviewed the fact finding investigation conducted by Sgt. Larry Guthrie and recommend that the allegation of untruthfulness be sustained against Capt. Edwin McPherson. This allegation involves Capt. McPherson's testimony in Criminal Court on 04/02/12 during a motion to dismiss hearing. During his testimony, Capt. McPherson stated that he had no recollection of telling Inv. Wenger not to recover a cell phone on 07/13/10 that was potential evidence in a murder case. Based on this IA investigation I feel there is sufficient evidence to indicate that Capt McPherson did order Inv. Wenger to not take the cell phone on 07/13/10. Inv. Wenger noted this in the report he made the night the cell phone was found and phone records indicate that Capt. McPherson is the one that made the call to then Lt. Eidson telling him to tell Inv. Wenger to not take the phone. I also feel there is sufficient evidence to indicate that Capt. McPherson remembered this incident based on a conversation Capt. McPherson had with Inv. Wenger and Inv. Narramore on the back lot of the Police Service Center on 03/30/12. During that conversation, Inv. Wenger & Inv. Narramore both advised that Capt McPherson made comments to them that he remembered the cell phone issue and making the decision not to take it and would just have to tell them that at the hearing scheduled for the following Monday, 04/02/12.

After the hearing on 04/02/12, Inv. Wenger advised Sgt. Bill Phillips of the contradictory statements Capt. McPherson made at the hearing as opposed to what Capt. McPherson had said to Inv. Wenger and Inv. Narramore on the back lot on 03/30/12. Sgt. Phillips then advised the DA's Office on this information. Neil Pinkston with the DA's office advised that now that they had been informed of these contradictory statements that they would have to disclose this to the defense attorneys.

The defense attorneys then requested another hearing to dismiss based on this new information involving possible perjury by Capt. McPherson. I attended the new hearing on 07/16/12 and Inv. Wenger testified under oath of the contradictory statement made by Capt. McPherson. I was expecting to hear Capt. McPherson to testify also but he was not there and did not testify. I talked with one of the defense attorneys, Garth Best, to inquire if Capt. McPherson was subpoenaed for this hearing and he advised that they did not subpoena Capt. McPherson. Mr. Best advised they only subpoenaed Inv. Wenger because they felt Inv. Wenger could testify to the information they needed for this hearing. I also talked with Neil Pinkston after the hearing on 07/16/12 and asked if the DA's office would be pursuing Perjury charges on Capt. McPherson and Mr. Pinkston stated that they would not.

Inv. Wenger stated during his IA interview that Capt McPherson walked up to Inv. Wenger as he was talking to Inv. Narramore on the back lot of the Police Service Center on 03/30/12 and brought up the motion to dismiss hearing scheduled for 04/02/12. Inv. Wenger said Capt McPherson told them "the reason I didn't want ya'll to take that phone was that it belonged to Antonio Watkins who had bought it from Harold Butler and I didn't think we had a legal standing to take the phone". Inv. Wenger said Capt McPherson then said "well I made a decision and I will have to tell them that". Inv. Narramore confirmed that this conversation took place and confirmed

what Capt. McPherson said on 03/30/12.

During Capt. McPherson's IA interview, he denied making these comments to Inv. Wenger & Inv. Narramore on the back lot. Capt McPherson said he does remember talking to Inv. Wenger on the back lot, but that he only asked Inv. Wenger what was the deal with the cell phone. He said Inv. Wenger told him the defense attorney wanted to ask them about why the phone wasn't taken as evidence once it was located on 07/13/10. Capt. McPherson said he asked Inv. Wenger if they were going to meet about this and Inv. Wenger told him what time they were meeting in the DA's office. Capt McPherson said he told Inv. Wenger and Inv. Narramore that he didn't remember anything about the phone.

After Capt. McPherson's IA interview, Sgt. Guthrie contacted Inv. Wenger again about his conversation with Capt McPherson on the back lot and asked Inv. Wenger if there was any doubt that Capt McPherson told him that he did remember the cell phone incident during their conversation on 03/30/12. Inv. Wenger said there was no doubt.

I have been waiting to submit this IA case until Judge Poole made a decision on the latest motion to dismiss that was heard on 07/16/12 so it could be added to this IA case. Judge Poole advised he would take the motion to dismiss under advisement and would rule on it in a few days. I just checked with Neil Pinkston on 07/30/12 and Judge Poole still had not made a decision. Since the Judge's decision will not affect my recommendation I will go ahead and send this IA case on up review. I will add Judge Poole's ruling to this IA case when he makes his decision.

Summary of Investigation

On 06/29/10 a murder occurred at 4417 Oakwood Drive. Inv. Wenger of the homicide unit was assigned as the lead investigator. While on his way to the crime scene, Inv. Wenger was called by Capt McPherson and given suspect information. During the investigation Inv. Wenger identified Harold Butler, Jr as a suspect. Inv. Pickard of the fugitive division was assigned to track down Harold Butler. Inv. Pickard obtained a court order to track Butler's cell phone. On 07/13/10 Butler's cell phone was tracked to 2004 Curtis St. The fugitive division officers along with U. S. Marshalls and ATF agents responded to 2004 Curtis St but did not locate Harold Butler. They did find Butler's cell phone in the possession of Antonio Watkins. Watkins had obtained the cell phone from Butler in a trade for some marijuana. Capt McPherson was working an extra job at the housing authority and heard the fugitive officers on the radio and responded to 2004 Curtis St. Inv. Wenger was notified that the phone had been found and he responded to 2004 Curtis St also.

Inv. Wenger had intended to confiscate the cell phone belonging to Harold Butler as evidence. Once on the scene at 2004 Curtis St., Capt McPherson approached Inv Wenger and told him that he could not take the cell phone. Inv. Wenger documented this in his initial supplement and verbally to his supervisor, Sgt. Bill Phillips. Capt McPherson called then Lt. Eidson also during this time. This is confirmed by Capt McPherson's cell phone records. A/C Eidson said he cannot remember the conversation. Sgt. Bill Phillips said he received a call from Lt. Eidson instructing him to call Inv. Wenger and tell him to leave the cell phone alone. Sgt Phillips did call Inv. Wenger and relayed the message to him. The homicide division had been very busy during this time and both Sgt. Phillips and Lt. Eidson were asleep when called.

The only documentation of this event was in Inv. Wenger's initial supplement. Capt McPherson did not do a report documenting the incident. All the fugitive investigators that were on the scene were interviewed and none of them remember anything about the cell phone and none said they were part of any conversation about the cell phone. Inv. Pickard did not document anything about the cell phone in his report.

Four suspects were charged with murder in this case. In March 2012, all defendants filed motions to dismiss based on an allegation that the police department lost and/or destroyed evidence (the cell phone). Capt McPherson had made statements after learning about the motion that he did not remember the cell phone and did

not remember giving Inv. Wenger the order to not take the cell phone. However, on Friday, 03/30/12, Capt McPherson approached Inv. Wenger and Inv. Narramore on the back lot of the PSC and began talking about the case. Both Inv. Wenger and Inv. Narramore state that Capt McPherson told them that he didn't feel like we could take the phone that evening because it had been bought by Antonio Watkins. They also stated that Capt McPherson told them "So I made a decision; I'm just going to have to tell them that." When asked about this in the IA interview Capt McPherson denied telling Inv. Wenger and Inv Narramore this.

When Capt McPherson met with ADA Neal Pinkston before the hearing on 04/02/12, he told ADA Pinkston that he didn't remember giving the order to not take the cell phone and that it would not have been his decision to collect the phone or not because he is not major crimes.

During Capt McPherson's testimony in the hearing he was asked "Do you recall ordering Inv. Wenger to not recover a cell phone in which he believed was evidence in this case?" Capt McPherson responded "I don't recall ordering anybody to do anything of that nature." Later Capt McPherson was asked "so your position is you don't remember telling Inv. Wenger to not recover a cell phone on 07/13/10?" Capt McPherson responded "That is possible, because there was so much going on on the scene out there, but he doesn't work directly for me, and my specific task if I were to have been involved is to locate bodies and any evidence would be referred to them". Then he said "I said I don't recall because I wasn't directly involved in the case, as far as investigating it, but it's possible," When Capt McPherson was asked "Do you recall having a conversation with then Lt. Eidson on 07/13/10?" Capt. McPherson responded "I can't say or deny that we have spoken, but at the time it was irrelevant to me."

During Capt McPherson's IA interview he stated that he does not remember giving Inv Wenger an order to not take the cell phone. Capt. McPherson was then asked if he made a phone call to someone in the homicide chain of command and requested that the cell phone not be taken. He said he has no documentation of something that happened two years ago. Capt McPherson stated that if he had instructed that the phone not be taken it would have been because one of his officers asked him to. Capt. McPherson was then asked him if he remembers any of his officers asking that. He said no. None of the fugitive officers said they made such a request to Capt McPherson.

ATF Agent Warren Smith was on the scene at 2004 Curtis St on 07/13/10 when the cell phone was recovered. Agent Smith was interviewed by Sgt. Guthrie on 06/19/12 and he stated he did not hear Capt McPherson give the order to not take the cell phone but he did have a conversation with Inv. Wenger on the scene that night where Inv. Wenger told him that Capt McPherson had ordered him to not take the cell phone.

In conclusion, there is credible evidence that Capt McPherson did give Inv. Wenger an order to not take the cell phone on 07/13/10. Inv. Wenger reported this to his supervisor and documented it in his initial supplement report. Also, Inv. Wenger had a conversation with ATF agent Warren Smith on 07/13/10, about the order given to him by Capt McPherson. There is also evidence (Capt. McPherson's cell phone records) that indicate Capt McPherson made the phone call to Lt. Eidson in the homicide chain of command to have Inv. Wenger not take the cell phone.

There are statements from both Inv. Wenger and Inv Narramore that on 03/30/12, Capt McPherson made comments to them that he was familiar with the cell phone and that he did make the decision to not take it.

There is a statement from ADA Neal Pinkston where Capt McPherson told him he did not recall giving Inv. Wenger an order to not take the cell phone. And there is court testimony where Capt McPherson testified that he did not recall giving Inv. Wenger an order to not take the cell phone.

It should be also be noted that Capt McPherson was subpoenaed and received an email from ADA Neal Pinkston on 03/14/12. The email contained a copy of the motion to dismiss which contained a statement that "Detective Wenger states in his report that he was instructed by both Lt. McPherson and Sergeant Phillips to refrain from recovering the cell phone of Harold Butler from Antonio Watkins." (This email has been placed in this case file.)

-----Original Message-----

From: Dodd Bobby
Sent: Monday, July 16, 2012 5:31 PM
To: Blaine Susan
Subject: RE: Capt. McPherson Fact Finding IA Case (IA Case # 2012-23)

Okay, thank you.

Sent from my Android phone using TouchDown (www.nitrodesk.com)

-----Original Message-----

From: Blaine Susan [blaine_susan@chattanooga.gov]
Received: Monday, 16 Jul 2012, 16:33
To: Dodd Bobby [dodd_bobby@chattanooga.gov]
Subject: RE: Capt. McPherson Fact Finding IA Case (IA Case # 2012-23)

Update - I attended this hearing this morning primarily to hear Capt. McPherson's testimony but Capt. McPherson did not testify. I was surprised the defense attorneys did not have Capt. McPherson testify since his testimony on 04/02/12 is the primary reason for this hearing today. The judge took the defense motion under advisement and said he will make his ruling in a few days. I will wait for the Judge's final ruling before finalizing my recommendation on this IA case and sending it on to A/C Eidson.

-----Original Message-----

From: Dodd Bobby
Sent: Thursday, July 05, 2012 2:11 PM
To: Blaine Susan
Subject: RE: Capt. McPherson Fact Finding IA Case (IA Case # 2012-23)

Approved

Sent from my Android phone using TouchDown (www.nitrodesk.com)

-----Original Message-----

From: Blaine Susan [blaine_susan@chattanooga.gov]
Received: Thursday, 05 Jul 2012, 12:59
To: Dodd Bobby [dodd_bobby@chattanooga.gov]
Subject: Capt. McPherson Fact Finding IA Case (IA Case # 2012-23)

Chief Dodd,

Sgt. Guthrie has completed his IA investigation regarding Capt. McPherson and it has been sent to me for my recommendation. By policy, I have 10 days to review the case and make my recommendation. I am requesting an extension on this until after the July 16th hearing in case something pertinent to this IA case comes out during that hearing. If this extension is approved then I will make my recommendation after the hearing and send this IA case on up the chain of command for review. Thanks.

Capt. Susan Blaine

From: Phillips William (Police)
Sent: Monday, June 25, 2012 3:02 PM
To: Guthrie Larry
Cc: Blaine Susan
Subject: RE: Hearing ref cell phone issue (IA2012-23)

I will. Congrats on the retirement. I'm sure you will enjoy and hopefully you will pop back in from time to time.

Bill

From: Guthrie Larry
Sent: Monday, June 25, 2012 3:00 PM
To: Phillips William (Police)
Cc: Blaine Susan
Subject: Hearing ref cell phone issue (IA2012-23)

I went to Criminal Court today and they passed the hearing reference the cell phone and Capt McPherson to July 16th. I will be retired by then. Would you let Capt Blaine know the outcome of that hearing once it concludes? I would appreciate it.

Thanks,

Sgt. Larry Guthrie 532
Internal Affairs Division