

#36

City of Pittsburgh, Bureau of Police Disciplinary Action Report

06-0114

NAME OF PERSON ON REPORT (Last, First MI)		RANK Sgt	BADGE # 2830	ID # 202830	ZONE/UNIT 5	DATE OF HIRE 9/8/83
OFFICER'S PRIOR RECORD: <input type="checkbox"/> NONE <input checked="" type="checkbox"/> ATTACHED		(Prior record must include 1) date of violation, 2) specific section number(s) of Rules & Regulations, 3) short narrative of violation and 4) resulting discipline)				DATE OF REPORT 8/23/06
VIOLATION(S): Give specific section number(s) of Rules and Regulations 12-9 Pepper Aerosole Restraint Spray, 29-1 Secondary Employment, 12-6 3.2 Use of Force, 10-1 2.3 Code of Ethics, 16-1 3.6.1 Conduct Unbecoming, 16-1 3.7 Conduct Towards The Public, 16-1 3.12.2 Incompetency, 16-1 3.19.1 Truthfulness.						DATE OF VIOLATION 8/29/04
						TIME OF VIOLATION 0330

NARRATIVE

On August 29, 2004, Sergeant [redacted] and Officer [redacted] were working an approved off-duty detail at the Original Hot Dog Shop. [redacted] and his friends [redacted] and [redacted] were inside the restaurant at a table near the Bouquet Street door. A fight broke out on the street near the Bouquet Street door. Sgt. [redacted] responded and broke up the fight by deploying OC Spray. After breaking up the fight [redacted] returned to the shop. [redacted] was heard to say: "Why did these jackasses have to spray so much pepper spray". [redacted] approached [redacted] and his group and told them to quiet down, challenged their comments and then told the group to leave. They stated they were just finishing their food and refused to leave. [redacted] allegedly tossed Mr. [redacted] food into the trash and began to physically remove him. [redacted] was reportedly dragged to the doorway, knocked to the ground and restrained with a baton. Sgt. [redacted] then ejected him from the shop. [redacted] approached a University of Pgh. officer inquiring as to Sgt. [redacted] identity. He then was heard on a cell phone complaining about the incident to an unknown party. As [redacted] and his friends walked away, Sgt. [redacted] along with Officer [redacted] followed them down the block where he arrested him, claiming he was taunting him. [redacted] subsequently contacted Sgt. [redacted] commander to lodge a complaint.

At [redacted] preliminary hearing, Sgt. [redacted] amended the complaint to add one count of Aggravated Assault and one count of Defiant Trespass. He maintained that [redacted] had assaulted him in the shop and that he had trespassed by not leaving when ordered to do so. Magistrate Lou Coles held the Aggravated Assault, Defiant Trespass and a summary Disorderly Conduct charge, while dismissing Resisting Arrest and Obstruction charges. In April 2005, a criminal trial was held before Judge Kevin Sasinoski. [redacted] was acquitted of all charges. [redacted] subsequently filed a federal lawsuit naming the City of Pittsburgh, the Original Hot Dog Shop, Sergeant [redacted] and Officer [redacted].

Obstruction Title Administrative of Justice & Law.

THAT THE WERIDING ACTIONS CAUSED THE COMBUSTION OUTSIDE TO FLARE

Is a continuation report attached? YES NO

NAME Scott, Michael A.	RANK ID # LI 2938	ZONE/UNIT 5	SIGNATURE <i>Michael A. Scott</i>	DATE 8/23/06
RECOMMENDATION: <input type="checkbox"/> ORAL REPRIMAND <input checked="" type="checkbox"/> WRITTEN REPRIMAND <input type="checkbox"/> SUSPENSION FROM DUTY				

<input checked="" type="checkbox"/> I hereby acknowledge pending discipline and receipt of copy of this report.		SIGNATURE OF OFFICER ON REPORT <i>Mark A. [redacted]</i>	DATE 9/1/06
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REVIEW	RECOMMENDATION	SIGNATURE	DATE
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <input checked="" type="checkbox"/> AMENDED	<u>SUSPENSION</u>	<i>[redacted]</i> COMMANDER	9/1/06
<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> AMENDED	<u>1 DAY SUSPENSION</u>	<i>[redacted]</i> ASSISTANT CHIEF	9/19/06
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <input checked="" type="checkbox"/> AMENDED	<u>(5) FIVE DAY SUSPENSION PENDING TERMINATION</u>	<i>[redacted]</i> DEPUTY CHIEF	9/20/06
<input checked="" type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> AMENDED	<u>PER NARRATIVE CORRECTION</u>	<i>[redacted]</i> CHIEF OF POLICE	9/20/06
<input type="checkbox"/> APPROVED <input type="checkbox"/> DISAPPROVED <input type="checkbox"/> AMENDED	<u>AR662</u>	<i>[redacted]</i> DIRECTOR OF PUBLIC SAFETY	



City of Pittsburgh, Bureau of Police Disciplinary Action Report (continuation)

016 0151

NAME OF PERSON ON REPORT (Last, First MI)		RANK	BADGE #	ID #	ZONE/UNIT	DATE OF HIRE
[REDACTED]		Sgt.	2830		5	9/6/83
OFFICER'S PRIOR RECORD:		(Prior record must include 1) date of violation, 2) specific section number(s) of Rules & Regulations, 3) short narrative of violation and 4) resulting discipline)				DATE OF REPORT
<input type="checkbox"/> NONE <input checked="" type="checkbox"/> ATTACHED						8/23/06
VIOLATION(S): Give specific section number(s) of Rules and Regulations					DATE OF VIOLATION	
12-9 Pepper Aerosole Restraint Spray, 29-1 Secondary Employment, 12-6 3.2 Use of Force, 10-1 2.3 Code of Ethics, 16-1 3.8.1 Conduct Unbecoming, 16-1 3.7 Conduct Towards The Public, 16-1 3.12.2 Incompetency, 16-1 3.19 Truthfulness					8/29/04	
					TIME OF VIOLATION	
					0330	

NARRATIVE

12-9 After deploying OC Spray to break up a fight, Sgt. [REDACTED] failed to decontaminate the subjects, obtain a medical release, or submit a Subject Resistance Report as required by 12-9, 6.3, 5.8, and 12-9 7.0.

29-1 After performing an official police duty of breaking up a fight by deploying OC Spray he abandoned his primary responsibility to deal with the combatants and decontaminate them but instead turned his attention to an individual inside the shop as required by 29-1 6.2.

12-6 3.2 Sgt. [REDACTED] used force to physically remove an individual from the restaurant where he was working. He was not arresting the individual, or utilizing force to protect himself or others from physical harm. If Sgt. [REDACTED] was acting in a private security capacity the force utilized was not for self protection, or the protection of others, or property as required by 12-6 3.2 and PA Crimes Code Sections: 505, 506, and 507.

10-1 2.3 Sgt. [REDACTED] allowed his personal feelings believing he was called names or criticized to influence his decision to eject a patron using force, and later arresting him.

16-1 3.6.1 Sgt. [REDACTED] added charges to an individual after he complained to the Sgt's Commander about the way he was treated.

18-1 3.7 Sgt. [REDACTED] did not maintain his temper or decorum when he threw an individual's food away and forcibly removed him from the restaurant and later arrested him.

16-1 3.12.2 Sgt. [REDACTED] did not use sound judgement regarding leaving combatants alone with another officer, and using force on an individual for commenting on his actions.

16-1 3.19.1 Sgt. [REDACTED] gave conflicting statements in depositions under oath that were determined to be intentional. They included: Officers Roberts role in breaking up the fight, mistating the two combatants involved in the fight that occurred outside were under arrest, failure to disclose that he expanded his baton and forcibly push an individual into a restaurant window, that he didn't speak to a University of Pittsburgh Police Officer, and that he served a witness with a subpoena.

INITIATING SUPERVISOR