City of Memphis
Police Division, Inspectional Services Bureau
Case Summary S2012-091

Exhibit H

Printed On: 11/28/2012

I) **Principal Officer:**

POLICE OFFICER II Baris Beck #1732, Entertainment District Unit

II) **Administrative Regulation:**

DR -130, Inventory & Processing Recovered Property

III) **Allegation:**

It is alleged that Officer Beck took marijuana during a traffic stop.

IV) **Background:**

On September 18, 2012, Officer Falatko, Officer Faircloth, and Officer Forbert alleged that Officer B. Beck, IBM #1732, made the scene of their drug arrest, took an unknown amount of marijuana and left the scene.

V) **Evidentiary Findings:**

A) **Statements:**

According to Major Casad's statement: he was contacted at 0031 hours by Lieutenant Skelton who had been contacted by Officers Flatko and Faircloth regarding an arrest that they had made where an individual had in his possession some unknown amount of marijuana. While on the scene they believe they observed Officer Beck remove marijuana from the individual's vehicle and place it into his right front pocket. The officers stated to Lieutenant Skelton that they notified Lieutenant Bell who made the scene. They told Lieutenant Bell what they thought they had observed; to which Lieutenant Bell told them that he would keep an eye on Officer Beck for any future indiscretions and or violations such as that, and that he did nothing further. The officers were concerned so they contacted off duty Lieutenant Skelton who then contacted him. Major Casad told Lieutenant Skelton to have those officers come to his office at 1925 Union, where he took very brief verbal statements of what had happened. Upon hearing the allegations of criminal acts by Officer Beck he contacted the senior dispatcher, then contacted Lieutenant Winters of Inspectional Services and then contacted Lieutenant Colonel Pat Burnett.

According to Lt. J.B. Bell's statement: he made the scene and spoke with Officers Faircloth and Forbert. They told him Officer Beck had made the scene and took some "dope". Lt. Bell stated he asked "how do you know that?" They stated that it weighed a certain amount first and when Beck left the scene, it weighed a different amount. Lt. Bell stated that Officer Beck allegedly reached his hand in the bag, came out with a closed fist and went to his pants pocket with it. Lt. Bell stated he asked the officers did they say anything to Beck which they said no. Lt. Bell stated he told the officers that he would take care of it and was told Officer Beck had already left the scene. Lt. Bell stated he went to Beale Street looking for Officer Beck. He stated he spoke with Lieutenant Kant and told him about the situation with Beck. Lt. Bell stated Lt. Kant told him to write a memo to the Lieutenant Colonel. Lt. Bell stated he knew he had to do something and was going to let the Lieutenant Colonel know. Lt. Bell stated he went to the South Main Station to do the incident report. He stated that his Major was not working and he didn't know that Major Casad was working. He stated had he known Major Casad was working he would have called, but thought he was off; so he just came down to do the incident report to turn into his Lieutenant Colonel.

According to Officer Scola's statement: he pulled over and briefly assisted officers. As he was getting ready to leave the scene he observed Officer Beck pull up. He stated he said to Beck "see you later," and he left. He stated that he did not know anything about the missing drugs or allegation against Officer Beck.

According to Officer Hawley's statement: Officer Flatko initiated a traffic stop, got on the radio, and requested other cars to help look for marijuana that was thrown out of the vehicle. Officer Hawley stated he pulled up on the scene between Louisville and Chelsea on Watkins in the turning lane and began searching for marijuana pieces. He stated once they found what they thought to be most of it, Flatko went back to the car to complete the arrest ticket. Hawley stated they put all the marijuana in a bag that was found. Towards the end Officer Beck showed up and he asked where they were searching. Hawley pointed out an area just past his car. Hawley stated he handed Faircloth what he had found then he and Scola cleared the scene. Hawley stated he did not recall seeing Beck put any marijuana in the envelope, but he did ask Faircloth to see it and he held it for a second, looked inside and handed it back to Faircloth. He stated he looked in the envelope and there was a whole bunch in there. He stated he did not recall Officer Beck with any marijuana in his hands and did not see him approach the suspect vehicle. Officer Hawley stated that while he was on the scene he did not hear anyone mention the discrepancy in the weight of the recovered marijuana.

According to Officer Faircloth's statement: Officer Falatko got on the radio and advised that when he got behind a vehicle they started throwing marijuana out. He stated he arrived on the scene and began to collect marijuana off the turn lane on Watkins. Faircloth stated Beck reached his hand into an evidence bag to look at the marijuana that was collected, that's all he observed. Officer Faircloth stated that he did not observe Officer Beck when he removed his hand from the bag and the approximate weight was somewhere around 40 grams according to a digital scale belonging to Officer Forbert.

According to Officer Forbert's statement: Upon making the scene of the traffic stop, he approached Officer Falatko who had one detained in the back of his squad car. He advised that the suspect in the back of the squad car had thrown marijuana out the window of his vehicle. He stated that they were trying to locate that marijuana and that Falatko had shown him where the suspect had marijuana in the floorboard of the driver side. They began doing paperwork and he began to search the vehicle for towing purposes, at which time Officer Beck pulled up. Beck approached and advised that he would help search. Forbert stated Beck asked him for his flashlight. Forbert stated he walked back toward Falatko because Beck advised he would take over the search. Forbert stated he began filling out a tow slip and called for a wrecker, which DTS Wrecker made the scene. Forbert stated that he and Falatko went to photograph the marijuana on the floorboard and realized that there was marijuana missing. He stated they called for a lieutenant and Lt. Bell made the scene. Lt. Bell advised that he would watch that officer and that he would handle it. Forbert stated Beck remained on the scene no more than five minutes.

According to Officer Falatko's statement: he initiated a traffic stop with his emergency lights, siren, and take down lights at Watkins and Chelsea. The vehicle slowed down to approximately twenty miles an hour when the driver began to throw out what appeared to be marijuana. The vehicle came to a stop approximately a block down the road at Watkins and Louisville. He detained the driver and took him back to his squad car. Falatko stated he observed several pieces of marijuana inside of the car that was loose. He stated he radioed for additional cars to make the scene and told them where the marijuana was in the road. Officer Forbert was the first officer on the scene who saw the marijuana inside the car on the floorboard. There were two large marijuana buds that he estimated to be approximately two to four grams a piece. He took them and placed them on the floor board with the smaller pieces of marijuana that were there and walked back to the car with Officer Forbert. Falatko stated Officer Beck pulled up on the scene and was there approximately five to ten minutes. He stated that when he went back to his squad car Officer Faircloth had brought up the bag of marijuana that was in a property and evidence envelope. He placed it on the driver's side of the hood of his squad car, underneath the spot light which was on, and the marijuana weighed approximated 41 grams. Officer Beck walked up and reached inside the bag. Falatko stated he assumed just to look at it like a lot of the officers want to look at marijuana and to see how much was recovered. He stated Beck reached his hand into the bag and then came out with a closed fist, he looked around, looked at him, and then reached his hand into his right pocket and then came out with an empty hand. Officer Beck left the scene shortly there after.

According to Officer Beck's statement: he heard Officer Falatko screaming on the radio saying he was trying to stop a vehicle and the driver was throwing weed out on to the road. He stated he pulled over to assist. He stated when he arrived on the scene, he encountered Officer Forbert inside the car who showed him that there was a little weed on the floorboard of both driver and passenger side. He stated he saw one of the newer officers with some weed and put in the bag. He

was advised that there was more down the street that they had thrown out. Officer Beck stated he saw the new officer on the shift with the weed that was in bag. He stated that he did look in the bag, picked up a piece, looked at it, smelled it, and put it back in the bag. Officer Beck denied taking any marijuana. Officer Beck stated he did look along the street with the other officers, and left the scene.

B) Physical Evidence:

N/A

C) Forensic Evidence:

N/A

D) Recorded Evidence:

(2) CDs w/ digitally recorded statements

E) Miscellaneous Evidence:

N/A

VI) AG Review:

This case file was not submitted to the AG for review (Administrative)

VII) Analysis:

On September 18, 2012, officers alleged that Officer B. Beck, IBM #1732, made the scene of their drug arrest, took an unknown amount of marijuana, and left the scene. Inspectional Services Bureau personnel were notified some time later and made the scene at the South Main Station. After a preliminary investigation, Lt. Winters asked Officer Beck if he was willing to remove all items from his MPD uniform pants pockets and protective vest. Officer Beck agreed. A check of Officer Beck's uniform including all pockets did not yield any evidence of marijuana nor was there any smell of marijuana in the pockets or around Officer Beck. Sgt. Boyette and Det. Prins Harris were instructed to check Officer Beck's assigned squad car #6265. No evidence of marijuana was located in the vehicle. Officer Beck was asked if Det. Prins Harris could check his personal bag, which was sitting open on the front seat of his patrol car. Officer Beck gave his approval. The inside of the bag was checked, no evidence of marijuana was located in Officer Beck's bag.

There was no evidence discovered during this investigation to sustain the allegation against Officer Beck.

However, through this investigation it was determined that Lt. J.B. Bell failed to follow established policy regarding proper notification when an allegation such

as the one against Officer Beck transpired. When officers suspected that Officer Beck had taken marijuana, they called Lt. Bell to the scene. Lt. Bell stated he asked them "how do you know that?" They stated that the marijuana weighed a certain amount first and when Beck left the scene, it weighed a different amount. Lt. Bell stated he told the officers that he would take care of it. He asked where Officer Beck was and was told he had already left the scene. Lt. Bell stated he went to Beale Street looking for Officer Beck. He stated he spoke with Lieutenant Kant and asked him about the situation with Beck. Lt. Bell stated Lt. Kant told him to write a memo to the Lieutenant Colonel and let them know. Lt. Bell stated he knew he had to do something and he was going to let the Lieutenant Colonel know exactly what was going on by completing an incident report. Lt. Bell stated he went to the South Main Station to do the incident report. He stated that his Major was not working and didn't know that Major Casad was working. Major Casad stated that the scene officers were so concerned that they contacted off duty Lieutenant Skelton who then contacted him. Upon hearing the allegations of criminal acts by an officer, Major Casad contacted the senior dispatcher, then contacted Lieutenant Winters of Inspectional Services Bureau and then contacted Lieutenant Colonel Pat Burnett.

Lt. J.B. Bell's failure to take the appropriate measures when he was made aware of the allegation against Officer Beck, places him in direct violation of established Memphis Police Department's Policy and Procedure, DR-101. Compliance With Regulations which states: "Disciplinary action may be taken for, but not limited, violations of the stated policy, rules, regulations, order or directives of the Department". Specifically, Lt. Bell's actions place him in violation of Commanding Officer Notification, it states in Chapter One, Page Three, Section Twelve: Commanding Officer Notification, dated: 10-31-11 the following,

II. SUPERVISORY/WATCH COMMANDER RESPONSIBILITY

All Commanding Officers /Supervisors have the responsibility of notifying, the appropriate Colonel, Lt. Colonel or Night Duty Lt. Colonel, when certain circumstances or events occur. **The field supervisor should consult any available Watch Commander prior to determining Colonel, Lt. Colonel or Night Duty Lt. Colonel notification.** Such notification will be initially routed through the Senior Dispatcher at 543-2710.

A. **Circumstance or events where notification** of the appropriate Colonel, Lt. Colonel or Night Duty Lt. Colonel should occur may include:

1. All Major or Terroristic Activity incidents: i.e. natural disaster, civil disturbance/ riot, verified bomb threats, multiple alarm fires.

2. Critical injury crashes involving police vehicles.

3. All incidents involving high profile individuals and elected officials.

4. Death of a Police Officer including on duty, off duty, or retired.

5. Serious injuries to a Police Officer, whether on duty, off duty, or retired.

6. All Police Officer shootings or Firearm Use on or off duty.

7. Complaints of serious misconduct by Police Officer(s) on or off duty, or when an officer is relieved of duty.

8. All resisting arrests involving serious injuries.

9. Request for use of MPD equipment or personnel by other agencies.

10. Request for "off duty" personnel, including Harbor Patrol, Canine Unit, and "on" or "off duty" Hostage situations/TACT callouts.

11. Pursuits where units of other jurisdictions are involved.

12. City Watch for missing individual (Notify Commander of Investigative Services during regular hours and Night Duty Lt. Colonel after hours).

13. Incidents where a suspect is critically injured while under MPD control regardless of the source of the injury.

14. Any other incidents where the Commanding Officer or Senior Dispatcher deems it important to notify the appropriate Colonel, Lt. Colonel or Night Duty Lt. Colonel.

VIII) **Conclusion**

Based on the findings of this investigation, the allegation of violation of DR-101, Compliance with Regulations to wit: Commanding Officer Notification is **sustained**.