



Memo

To: Sheriff Larry Blanton
From: Captain Erik Utter
CC: Kent Vander Kamp personnel file
Date: 8/8/2012
Re: Review of Misconduct Allegation

Sheriff Blanton,

In July of this year a Subpoena Duces Tecum was served to the "Custodian of Records", directing the "Custodian" to appear for trial in Deschutes County Circuit Court, in the case of State of Oregon vs. Defendant Jeffrey Jon Sime. The Subpoena further directed the "Custodian" to produce a list of material including, in part:

- 1) Any and all information in the possession of the Sheriff's Department, that is or may be beneficial or exculpatory to Defendant's case, including but not limited to the following information on Deputy Vander Kamp:
 - i) Personnel File
 - ii) Evaluation File
 - iii) Internal Affairs File

This Subpoena was prepared by Timothy P. Fleming, an attorney with Crabtree and Rhamsdorff Defense Services, Inc, on behalf of his client Jeffrey J. Sime. A copy of this Subpoena is attached to this MEMO and labeled as **Attachment A**

In response to this Subpoena Darryl Nakahira, attorney for the Deschutes County Sheriff, filed a document titled, "Deschutes County Motion to Quash Subpoena Duces Tecum Points And Authorities". The court set a Motion to Compel hearing to determine what materials the Deschutes County Sheriff's Office would be required to produce in response to the Subpoena Duces Tecum filed by Mr. Fleming. In preparation for this hearing I assisted Mr. Nakahira by reviewing Deputy Vander Kamp's personnel file, as well as all Internal Affairs investigations or Administrative Inquiries involving Deputy Vander Kamp.

On August 1, 2012, just before the Motion to Compel hearing was to begin, Mr. Nakahira was given a copy of an, "Affidavit In Summary Of Motion For Discovery And Pretrial Production" by Mr. Fleming. Mr. Nakahira provided me with a copy of this affidavit, which is attached to this MEMO and labeled as **Attachment B**.

Upon reviewing this document I found a description of an incident involving Deputy Vander Kamp and a private attorney identified as Jon Springer during a DMV hearing. This document alleges under item #2 that, "Deputy Vander Kamp subjected Jon Springer, Attorney at Law, 920 NW Bond St Ste 211, Bend, OR 97701, to offensive physical contact by elbowing him after becoming agitated during a recess at a DMV hearing". It also states under item #8 that, "The police were called, and a complaint was made, which was investigated by internal affairs."

As stated previously, I had reviewed all Internal Affairs investigations and Administrative Inquiries involving Deputy Vander Kamp in preparation for this hearing. I did not locate any such investigation during my review. I then contacted Captain Tim Edwards. I asked if he recalled this incident. He stated he recalled hearing about this incident and that he had spoken with Jon Springer. During his conversation Mr. Springer told him no action needed to be taken and that he wanted to drop the whole matter. Captain Edwards told me Captain Shane Nelson had actually responded to this incident when it occurred.

I spoke with Captain Nelson regarding this incident. He stated he had prepared a MEMO that described his involvement with this incident in August of 2009. Captain Nelson provided me with a copy of that document, which is attached to this MEMO and labeled as **Attachment C**.

In the document Captain Nelson described responding to the location of the DMV hearing on Forbes Road at the request of Deputy Vander Kamp. Captain Nelson also described statements he took from Mr. Springer, as well as a witness who worked as a volunteer in the building the DMV hearings were held in named Bud Gavino. He also referenced a report containing Deputy Vander Kamp's statement. I then obtained a copy of DCSO incident report 09-10-64607, filed by Deputy Vander Kamp. A copy of this report is attached to this MEMO and labeled as **Attachment D**.

Based upon his review of the incident at the DMV hearings office, Captain Nelson said he found no basis to substantiate any complaint against Deputy Vander Kamp, and that this ended any inquiry at that time.

This MEMO serves to refute the claim made in the Affidavit filed by Mr. Fleming that an Internal Affairs investigation had been conducted in connection to the incident involving Mr. Springer at the DMV hearings office.

Respectfully Submitted,



Erik M. Utter, Captain

Deschutes County Sheriff's Office

Attachment A

THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

STATE OF OREGON:

Plaintiff,

vs.

JEFFREY JON SIME

Defendant

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)
)
)
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)
)
)

Case No. MI11-2089

SUBPOENA
DUCES TECUM

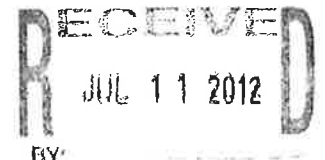
TO: CUSTODIAN OF RECORDS, DESCHUTES CO. SHERIFFS OFFICE, BEND OR

IN THE NAME OF THE STATE OF OREGON: You hereby are commanded to appear before the Circuit Court of the State of Oregon for the County of Deschutes at the county courthouse, in the City of Bend, in said county, on the 26th day of September, 2012 at 9:30 AM. You are required also, to bring with you the following: (appearance may not be required if requested material is submitted prior to hearing date.)

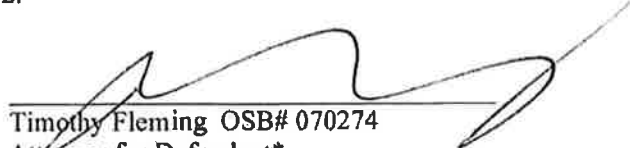
1) Any and all information in the possession of the Sheriff's Department, that is or ~~may~~ be beneficial or exculpatory to Defendant's case, including but not limited to the following information on Deputy Vander Kamp:

- i) Personnel File
- ii) Evaluation File
- iii) Internal Affairs File
- iv) Complaint Log
- v) Material in the Central File for Complaints
- vi) Investigation Reports, including separate memos regarding each allegation
- vii) Annual Review of Use of Force Incidents during employment
- viii) Any and all impeachment evidence, evidence of criminal involvement, interest, disciplinary actions, citizen complaints, demotions, bias toward or connection with the defendant, the circumstances, or any other witness the state intends to call, as well as any relevant statements or material that could in any way show the bias, interest, credibility or veracity of Deputy Vander Kamp

-- CRIMINAL SUBPOENA DUCES TECUM



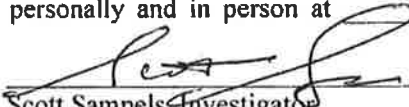
Dated this 10th day of July, 2012.


Timothy Fleming OSB# 070274
Attorney for Defendant*

I HEREBY CERTIFY that the foregoing is a true copy of the original subpoena in the within entitled action now in my hands for service.

PROOF OF SERVICE

I HEREBY CERTIFY that I served the within Subpoena within said County and State on the ____ day of _____, 2012, by delivering a certified true copy to _____, personally and in person at _____ at ____ o'clock __.m.


Scott Sampels, Investigator
*Crabtree & Rahmsdorff Defense Services, Inc.
215 N.W. Greenwood Ave, Suite 200, Bend, Oregon 97701
(541) 389-7723

Attachment B

FILE COPY

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF DESCHUTES

STATE OF OREGON,)
)
Plaintiff,) Case No. MI11-2089
)
vs.)
)
JEFFREY J. SIME,) AFFIDAVIT IN SUPPORT OF
) MOTION FOR DISCOVERY
Defendant.) AND PRETRIAL PRODUCTION

STATE OF OREGON)
) ss.
County of Deschutes)

I, Timothy P. Fleming, being first duly sworn upon oath, do hereby depose and
say based on knowledge and belief that:

1. This case involves a dispute over who was the aggressor, whether the appropriate
level of force was used in the encounter, and the credibility of Deputy Vander Kamp
regarding the observations of intoxication that were allegedly made;
2. Deputy Vander Kamp subjected Jon Springer, Attorney at Law, 920 NW Bond St Ste
211, Bend OR 97701, to offensive physical contact by elbowing him after becoming
agitated during a recess at a DMV hearing;

- 1 3. A discovery dispute arose because Mr. Springer had not seen the police report,
2 wanted to review it, and believed Deputy Vander Kamp had it contained within a
3 folder in his possession;
- 4 4. Deputy Vander Kamp said the report was not in the folder and would not reveal what
5 was;
- 6 5. During a recess Deputy Vander Kamp put the folder in his car and became aggressive
7 when Mr. Springer questioned him about doing so;
- 8 6. When questioned, Deputy Vander Kamp told Mr. Springer to "fuck off" or "get the
9 fuck away" or something similar, which Mr. Springer did by going back into the
10 hearing room;
- 11 7. Upon reentry into the room Deputy Vander Kamp intentionally and aggressively
12 threw his elbow into Mr. Springer as he passed within close quarters;
- 13 8. The police were called, and a complaint was made, which was investigated by
14 internal affairs;
- 15 9. Internal affairs investigated the circumstances surrounding Deputy Vander Kamp
16 being sued for participating in a corporate pyramid scheme, which was alleged to
17 violate California Penal Code, and alleged that Deputy Vander Kamp was the director
18 of compliance and legal affairs for the corporation;
- 19 10. Internal affairs also investigated complaints made by a citizen whose son was stopped
20 by Deputy Vander Kamp for a traffic violation. The complaining party did not want
21 to share specific information and asked that he not be involved in this proceeding
22 because he fears for family members that still reside in the area, although he is
23 residing out of state. I personally spoke with him, however, and he is a professional
24
25
26

1 who sounds very credible and indicates that his concerns with Deputy Vander Kamp
2 involved dishonest behavior and fear of aggressive behavior, but would not provide
3 additional information.

4 DATED this 1st day of August, 2012.

5
6 Timothy P. Fleming, OSB 070274
7 Attorney for Defendant

8 SUBSCRIBED AND SWORN TO before me this ____ day of

9 _____, 2012, by _____.

10
11 Notary Public for Oregon
12 My Commission Expires: _____

Attachment C

To: Captain Marc Mills

From: Lieutenant Shane Nelson

Date: August 9, 2009

SUBJECT: JON SPRINGER

On August 5, 2009 at approximately 1428 hours I responded to Workforce on Forbes Road to contact Deputy Vanderkamp and Jon Springer regarding a potential deputy complaint. On arrival Deputy Vanderkamp gave an in substance statement. Please refer to his attached report for his account.

I then contacted Mr. Jon Springer. He appeared to be very agitated and upset when he spoke. He advised he was standing outside of the DMV Hearing room and that he was not blocking the entrance. He advised Deputy Vanderkamp could get by him. He stated Deputy Vanderkamp was telling Mr. Springer to get "out of my (Vanderkamp's) face" and that Springer was "interfering" with him going to the hearing.

Deputy Vanderkamp then "ran into" Springer. Inside the hearing room Springer stated Deputy Vanderkamp told him several times to "shut-up" and to "get out of this room." He then stated Deputy Vanderkamp put a recorder on the middle of the hearing table without advising anyone he was recording them.

I then spoke to Bud Gavino [REDACTED] who is a volunteer at Workforce where the DMV Hearings are held. Mr. Gavino advised he saw what took place and that it was very unprofessional of Mr. Springer. Mr. Gavino stated Mr. Springer was blocking the room to the hearing; standing with his hands on his hips in the doorway. He then told the deputy "you don't intimidate me" and Mr. Springer would not get out of the way.

Mr. Springer was described by Gavino as "ranting" and "abusive" toward the deputy. Mr. Springer told the deputy that he had been to law school and the deputy only had a certificate from a college. Gavino advised the deputy said very little to Mr. Springer and the deputy "took a lot of crap" from Mr. Springer.

The deputy then went by Mr. Springer to go into the hearing room and "brushed" by him. Mr. Springer "jumped" back as if the deputy had run into him but the deputy had not.

August 7, 2012

Mr. Gavino ended with the statement "the officer took a lot of crap" and that Mr. Springer was "ranting" and "bullying" the deputy. He stated that he would have probably "punched" someone acting like Mr. Springer but the deputy stayed calm and "took it."

Cc: Captain Tim Edwards

Lieutenant Shane Nelson

Attachment D
DESCHUTES COUNTY SHERIFF'S OFFICE
63333 Highway 20 West Bend OR 97701
Phone: (541) 388-6655 Fax: (541) 389-6835

OFFENSE REPORT - 1 SUPPLEMENTALS ON FILE

Case: 09-10-64607

Page: 1 of 2

10:42:40 07 AUG 2012

Report Type: CRIM Criminal

Status: Suspended/Closed No UCR **Shift:** D **Grid:** 320 **Agency:** SO
Approved: All: Y **Face:** Y **Detail:** Y **DA Case#:** 0191839
Supps: Approved: 1 Not:

Related Case: 09-10-64134 DESCHUTES COUNTY SHERIFF'S OFFICE

Distribution:
[] DCSO
[] DA MIKE DUGAN
[] LT NELSON
[] CAPTAIN EDWARDS

Reported Date/Time: 08/05/2009 13:27

Occurred Date/Time: 08/05/2009 13:27 to 08/05/2009 16:00

Offense codes:

DISO DISORDERLY CONDUCT IN THE SECOND DEGREE (166.025) [1 COUNT]

HAR HARASSMENT (166.065(1)) [1 COUNT]

INTPO INTERFERING WITH A PEACE OFFICER (162.247) [1 COUNT]

GOVA OBSTRUCTION OF GOVERNMENTAL ADMINISTRATION (162.235) [1 COUNT]

Location of Offense: 1645 NE FORBES RD #A BEND OR 97701

Names, Person types, and Information:

VANDERKAMP, DEP KENT (546803) OFFICER / DEPUTY / TROOPER /
POLICEMAN (OFCR) DPSST/DA#: 44640 Employer: DCSO PATROL

SPRINGER, JON GERARD (49194) SUSPECT (SUSP) DOB: [REDACTED]
RaceSex: WM Height: 602 Weight: 170 Hair: GRY Eyes: BLU
DL#: [REDACTED] OR Address: [REDACTED] BEND OR 97702
Mail: [REDACTED] BEND OR 97709 DPSST/DA#: 86093 Employer:
JON SPRINGER Addr: 920 NW BOND ST SUITE 211, BEND Ph#: (541)
323-3200

NELSON, LT SHANE (201819) ASSISTING OFFICER / DEPUTY / POLICEMAN
(ASST) DPSST/DA#: 29657 Employer: DCSO

ANDREWS, CATHERINE (687702) WITNESS (WITN) RaceSex: WF Address:
[REDACTED] Employer: DUERST AND SPRINGER

AINSWORTH, TODD (639013) WITNESS (WITN) Address: DMV
ADMINISTRATIVE HEARINGS JUDGE, BEND OR

**** Added: 08/15/09 :**

GAVINO, BERNARD A (404846) WITNESS (WITN) AKA: GAVINO, BUD DOB:

DESCHUTES COUNTY SHERIFF'S OFFICE
63333 Highway 20 West Bend OR 97701
Phone: (541) 388-6655 Fax: (541) 389-6835

OFFENSE REPORT - 1 SUPPLEMENTALS ON FILE

Case: 09-10-64607

Page: 2 of 2

10:42:40 07 AUG 2012

Report Type: CRIM Criminal

[REDACTED] RaceSex: WM Address: [REDACTED]
OR 97702 Phone: [REDACTED] Employer: OREGON WORK CENTER
Addr: 1645 NE FORBES RD NO A, BEND, OR 97701

** Added: 08/16/09 :

ELBEK, EVAN ELIASSEN (618434) WITNESS (WITN) DOB: [REDACTED]
POB: OR RaceSex: WM Height: 600 Weight: 185 Hair: BRO
Eyes: BLU [REDACTED] OR Address: [REDACTED]
[REDACTED]
Employer: STUDENT/OREGON TECH

Report entered by:

KVK	06:30	02/26/10	610	DAN	15:18	08/17/09	280
DJW	15:33	08/17/09	280	DJW	15:08	08/17/09	280

Approvals: Face: A10; Detail: A10;
Supplements: 1: A10;

UCR: Clearance: Premise: 21 GOVERNMENT OFFICE / SERVICE
DISO
HAR
INTPO
GOVA

DUII : N MVA : N Cites : N

Deschutes County Sheriff's Office
Detail Page

Case# 09-10-64607

[] DCSO
[] DA MIKE DUGAN
[] LT NELSON
[] CAPTAIN EDWARDS

Reported Date/Time: 08/05/2009 13:27
Occurred Date/Time: 08/05/2009 13:27 to 08/05/2009 16:00
Reporting Officer: VANDERKAMP, KENT DPSST# 44640

Suspect: SPRINGER, JON G (49194)

Report by: DEPUTY KENT VANDERKAMP (VA)

Dated: August 5th, 2009

NARRATIVE:

On July 24th, 2009, at approximately 2:20 p.m., I was subpoenaed by the State of Oregon, Office of Administrative Hearings. This subpoena commanded me to make an appearance at 2:00 p.m. on August 5th, 2009 for an Implied Consent Hearing involving Evan Elbek. This matter is related to DCSO Case # 09-64134.

On August 5th, 2009, at approximately 2:20 p.m., I arrived at the Office of Administrative Hearings center at 1645 NE Forbes Road, within the City of Bend, Oregon. I was on duty, wearing a uniform and displaying a badge. The hearing was presided over by Todd Ainsworth, the Administrative Law Judge (ALJ). In the hearings room was also Evan Elbek, Elbek's attorney, Jon Springer, and Springer's legal assistant, Catherine Andrews.

At the beginning of the hearing, Springer requested a copy of my report for Case # 09-64134 in which his client, Evan Elbek, was arrested. I replied to Springer that I did not bring a copy of the report to the hearing. Springer became upset and told me I was lying to him and that I had a copy of it in my red portfolio. I then told Springer I did not have a copy of the report and if I did, it was against my department policy to provide him a copy. Springer became enraged, he looked at ALJ Ainsworth and said, "Tell this joker to give me a copy of his report now." ALJ Ainsworth looked at me and said, "Do you have a copy of it with you?" I again replied, "No, I do not have a copy." I then explained, in detail, that it was against Deschutes County Sheriff's Office policy to provide copies of police reports without going through the business office or, in this case, the District Attorney's office.

Springer then went on a tirade and began yelling. His face became red and his hands shook. Springer explained he could not get a copy from the District Attorney's office since it was pending arraignment in a criminal matter. Again, Springer demanded I give him a copy of the report and I again told him I could not. ALJ Ainsworth then asked me if I would call the DCSO business office and request a copy to be faxed to the Administrative Hearing room. I agreed to make the phone call.

From my patrol vehicle, I contacted the on-duty supervisor, Lt. Nelson. I

Deschutes County Sheriff's Office
Detail Page

Case# 09-10-64607

explained to Lt. Nelson the earlier events and asked if my interpretation of the department policy was correct. Lt. Nelson told me that I was correct and I would be unauthorized to give or show a copy of the report to either Elbek, Springer or ALJ Ainsworth. I then hung up the telephone and returned into the building where the office of Administrative Hearing room was located.

The hearings room is located within the State of Oregon's Employment Office, otherwise known as the Work Source Center. The majority of the building is occupied by the Employment Office. The main floor area is open to the public. There were dozens of people in this office checking job listings and participating in training. As you enter into this open area from the front doors, the Administrative Hearing room is directly to the right.

As I re-entered the office building, Jon Springer met me at the door of the hearings room. He stood on the threshold of the door leading into the hearings room. He had his hands on his hips and began to yell at me. Springer demanded to know where my tape recorder, notebook and the other items I carried into the room originally were at. I reminded Springer that he stated he would request a continuance of the hearing since he did not have a copy of my report. Hence, I chose not to bring my equipment back into the room.

Springer began to yell and scream at me while I stood in the public area of the office. I reminded him that he was in a public building filled with people and that he needed to stop the "yelling and drama." I then told him I needed to enter the hearings room again and he needed to get out of the way so I could enter the room. Springer replied, "No, I don't have to do that, this is a public building. You cannot tell me where to stand, that is not a lawful order... I can stand where I want to stand." I then told him again, he was blocking my way into the hearings room and if he did not step out of the threshold that he would be interfering with my duties as a police officer. Springer then yelled, "What? Did you go to law school?" He continued to yell, "You're probably like every other bully cop and only have some Associates Degree from COCC (Central Oregon Community College); that couldn't have been very hard to get." I then reminded Springer he did not know anything about me or my education and again to get out of the doorway to let me pass.

He continued to yell into the open floor area about how I shouldn't be a police officer and had no business being at this hearing. I again reminded Springer if he did not get out of the way I was going to arrest him for interfering and disorderly conduct. Springer then began yelling in an over-dramatized tone, "Did you hear that everybody, he's going to arrest me!" Then he would look at me as if he were going to hit me with his head. He held his hands on his waist and raised his shoulders at the same time. It is my experience that people make these offensive postures are preparing to fight or head-butt me. This posturing is also common when the person is attempting to engage in a physical fight or trying to cause a defensive reaction. He then took a step towards me. I raised my right hand towards him and told him to get back from me and out of the way. Springer then yelled, "You cannot arrest me, that is not a lawful order..."

Springer dropped his hands from his waist and I was able to squeeze in between him and the door frame into the room so I could return to my assigned seat in

Deschutes County Sheriff's Office
Detail Page

Case# 09-10-64607

the hearings room. As I passed Springer, he reached out with his elbow and touched me. Our elbows rubbed together as I passed him. Springer then pushed himself against the door as if he was trying to get the attention of a referee during a sporting event. He then began yelling, "Did everybody see that, he just touched me," as he threw himself against the door.

I then sat in my assigned seat in the hearings room. He then stood over me, about three feet away, for about three to four minutes and continued his tirade of telling me I should not be in the hearings room, that I would not be a police officer for very long and most distinctly he told me he would "haunt me until the end of time." He was more angry than before. His face was still red and often he could not finish a thoughtful sentence before starting the next one. I took his continued behavior as a threat. I stood up from my chair and contacted Lt. Nelson again and asked him to expedite to my location for assistance.

Lt. Nelson arrived and made contact with ALJ Ainsworth and Springer. He explained to Springer again that it was against DCSO policy to provide copies of police reports to attorneys. Springer's attitude and demeanor drastically changed with Lt. Nelson in the room. Springer never raised his voice, yelled or accused Lt. Nelson of withholding the report.

The hearing resumed approximately one hour after it was scheduled to begin. The hearing proceeded without any further incident. During the hearing, Lt. Nelson contacted a witness who worked at the reception counter in the main floor area. See Lt. Nelson's supplemental report for these statements.

I am requesting a copy of this report be sent to the District Attorney's office for charging consideration for the charges of Disorderly Conduct II, Harassment, Interfering with a Peace Officer and Obstruction of Governmental Administration against Mr. Springer.

End of report.

Deschutes County Sheriff's Office
Supplemental Report #1

Case# 09-10-64607

[] DCSO
[] DA MIKE DUGAN
[] LT NELSON
[] CAPTAIN EDWARDS

Reported Date/Time: 08/05/2009 13:27
Occurred Date/Time: 08/05/2009 13:27 to 08/05/2009 16:00
Reporting Officer: VANDERKAMP, KENT DPSST# 44640

Suspect: SPRINGER, JON G (49194)

Supplemental Report #1 by: Lt. Nelson, 10A10
Dated: 081609

NARRATIVE:

On August 5, 2009 I responded to Forbes Road and contacted Mr. Bud Gavino for a statement of what he had witnessed. Mr. Gavino is a volunteer for Work Force and was present, in the building, during this incident with Mr. Springer and Deputy Vanderkamp.

Mr. Gavino gave the following statement, in substance. I then spoke to Mr. Gavino [REDACTED] who is a volunteer at Workforce where the DMV Hearings are held. Mr. Gavino advised he saw what took place and that it was very unprofessional of Mr. Springer. Mr. Gavino stated Mr. Springer was blocking the room to the hearing; standing with his hands on his hips in the doorway. Springer then told the deputy "you don't intimidate me" and Mr. Springer would not get out of the way.

Mr. Springer was described by Gavino as "ranting" and "abusive" toward the deputy. Mr. Springer told the deputy that he had been to law school and the deputy only had a certificate from a college. Gavino advised the deputy said very little to Mr. Springer and the deputy "took a lot of crap" from Mr. Springer.

The deputy then went by Mr. Springer to go into the hearing room and "brushed" by him. Mr. Springer "jumped" back as if the deputy had run into him but the deputy had not.

Mr. Gavino ended with the statement "the officer took a lot of crap" and that Mr. Springer was "ranting" and "bullying" the deputy. He stated that he would have probably "punched" someone acting like Mr. Springer but the deputy stayed calm and "took it."

End of Report