



City of Phoenix

To: Jack F. Harris
Public Safety Manager

Date: April 27, 2010

From: Blake A. McClelland, Assistant Chief
Professional Standards Division

BAM

Subject: INTERNAL INVESTIGATION - PSB09-0018

Internal Investigators:

Commander Jeff Hynes
Lieutenant Ben Henry (Investigative Review)
Sergeant Tadd Cline (Primary Investigator)
Sergeant Jennifer Doty (Interviews)

Allegation #1:

On November 29 and November 30, 2008, while off-duty, Sergeant Jesse Abernathy committed domestic violence unlawful imprisonment against his spouse, Melynda Abernathy, while at [REDACTED].

Findings:

Unfounded

Allegation #2:

On November 29 and November 30, 2008, while off-duty, Sergeant Jesse Abernathy committed domestic violence assault against his spouse, Melynda Abernathy, while at [REDACTED].

Findings:

Unresolved

Allegation #3:

On November 29 and 30, 2008, while off-duty, Sergeant Jesse Abernathy committed domestic violence criminal damage while at [REDACTED].

Findings:

Sustained

Allegation #4:

On November 30, 2008, while off-duty, Sergeant Jesse Abernathy provided a deceptive statement by way of omission to his supervisor, Lieutenant Michael Kurtenbach.

Findings:

Sustained

Allegation #5:

On December 17, 2008, from approximately 10:00 p.m. until 12:00 a.m., Sergeant Jesse Abernathy displayed

unprofessional conduct when he neglected his job duties and responsibilities by leaving his work post and driving an unmarked City of Phoenix vehicle to Surprise, Arizona for personal reasons without approval from a supervisor.

Findings:

Sustained

Allegation #6:

On December 19, 2009, while off-duty, Sergeant Jesse Abernathy displayed unprofessional conduct by threatening the service of an order of protection against his spouse, Melynda Abernathy, unless she complied with specific demands he made upon her.

Findings:

Unresolved

Allegation #7:

On February 21, 22, and 23, 2009, while off-duty, Sergeant Jesse Abernathy committed domestic violence unlawful imprisonment and assault against his spouse, Melynda Abernathy, while at [REDACTED]

Findings:

Unresolved

Allegation #8:

On March 27, 2009, while off-duty, Sergeant Jesse Abernathy violated an order of protection by directing a third-party to take property from [REDACTED]

Findings:

Unfounded

Allegation #9:

On July 23, 2009, while off-duty, Sergeant Jesse Abernathy violated an order of protection by sending threatening text messages to his wife.

Findings:

Unfounded

Employee/s Involved:

Sergeant Jesse Abernathy #6439
Division: Patrol Operations South
Precinct: South Mountain
Squad: 42X
Schedule: 2:00 p.m. to 12:00 a.m. / Su, M, T
Date of Hire: August 16, 1996

Complainant:

Mrs. Melynda Abernathy
W/F [REDACTED]
[REDACTED]

<u>Witness Employees:</u>	See Witness Employee section
<u>Civilian Witnesses:</u>	See Civilian Witness section
<u>Diagrams:</u>	See Diagram section
<u>Photographs:</u>	See Photograph section
<u>Outside Agency Reports:</u>	M.C.S.O. / Fight / inc.# 08-220627 M.C.S.O. / D.V. Assault / 08-232402 Surprise P.D. / Reckless Driver / inc.# 08-125017 M.C.S.O. / D.V. Assault / 09-035995 Surprise P.D. / Violation of Court Order / 09-075434 M.C.S.O. / Violation of Court Order / 09-057326
<u>Attachments:</u>	See Attachment section

SUMMARY OF INVESTIGATION:

On February 26, 2009, Mrs. Melynda Abernathy contacted the Professional Standards Bureau and alleged her husband, Sergeant Jesse Abernathy #6439, had been physically abusive, committed other acts of domestic violence and engaged in unprofessional conduct after learning she had extra-marital affairs.

Mrs. Abernathy said on November 29 and 30, 2008, her husband held her against her will, assaulted her and damaged property in their home in Surprise, Arizona. There were no independent witnesses to this incident and the Maricopa County Sheriff's Office (MCSO) responded. MCSO did not take a criminal report, tape record either Mrs. Abernathy or Sergeant Abernathy nor did they take photographs or make any arrest. Sergeant Abernathy denied kidnapping and assaulting his wife, but said he was not truthful with sheriff deputies when he was asked if he had broken a glass picture frame. He later told Professional Standards Bureau investigators he had damaged property within his house. Sergeant Abernathy informed his supervisor, Lieutenant Michael Kurtenbach, of the fight he had with his spouse, but said the argument was verbal only.

The allegation Sergeant Abernathy committed domestic violence criminal damage is a sustained violation based on physical evidence, Mrs. Abernathy's statements and Sergeant Abernathy's admissions. The allegation Sergeant Abernathy committed domestic violence

assault is unresolved based on the lack of physical evidence and conflicting stories from the involved parties. The allegation Sergeant Abernathy committed domestic violence unlawful imprisonment is unfounded based on Mrs. Abernathy statements that she was free to leave and had the opportunity to call or text for help during the time she claimed she was being held against her will. The allegation Sergeant Abernathy provided a false verbal report is sustained based upon Sergeant Abernathy not telling his supervisor that he damaged property in his house when he fought with his wife.

Mrs. Abernathy said on December 17, 2008, Sergeant Abernathy harassed her by calling the Surprise Police Department and having her falsely pulled over for suspicion of D.U.I. Sergeant Abernathy admitted that he traveled to Surprise, called the Surprise Police Department and told them he believed Mrs. Abernathy was driving recklessly and that she was under the influence of alcohol. At the time of his call, Sergeant Abernathy was on-duty as a Phoenix police sergeant, had left Phoenix without making proper notifications and drove to Surprise in a city vehicle. Sergeant Abernathy drove approximately 31 miles for the purpose of seeing what Mrs. Abernathy was doing. Sergeant Abernathy did not identify himself to the Surprise police department and remained anonymous. The allegation Sergeant Abernathy displayed unprofessional conduct is sustained.

Mrs. Abernathy alleged on December 19, 2009, Sergeant Abernathy threatened to serve her with an order of protection and take custody of their five children unless she met his specific demands. This allegation is unresolved, based on conflicting stories from Mrs. Abernathy and Sergeant Abernathy, as well as both of their respective mothers who were present when this incident allegedly occurred.

Mrs. Abernathy alleged Sergeant Abernathy held her against her will at various times on February 21, 22 and 23, 2009, as they argued about financial issues inside of their home. The allegation Sergeant Abernathy committed domestic violence unlawful imprisonment during these three days is unresolved, based on conflicting stories between Mrs. Abernathy and Sergeant Abernathy.

Between March 27 to March 29, 2009, Mrs. Abernathy alleged Sergeant Abernathy violated an order of protection when he allowed his friend to go to the home she had exclusive rights to, located at [REDACTED] and use a trailer that was in her possession. Sergeant Abernathy admitted he allowed his friend to use the trailer, but this information was never conveyed to Mrs. Abernathy or agreed upon by her. Mrs. Abernathy filed

a theft report with the sheriff's office prior to being made aware that her husband had allowed his friend to use the trailer. Sergeant Abernathy allowed his friend use of his trailer, but was unaware that his friend did not notify Mrs. Abernathy prior to taking it. As a result, this violation is unfounded.

Mrs. Abernathy contended her husband again violated an order of protection by sending her threatening text messages over the phone on July 23, 2009. However, Surprise police detectives did not believe the text messages rose to the level of criminal behavior. As a result, no criminal charges were filed, and this allegation is unfounded.

